

119TH CONGRESS
2D SESSION

S. _____

To amend titles XI and XVIII of the Social Security Act to strengthen, increase oversight of, and compliance with, security standards for health information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend titles XI and XVIII of the Social Security Act to strengthen, increase oversight of, and compliance with, security standards for health information, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Health Infrastructure Security and Accountability Act of
6 2026”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STRENGTHENING AND INCREASING OVERSIGHT OF,
AND COMPLIANCE WITH, SECURITY STANDARDS FOR HEALTH
INFORMATION

Sec. 101. Security requirements.

Sec. 102. Security risk management, reporting requirements, and audits for
covered entities and business associates.

Sec. 103. Increased civil penalties for failure to comply with security standards
and requirements for health information.

Sec. 104. User fee to support data security oversight and enforcement activi-
ties.

TITLE II—MEDICARE ASSISTANCE TO ADDRESS CYBERSECURITY
INCIDENTS

201. Medicare safe cybersecurity practices adoption program for eligible hos-
pitals and critical access hospitals.

202. Medicare accelerated and advanced payments in response to cybersecurity
incidents.

1 **TITLE I—STRENGTHENING AND**
2 **INCREASING OVERSIGHT OF,**
3 **AND COMPLIANCE WITH, SE-**
4 **URITY STANDARDS FOR**
5 **HEALTH INFORMATION**

6 **SEC. 101. SECURITY REQUIREMENTS.**

7 (a) IN GENERAL.—Section 1173(d)(1) of the Social
8 Security Act (42 U.S.C. 1320d–2(d)(1)) is amended—

9 (1) in subparagraph (A), by redesignating
10 clauses (i) through (v) as subclauses (I) through (V)
11 respectively and indenting appropriately;

12 (2) by redesignating subparagraphs (A) and
13 (B) as clauses (i) and (ii) respectively and indenting
14 appropriately;

1 (3) by striking “SECURITY STANDARDS.—The
2 Secretary” and inserting the following: “MINIMUM
3 SECURITY STANDARDS.—

4 “(A) IN GENERAL.—The Secretary”;

5 (4) in subparagraph (A), as added by para-
6 graph (3)—

7 (A) in clause (i)(V), by striking “and” at
8 the end;

9 (B) in clause (ii), by striking the period at
10 the end and inserting “; and”; and

11 (C) by adding at the end the following new
12 clause:

13 “(iii) include minimum and enhanced
14 security requirements adopted under sub-
15 paragraph (B)”;

16 (5) by adding at the end the following new sub-
17 paragraph:

18 “(B) MINIMUM AND ENHANCED SECURITY
19 REQUIREMENTS.—

20 “(i) ADOPTION.—Subject to clauses
21 (iii) and (iv), in order to protect health in-
22 formation, protect patient safety, and en-
23 sure the availability and resiliency of
24 health care information systems and health

1 care transactions, the Secretary shall
2 adopt—

3 “(I) minimum security require-
4 ments for covered entities and busi-
5 ness associates; and

6 “(II) enhanced security require-
7 ments for covered entities and busi-
8 ness associates that—

9 “(aa) are of systemic impor-
10 tance, as determined by the Sec-
11 retary; or

12 “(bb) are important to na-
13 tional security, as determined by
14 the Secretary, in consultation
15 with the Director of the Cyberse-
16 curity and Infrastructure Secu-
17 rity Agency and the Director of
18 National Intelligence.

19 “(ii) APPLICATION OF ENHANCED SE-
20 CURITY REQUIREMENTS.—

21 “(I) NOTIFICATION.—The Sec-
22 retary shall, at a time and in a man-
23 ner determined appropriate by the
24 Secretary, notify each covered entity
25 and business associate that is subject

1 to the enhanced security requirements
2 under clause (i)(II).

3 “(II) LIMITATION ON REVIEW.—

4 There shall be no administrative or
5 judicial review under section 1869,
6 1878, or otherwise of the methodology
7 the Secretary uses to determine
8 whether a covered entity or business
9 associate is subject to the enhanced
10 security requirements under clause
11 (i)(II).

