

Conference Report 111-16 Accompanying
American Recovery and Reinvestment Act of 2009, enacted
February 17, 2009
Excerpts Pertaining to Employment and Training Administration
(see bookmarks)

111TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
111-16

MAKING SUPPLEMENTAL APPROPRIATIONS FOR JOB PRESERVA-
TION AND CREATION, INFRASTRUCTURE INVESTMENT, ENERGY
EFFICIENCY AND SCIENCE, ASSISTANCE TO THE UNEMPLOYED,
AND STATE AND LOCAL FISCAL STABILIZATION, FOR THE FIS-
CAL YEAR ENDING SEPTEMBER 30, 2009, AND FOR OTHER PUR-
POSES

CONFERENCE REPORT

TO ACCOMPANY

H.R. 1



FEBRUARY 12, 2009.—Ordered to be printed

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

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U.S. GOVERNMENT PRINTING OFFICE

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1), a bill making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text deleted the entire House bill after the enacting clause and inserted the Senate bill. This conference agreement includes a revised bill.

The conference agreement designates amounts in the Act as emergency requirements pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009. All applicable provisions in the Act are designated as an emergency for purposes of pay-as-you-go principles.

DIVISION A—APPROPRIATIONS PROVISIONS

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

DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

The conference agreement provides \$24,000,000 for the Agriculture Buildings and Facilities and Rental Payments account instead of \$44,000,000 as proposed by the House. The Senate bill contained no such account.

The conference agreement provides funding to address priority maintenance, repair, and modernization investments in USDA's headquarter buildings and facilities.

OFFICE OF INSPECTOR GENERAL

The conference agreement provides \$22,500,000 for the Office of Inspector General as proposed by both the House and Senate.

The conference agreement provides funding to enhance oversight and improve accountability of the use of economic recovery funds appropriated to the Department of Agriculture in this Act, including \$7,500,000 for the U.S. Forest Service.

GENERAL PROVISIONS—TITLE VII

INTERIOR, ENVIRONMENT AND RELATED AGENCIES

Sec. 701. The agreement includes language proposed by the Senate requiring that agencies receiving funding in the Interior and Environment sections of this Act submit a general spending plan for these appropriations to the Committees on Appropriations within 30 days of enactment and that they submit detailed project level information within 90 days of enactment. The Conferees further direct that the agencies submit bi-annual progress reports on implementation of the provisions of this Act under their jurisdiction.

Sec. 702. Modifies language proposed by the Senate requiring that the Secretaries of Interior and Agriculture utilize the Public Lands Corps, the Youth Conservation Corps, the Job Corps and the Student Conservation Corps where practicable. The House bill did not include a similar provision.

Sec. 703. Includes a new general provision not included in either the House or Senate bills providing limited transfer authority to move not to exceed 10 percent of funds from one appropriation to another if such move will increase the number of jobs created or the speed with which projects can be undertaken. Transfers are limited to accounts within a particular agency.

Administrative and support costs: The Conferees have agreed that, except where otherwise provided in the bill or this accompanying statement, amounts for administrative and support costs associated with the implementation of title VII activities of this Act shall not exceed five percent of any specific appropriation. The conferees note that this amount is a cap and encourage agencies to balance carefully the goal of proper management and fiscal prudence when setting funding levels for administrative support. In staffing up to handle the increased, but temporary, workloads associated with funding provided in the bill, it is important that the agencies limit the permanent expansion of their workforces and utilize temporary, term or contract personnel as much as possible.

TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

The conference agreement includes \$3,950,000,000 for Workforce Investment Act programs, instead of \$4,000,000,000 as proposed by the House and \$3,250,000,000 as proposed by the Senate.

Within this amount, \$2,950,000,000 is provided for formula grants to the States for training and employment services. These funds are to be allotted to States within 30 days of enactment. Since these funds will be made available during program year 2008, they shall remain available to the States only as long as the other funds allotted in that program year. The conferees intend for

Title VIII: Department of Labor, Health, and Human Services, and Education, and Related Agencies

these funds to be spent quickly and effectively. To facilitate increased training of individuals for high-demand occupations, the conference agreement modifies language proposed by the Senate to provide the authority for local workforce investment boards to contract with institutions of higher education and other eligible training providers as long as that authority is not used to limit customer choice.

Within the State formula grant programs, \$500,000,000 is provided for services for adults. The conference agreement includes language proposed by the Senate to ensure that supportive services and needs-related payments are available to support the employment and training needs of priority populations, including recipients of public assistance and other low-income individuals.

For youth services, \$1,200,000,000 is provided. The conferees are particularly interested in these funds being used to create summer employment opportunities for youth and language applying the work readiness performance indicator to such summer jobs is included as an appropriate measure for those activities. Year-round youth activities are also envisioned and the age of eligibility for youth services provided with the additional funds is extended through age 24 to allow local programs to reach young adults who have become disconnected from both education and the labor market.

For dislocated worker services \$1,250,000,000 is provided. The conferees urge the Secretary to provide guidance on how States and local workforce areas can establish policies that assure that supportive services and needs-related payments that may be necessary for an individual's participation in job training are a part of the dislocated worker service strategy.

The conferees believe that the Department should integrate reporting on the expenditure of these additional formula funds into its regular reporting system, including the provision of needs-related payments and supportive services, the number of individuals from priority service populations participating in employment and training activities, and the number of youth engaged in summer employment programs. The conferees strongly urge the Department to establish appropriate procedures for monitoring the execution of priority of service provisions.

The conference agreement also includes \$200,000,000 for the dislocated worker assistance national reserve, as proposed by the Senate, instead of \$500,000,000 as proposed by the House. These funds will allow the Secretary of Labor to award national emergency grants to respond to plant closings, mass layoffs and other worker dislocations. The funds in the national reserve are also available for dislocated worker activities for the outlying areas, consistent with the provisions of the Workforce Investment Act.

The conference agreement includes \$50,000,000 for the YouthBuild program, as proposed by the House, instead of \$100,000,000 as proposed by the Senate. These funds will allow for expanded services for at-risk youth, who gain education and occupational credentials while constructing or rehabilitating affordable housing. The conference agreement includes language to allow YouthBuild grantees to serve individuals who have dropped out of

school and reenrolled in an alternative school, if that reenrollment is part of a sequential service strategy.

The conference agreement includes \$750,000,000 for a program of competitive grants for worker training and placement in high growth and emerging industry sectors, as proposed by the House, rather than \$250,000,000 for a similar program proposed by the Senate. Within the amount provided, \$500,000,000 is designated for projects that prepare workers for careers in energy efficiency and renewable energy as described in the Green Jobs Act of 2007. Priority consideration for the balance of funds shall be given to projects that prepare workers for careers in the health care sector, which continues to grow despite the economic downturn. The conferees believe that training for wireless and broadband deployment is an eligible activity for grants for high growth and emerging industry sectors, along with advanced manufacturing and other high demand industry sectors identified by local workforce areas. In carrying out the program of competitive grants for worker training and placement in high growth and emerging industry sectors, the conferees expect the Department to use a limited portion of the program funds for technical assistance and related research.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

The conference agreement includes \$120,000,000 for the Community Service Employment for Older Americans program, as proposed by both the House and the Senate. The economic recovery funds are to be distributed to current grantees to support additional employment opportunities for low income seniors. The wages paid to these low-income seniors will provide a direct stimulus to the economies of local communities, which will also benefit from the community service work performed by participants. The conference agreement includes language to allow for the recapture and reobligation of such funds, as proposed by the Senate and as authorized under Title V of the Older Americans Act.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The conference agreement includes \$400,000,000, as proposed by the Senate, instead of \$500,000,000 as proposed by the House. Within this amount, \$250,000,000 is designated for reemployment services to connect unemployment insurance claimants to employment and training opportunities that will facilitate their reentry to employment. The funds provided will be distributed by the existing Wagner-Peyser formula, as proposed by the Senate, rather than under an alternative formula proposed by the House.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes \$80,000,000 within the Departmental Management account for worker protection, oversight, and coordination activities, as proposed by the House. The Senate provided funds for this and other purposes through a set-aside of

These funds will be available through September 30, 2012 to support oversight and audit of Social Security Administration activities funded in this Act.

General Provisions of
Title VIII

GENERAL PROVISIONS—THIS TITLE

ADMINISTRATION AND OVERSIGHT OF DEPARTMENT OF LABOR
ACTIVITIES

The conference agreement includes a provision similar to one proposed by the Senate that provides that up to 1 percent of the funds made available to the Department of Labor in this title may be used for the administration, management, and oversight of the programs, grants, and activities funded by such appropriation, including the evaluation of the use of such funds, subject to the provision of an operating plan. The House bill contained a set-aside for similar purposes.

MINIMUM WAGE STUDY

The conference agreement includes a modification of a provision proposed by the Senate, requiring the Government Accountability Office (GAO) to conduct a study to assess the impact of minimum wage increases that have occurred, and are scheduled to occur, in American Samoa and the Commonwealth of Northern Mariana Islands. To provide sufficient economic information for this study, additional Federal agency economic data collection in the U.S. territories is required.

FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS
RESEARCH

The conference agreement includes a general provision establishing a Federal Coordinating Council for Comparative Effectiveness Research (Council), as proposed by the House. The Senate language proposed a similar Council, but included the word, “Clinical”, in the title and throughout the bill language. The conference agreement includes language to clarify that the purpose of the Council is to reduce duplication of comparative effectiveness research activities within the Federal government. Duties of the Council are to (1) foster coordination of comparative effectiveness and related health services research conducted or supported by the Federal government; and (2) advise the President and Congress on strategies with respect to the infrastructure needs of comparative effectiveness research and organizational expenditures.

Additionally, the conference agreement includes language that nothing shall be construed to permit the Council to mandate coverage, reimbursement, or other policies for any public or private payer. Further, the conference agreement includes language to clarify that none of the reports submitted or recommendations made by the Council shall be construed as mandates or clinical guidelines for payment, coverage, or treatment.

GRANTS FOR IMPACT AID CONSTRUCTION

The conference agreement authorizes Impact Aid construction payments. Neither the House nor Senate included this provision.

MANDATORY PELL GRANTS

The conference agreement provides \$1,474,000,000 for the mandatory part of the Pell Grant program, as proposed by the House. The Senate did not propose any funding for this program.

The additional funding will enable the mandatory add-on to be provided in both award years 2009–2010 and 2010–2011, for a total maximum Pell Grant award of \$5,350 in award year 2009–2010.

PROMPT ALLOCATION OF FUNDS FOR EDUCATION

The conference agreement includes a provision enabling the Department of Education to quickly disperse funds provided under this Act. Neither the House nor Senate included this provision.

TITLE IX—LEGISLATIVE BRANCH**GOVERNMENT ACCOUNTABILITY OFFICE****SALARIES AND EXPENSES**

The conference agreement provides \$25,000,000 as proposed by the House instead of \$20,000,000 as proposed by the Senate for the Government Accountability Office to hire temporary personnel and obtain contract services to support the agency's oversight responsibilities under this Act.

GENERAL PROVISIONS—THIS TITLE

Section 901. Charges the Government Accountability Office (GAO) with bimonthly reviews and reporting on selected States and localities' use of funds provided in this Act. These reports are to be posted on the Internet and linked to the website established under this Act by the Recovery Accountability and Transparency Board. GAO is authorized to examine any records related to the obligation and use of funds made available in this Act.

Section 902. Provides GAO authority to examine records related to contracts awarded under this Act and to interview relevant employees.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

Job creation.—The conferees note that the Associated General Contractors of America estimates that each \$1,000,000,000 in non-residential construction spending will create or sustain 28,500 jobs. Based on this estimate and data provided by the Department of Defense and the Department of Veterans Affairs, the conferees estimate that the construction funds and other programs in this title will create or sustain 97,200 jobs.

DEPARTMENT OF DEFENSE**MILITARY CONSTRUCTION, ARMY**

The conferees agree to provide \$180,000,000, instead of \$920,000,000 as proposed by the House and \$637,875,000 as proposed by the Senate. Within the amount, the conferees agree to

nues for elementary and secondary education as in the preceding fiscal year. The House bill did not include a similar provision. The Senate bill included different provisions to waive maintenance of effort and the use of Federal funds to supplement, not supplant, non-Federal funds.

DEFINITIONS

The conference agreement defines certain terms used in this title. The House and Senate bills included nearly identical provisions.

TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

Sec. 1501. Definitions.—The conference agreement includes a section providing various definitions for purposes of this title, as proposed by the Senate.

SUBTITLE A—TRANSPARENCY AND OVERSIGHT REQUIREMENTS

Sec. 1511. Certifications.—With respect to funds under this Act made available to state or local governments for infrastructure investments, the conference agreement requires a certification from the governor, mayor or other chief executive that the project in question has received the full review and vetting required by law and is an appropriate use of taxpayer dollars. This is a modification of provisions contained in both the House and Senate versions of this legislation.

Sec. 1512. Reports on Use of Funds.—The conference agreement requires reporting of various matters by governments and organizations receiving funds from the Federal government under this Act, including amounts received, projects or activities for which the funds are to be used, estimated numbers of jobs created or retained, and information regarding subcontracts and subgrants. This is a modification of provisions in the House and Senate bills.

Sec. 1513. Reports of the Council of Economic Advisors.—The conference report requires quarterly reports from the Council of Economic Advisors regarding the estimated impact of this Act on employment, economic growth, and other key economic indicators. Similar provisions were proposed by the House and the Senate.

Sec. 1514. Inspector General Reviews.—The conference report includes a modified version of a House provision requiring agency inspectors general to review any concerns raised by the public about specific investments using funds made available in this Act, and to relay findings of their reviews to the head of the agency concerned. Subsection (b) of the House provision, relating to inspector general access to records, has been deleted because the matter is addressed more comprehensively in section 1515 of the conference report.

Sec. 1515. Inspector General Access to Records.—The agreement includes a modification of a House provision authorizing agency inspectors general to examine records and interview employees of contractors and grantees receiving funds under this Act. The House provision related only to contractors but applied to the Government Accountability Office (GAO) as well as inspectors gen-

Title XV:
Accountability and
Transparency

eral. GAO access is addressed in a separate provision in the Legislative Branch title of this conference report.

SUBTITLE B—RECOVERY ACCOUNTABILITY AND TRANSPARENCY
BOARD

Sec. 1521. Establishment of Board.—The conference agreement, like the House and Senate bills, establishes a Recovery Accountability and Transparency Board to coordinate and conduct oversight of Federal spending under this Act to prevent fraud, waste, and abuse.

Sec. 1522. Composition of Board.—The conference agreement specifies that the Board shall be chaired by an individual to be designated by the President, and shall consist of inspectors general of certain specified agencies and such others as the President may designate. This is quite similar to the Senate provision. The House version called for a somewhat smaller Board chaired by the President's Chief Performance Officer and made up of a combination of inspectors general and agency deputy secretaries.

Secs. 1523 through 1525. Board Functions, Powers and Personnel.—These sections of the conference report, which generally follow the Senate provisions, set out the functions and powers of the Board and provide various authorities related to personnel, details, and information and assistance from other Federal agencies.

Sec. 1526. Board Website.—The conference report requires the Board to establish a web site to foster greater accountability and transparency in use of funds in this Act, and specifies a number of categories of information to be posted on that website. This is a modification of language from both the House and the Senate.

Sec. 1527. Independence of Inspectors General.—Like the House and Senate bills, the conference report specifies that it is not intended to affect the independent authority of inspectors general as to whether to conduct audits or investigations of funds under this Act, but requires an inspector general (IG) which rejects a Board recommendation regarding investigations to submit a report to the Board, the agency head, and congressional committees stating the reasons for that action. The conference report adds language clarifying that the decision of an IG is to be final.

Sec. 1529. Authorization of Appropriations.—The conference report, like the Senate bill, authorizes appropriations of such sums as may be necessary for the Board. The House version did not contain an explicit authorization, but did make an appropriation. In the conference report, an appropriation for the Board is contained in the Financial Services and General Government title.

The conferees note that funding appropriated to the Board will support activities related to accountability, transparency, and oversight of spending under the Act. Funds may be transferred to support the operations of the Recovery Independent Advisory Panel established under section 1541 of the Act and for technical and administrative services and support provided by the General Services Administration. Funds may also be transferred to the Office of Management and Budget for coordinating and overseeing the implementation of the reporting requirements established under section 1526 of the Act.

Sec. 1530. Termination of the Board.—The conference report terminates the Board on September 30, 2013—one year later than proposed by the Senate. The House proposed to terminate the Board 1 year after 90 percent of funds appropriated in this Act have been spent.

SUBTITLE C—RECOVERY INDEPENDENT ADVISORY PANEL

Secs. 1541 through 1546. Independent Advisory Panel.—Like both the House and Senate bills, the conference report establishes an Independent Advisory Panel to advise the Board. The conference report is very similar to the Senate version.

SUBTITLE D—ADDITIONAL ACCOUNTABILITY AND TRANSPARENCY REQUIREMENTS

Sec. 1551. Authority To Establish Separate Funding Accounts.—The conference agreement contains new language requiring funds appropriated in this Act to be made available in separate Treasury accounts to facilitate tracking of these funds, unless a waiver is granted by the Director of the Office of Management and Budget.

Sec. 1552. Set-Aside for State and Local Government Reporting and Recordkeeping.—The conference agreement includes new language allowing agencies, after notice and comment rulemaking, to reasonably adjust limits on administrative expenditures for Federal grants to help recipients defray costs of data collection requirements under this Act.

Sec. 1553. Protecting State and Local Government and Contractor Whistleblowers.—The conference agreement includes language providing new protections against reprisals for employees of State and local governments or private contractors who disclose to Federal officials information reasonably believed to be evidence of gross mismanagement, gross waste, or violations of law related to contracts or grants using funds in this Act. This is a modification of provisions appearing in both versions of the legislation. Among other things, the conference version modifies time limits on investigations of complaints and clarifies the burden of proof required to establish violations.

Sec. 1554. Special Contracting Provisions.—The conference report includes a modification of a provision proposed by the House specifying that, to the maximum extent feasible, contracts using funds in this Act shall be awarded as fixed-price contracts and through competitive procedures.

Protection for Federal Whistleblowers.—The conference report does not include language proposed by the House relating to protections for Federal employee whistleblowers.

TITLE—XVI GENERAL PROVISIONS—THIS ACT

Section 1601 provides that each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Further, enactment of this Act shall have no effect on the availability of amounts under the continuing resolution for fiscal year 2009.

Section 1602 provides for quick-start activities. For infrastructure investment funds, recipients of funds provided in this Act should give preference to activities that can be started and completed expeditiously, with a goal of using at least 50 percent for activities that can be initiated within 120 days of enactment. Also recipients should use grant funds in a manner that maximizes job creation and economic benefit.

Section 1603 provides that funds appropriated in this Act shall be available until September 30, 2010, unless expressly provided otherwise in this Act.

Section 1604 prohibits the use of funds for particular activities.

Section 1605 provides for the use of American iron, steel and manufactured goods, except in certain instances. Section 1605(d) is not intended to repeal by implication the President's authority under Title III of the Trade Agreements Act of 1979. The conferees anticipate that the Administration will rely on the authority under 19 U.S.C. 2511(b) to the extent necessary to comply with U.S. obligations under the WTO Agreement on Government Procurement and under U.S. free trade agreements and so that section 1605 will not apply to least developed countries to the same extent that it does not apply to the parties to those international agreements. The conferees also note that waiver authority under section 2511(b)(2) has not been used.

Section 1606 provides for specific wage rate requirements. All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal government pursuant to this Act shall be paid not less than the wages prevailing in the locality for similar projects as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

Section 1607 provides additional funding distribution and assurance of the appropriate use of funds. Not later than 45 days after the enactment of this Act, the governor of each state shall certify that the state will request and use funds provided by this Act to the state and its agencies. If funds made available to a state in any division of this Act are not accepted for use by its governor, then acceptance by the state legislature, by adoption of a concurrent resolution, shall be sufficient to provide funding to the state. After adoption of a concurrent resolution, funding to the State will be for distribution to local governments, councils of governments, public entities, and public-private entities within the State, either by formula or at the State's discretion.

Section 1608 amends section 107(b) of the Emergency Economic Stabilization Act of 2008 (relating to contracting procedures) to include individuals with disabilities and businesses owned by such individuals.

Section 1609 makes various findings regarding the National Environmental Policy Act (NEPA). In addition, this section provides that adequate resources within this Act must be devoted to ensuring that NEPA reviews are completed expeditiously. The President shall report quarterly to the appropriate congressional committees regarding NEPA requirements and documentation for projects funded in this Act.

Section 1610 prohibits the use of funds for contracts and grants not awarded in accordance with the Federal Property and Administration Services Act, or chapter 137 of title 10, United States Code and Federal Acquisition Regulation, or as otherwise authorized by statute. The provision is not intended to override other specific statutory authorizations for procurements, including the Small Business Act and the Javits-Wagner-O'Day Act.

Section 1611 provides that it shall be unlawful for any recipient of funding of Title I of the Emergency Economic Stabilization Act of 2008 or section 13 of the Federal Reserve Act to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act unless the recipient is in compliance with the requirements for an H-1B dependent employer as defined in that Act. This requirement is effective for a two-year period beginning on the date of enactment of this Act.

Section 1612 provides limited transfer authority. The conferees recognize the challenges that the Administration will face in determining how best to respond to the current economic crisis. Accordingly, the Senate and House passed bills each included permissive authority to reprogram or transfer funds within certain agencies and programs to mitigate these concerns.

It is clearly understood that as the Administration attempts to find the best means to respond to the crisis, the priority and utility of different programs could shift. As such, the conferees have agreed to provide authority during current fiscal year for Agency heads to transfer up to 1% of certain funds within their jurisdiction from the amounts provided in this Act. The conferees do not intend for this 1% transfer provision to either nullify or expand upon the transfer authorities provided for selected agencies and programs elsewhere in this Act. The Committees on Appropriations intend to carefully monitor the use of this authority and expect Agency heads to exercise its use in accordance with established reprogramming practices and only after consulting with the Committees on Appropriations before pursuing any transfer.

The conference agreement does not include the following provisions proposed by the House: requirements for timely award of grants; use it or lose it requirements for grantees; set-asides for management and oversight; as these issues have been addressed, in certain circumstances, within the appropriate appropriating paragraphs. In addition, the conference agreement does not include the following provisions proposed by the House: requirements regarding funding for the State of Illinois; and requirements for participation in E-Verify.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2009 recommended by the Committee of Conference, comparisons to the House and Senate bills for 2009 follow:

(In thousands of dollars)

House bill, fiscal year 2009	361,038,500
Senate bill, fiscal year 2009	289,794,425
Conference agreement, fiscal year 2009	311,197,500
Conference agreement compared with:	
House bill, fiscal year 2009	-49,841,000
Senate bill, fiscal year 2009	+21,403,075

**DIVISION B—TAX, UNEMPLOYMENT, HEALTH, STATE
FISCAL RELIEF, AND OTHER PROVISIONS**

TITLE I—TAX PROVISIONS

A. TAX RELIEF FOR INDIVIDUALS AND FAMILIES

1. Making Work Pay Credit (sec. 1001 of the House bill, sec. 1001 of the Senate amendment, sec. 1001 of the conference agreement, and new sec. 36A of the Code)

PRESENT LAW

Earned income tax credit

Low- and moderate-income workers may be eligible for the refundable earned income tax credit (“EITC”). Eligibility for the EITC is based on earned income, adjusted gross income, investment income, filing status, and immigration and work status in the United States. The amount of the EITC is based on the presence and number of qualifying children in the worker’s family, as well as on adjusted gross income and earned income.

The EITC generally equals a specified percentage of earned income¹ up to a maximum dollar amount. The maximum amount applies over a certain income range and then diminishes to zero over a specified phaseout range. For taxpayers with earned income (or adjusted gross income (“AGI”), if greater) in excess of the beginning of the phaseout range, the maximum EITC amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

The EITC is a refundable credit, meaning that if the amount of the credit exceeds the taxpayer’s Federal income tax liability, the excess is payable to the taxpayer as a direct transfer payment. Under an advance payment system, eligible taxpayers may elect to receive the credit in their paychecks, rather than waiting to claim a refund on their tax returns filed by April 15 of the following year.

Child credit

An individual may claim a tax credit for each qualifying child under the age of 17. The amount of the credit per child is \$1,000 through 2010 and \$500 thereafter. A child who is not a citizen, national, or resident of the United States cannot be a qualifying child.

The credit is phased out for individuals with income over certain threshold amounts. Specifically, the otherwise allowable child

¹ Earned income is defined as (1) wages, salaries, tips, and other employee compensation, but only if such amounts are includable in gross income, plus (2) the amount of the individual’s net self-employment earnings.

Division B, Title II
 Assistance for Unemployed Workers and
 Struggling Families

695

TITLE II OF DIVISION B
 ASSISTANCE FOR UNEMPLOYED WORKERS AND
 STRUGGLING FAMILIES

CONFERENCE DOCUMENT

H.R. 1

TABLE OF CONTENTS

Assistance for Unemployed Workers and Struggling Families	1
Short Title (House bill Section 2000; Senate bill Section 2000; Conference agreement Section 2000)	1
Subtitle A—Unemployment Insurance	1
Extension of Emergency Unemployment Compensation Program Benefits (House bill Sec. 2001; Senate bill Sec. 2001; Conference agreement Sec. 2001)	1
Increase in Unemployment Compensation Benefits (House bill Sec. 2002; Senate bill Sec. 2002; Conference agree- ment Sec. 2002)	2
Special Transfers for Unemployment Compensation Mod- ernization (House bill Sec. 2003; Senate bill Sec. 2003; Conference agreement Sec. 2003)	3
Temporary Assistance for States with Advances (House bill n.a.; Senate bill Sec. 2004; Conference agreement Sec. 2004)	5
Full Federal Funding of Extended Unemployment Comp- ensation for a Limited Period (House bill n.a.; Senate bill n.a.; Conference agreement Sec. 2005)	6
Temporary Increase in Extended Unemployment Benefits under the Railroad Unemployment Insurance Act (House bill n.a.; Senate bill n.a.; Conference agreement Sec. 2006)	7
Subtitle B—Assistance for Vulnerable Individuals	8
Emergency Fund for TANF Program (House bill Section 2101; Senate bill Sec. 2101; Conference agreement Sec. 2101)	8
Extension of Supplemental Grants (House bill n.a.; Senate bill Sec. 2102; Conference Agreement Sec. 2102)	9
Clarification of Authority of States to Use TANF Funds Carried over From Prior Years To Provide TANF Bene- fits and Services (House bill n.a.; Senate bill Sec. 2103; Conference Agreement Sec. 2103)	10
Temporary Resumption of Prior Child Support Law (House bill Sec. 2103; Senate bill Sec. 2104; Conference agree- ment Sec. 2104)	10
One-Time Emergency Payments to Certain Social Security, Supplemental Security Income, Railroad Retirement, Veterans Beneficiaries, and Certain Government Retir- ees (House bill Sec. 2102; Senate bill Sec. 1601; Con- ference agreement sections 2201 and 2202).	11

ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES
 Short Title (House bill Section 2000; Senate bill Section 2000; Con-
 ference agreement Section 2000)

Current Law

No provision.

House Bill

The “Assistance for Unemployed Workers and Struggling Fam-
 ilies Act.”

Senate Bill

Same as the House bill.

Conference Agreement

The conference agreement is the same as the House and Senate bills.

SUBTITLE A—UNEMPLOYMENT INSURANCE

Subtitle A -
Unemployment
Insurance

Extension of Emergency Unemployment Compensation Program Benefits (House bill Sec. 2001; Senate bill Sec. 2001; Conference agreement Sec. 2001)

Current Law

Title IV, Emergency Unemployment Compensation, of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) as amended by the Unemployment Compensation Act of 2008 (Public Law 110–449) created a temporary emergency unemployment compensation program (EUC08). The program ends on the week ending on or before March 31, 2009. No compensation under the program is payable for any week beginning after August 27, 2009. Funds in the extended unemployment compensation account (EUCA) of the unemployment trust fund (UTF) are used for financing EUC08 payments. State administration funds are made from the employment security administration account (ESAA). Compensation for EUC08 payments to former employees of non-profits and governments are from the general fund of the Treasury.

PUTF funding

House Bill

The duration of the EUC08 program would extend through the week ending on or before December 31, 2009. No benefits would be payable for any week beginning after May 31, 2010. The extension would be financed through the general fund of the Treasury. The funds would not need to be repaid.

Senate Bill

Same provision.

Conference Agreement

The conference agreement includes the identical provisions of the House and Senate bills.

Increase in Unemployment Compensation Benefits (House bill Sec. 2002; Senate bill Sec. 2002; Conference agreement Sec. 2002)

Current Law

No such provision. Federal law does not provide formulas, floors, or ceilings of regular weekly State unemployment compensation amounts. In general, the States set weekly benefit amounts as a fraction of the individual's average weekly wage up to some State-determined maximum. Some States include dependents' allowances in addition to the underlying benefit.

House Bill

The provision would create an additional, federally-funded \$25 weekly benefit that would be available to all individuals receiving regular unemployment compensation (UC) benefits. All the provisions of section 2002 would also apply to regular UC, extended benefits (EB), and EUC08 benefits. It would require States to not take the additional compensation into consideration when determining regular UC benefits (including any dependants' allowances). The additional benefit would be payable either at the same time and in the same manner as any regular UC payable for the week involved or payable separately but on the same weekly basis as any regular compensation otherwise payable. States would not be allowed to alter the method governing the computation of UC under State law in such a manner that the weekly benefit amount would be less than the benefit amount that would have been payable under State law as of December 31, 2008. Funding for the additional benefit would be appropriated from the general fund of the Treasury, without fiscal year limitation. The funds would not be required to be repaid.

FAUC funding

States would pay the additional compensation to individuals once the State entered into an agreement with the Labor Secretary and ending before January 1, 2010. The additional compensation would be "grandfathered" for individuals who had not exhausted the right to regular compensation as of January 1, 2010. No additional compensation would be payable for any week beginning after June 30, 2010.

The additional benefit would be disregarded in considering the amount of income of any individual for any purposes under Medicaid and SCHIP.

Senate Bill

Same provision.

Conference Agreement

The conference agreement includes the identical provisions of the House and Senate bills.

Special Transfers for Unemployment Compensation Modernization (House bill Sec. 2003; Senate bill Sec. 2003; Conference agreement Sec. 2003)

Current Law

Section 903 of the Social Security Act (SSA) describes the set of conditions under which funds are transferred to eligible State unemployment accounts from the federal accounts in the Unemployment Trust Fund (UTF) when those federal account balances exceed certain levels. Transfers of excess funds in the UTF to State accounts are called Reed Act distributions. No Reed Act distributions are expected in the next 5 years.

Section 903(a)(2)(B) of the SSA describes the manner in which the distribution of Reed Act funds occurs. Funds are distributed to the State UTF accounts based on the State's share of estimated federal unemployment taxes (excluding reduced credit payments) made by the State's employers.