12 “(iii) FACTORS.—In addition to the
13 factors described in subparagraph (A)(i),
14 in developing—

15 “(I) the minimum security re-
16 quirements under clause (i)(I), the
17 Secretary shall, in consultation with
18 the Director of Cybersecurity and In-
19 frastructure Security Agency and the
20 Director of National Intelligence, de-
21 sign the requirements to prevent—

22 “(aa) cyber incidents uti-
23 lizing the tools and strategies
24 used to target covered entities or
25 business associates;

1 “(bb) the potential harms,
2 as defined by the Secretary, to
3 national security that could re-
4 sult from a cyber incident involv-
5 ing a covered entity or business
6 associate;

7 “(cc) the potential harms, as
8 defined by the Secretary, to pa-
9 tients that could result from a
10 cyber incident involving a covered
11 entity or business associate; and

12 “(dd) other potential harms
13 from cyber incidents, as deter-
14 mined appropriate by the Sec-
15 retary; and

16 “(II) the enhanced security re-
17 quirements under clause (i)(II), the
18 Secretary shall, in consultation with
19 the Director of the Cybersecurity and
20 Infrastructure Security Agency and
21 the Director of National Intelligence,
22 design the requirements to prevent
23 the potential harms described in sub-
24 clause (I) and protect against the spe-
25 cific threats the covered entities and

1 business associates described in such
2 clause face.

3 “(iv) REVIEW AND UPDATE OF RE-
4 QUIREMENTS.—The Secretary shall review
5 and update the minimum and enhanced se-
6 curity requirements adopted under clause
7 (i) not less frequently than every 2 years.

8 “(v) EFFECTIVE DATE AND RULE-
9 MAKING.—

10 “(I) EFFECTIVE DATE.—The re-
11 quirements under this subparagraph
12 shall take effect on the date that is 2
13 years after the date of enactment of
14 this subparagraph.

15 “(II) RULEMAKING.—Not later
16 than 18 months after the date of en-
17 actment of this subparagraph, the
18 Secretary shall promulgate regulations
19 to carry out this subparagraph.

20 “(vi) DEFINITIONS.—For purposes of
21 this subsection:

22 “(I) BUSINESS ASSOCIATE.—The
23 term ‘business associate’ has the
24 meaning given such term in section
25 160.103 of title 45, Code of Federal

1 Regulations (or a successor regula-
2 tion).

3 “(II) COVERED ENTITY.—The
4 term ‘covered entity’ has the meaning
5 given that term in section 160.103 of
6 title 45, Code of Federal Regulations
7 (or a successor regulation).

8 “(III) SYSTEMIC IMPORTANCE.—
9 The term ‘systemic importance’
10 means, with respect to a covered enti-
11 ty or business associate, that the fail-
12 ure of, or a disruption to, such entity
13 or associate would have a debilitating
14 impact on access to health care or the
15 stability of the health care system of
16 the United States (as determined by
17 the Secretary).”.

18 (b) AVAILABILITY OF HEALTH INFORMATION.—Sec-
19 tion 1173(d)(2)(A) of the Social Security Act (42 U.S.C.
20 1320d–2(d)(2)(A)) is amended by striking “the integrity
21 and confidentiality” and inserting “the availability, integ-
22 rity, and confidentiality.

1 **SEC. 102. SECURITY RISK MANAGEMENT, REPORTING RE-**
2 **QUIREMENTS, AND AUDITS FOR COVERED**
3 **ENTITIES AND BUSINESS ASSOCIATES.**

4 (a) SECURITY RISK MANAGEMENT AND REPORT-
5 ING.—Section 1173(d) of the Social Security Act (42
6 U.S.C. 1320d–2(d)) is amended by adding at the end the
7 following new paragraph:

8 “(3) SECURITY RISK MANAGEMENT AND RE-
9 PORTING.—

10 “(A) IN GENERAL.—Each covered entity
11 and business associate shall at a minimum, on
12 an annual basis—

13 “(i) conduct and document a security
14 risk analysis, including information regard-
15 ing the manner and extent to which such
16 entity or associate is exposed to risk
17 through its business associates;

18 “(ii) document a plan for a rapid and
19 orderly resolution in the event of a natural
20 disaster, disruptive cyber incident, or other
21 technological failure to its information sys-
22 tems or those of its business associates;

23 “(iii) conduct a stress test to evaluate
24 whether such entity or associate has the
25 capabilities and planning necessary to re-
26 cover essential functions, such as patient

1 care operations and transactions described
2 in subsection (a)(2), following a cyber inci-
3 dent, a natural disaster, or other substan-
4 tial threat to health care operations, as de-
5 termined by the Secretary;

6 “(iv) document whether, based upon
7 the results of the stress test described in
8 clause (iii), the covered entity or business
9 associate revised the most recent plan de-
10 scribed in clause (ii);

11 “(v) provide a written statement
12 signed by the chief executive officer and
13 chief information security officer (or equiv-
14 alent thereof) stating that the covered enti-
15 ty or business associate is in compliance
16 with security requirements adopted under
17 part 160 of title 45, Code of Federal Regu-
18 lations, and subparts A and C of part 164
19 of title 45, Code of Federal Regulations (or
20 a successor regulation), including the ap-
21 plicable security requirements adopted
22 under paragraph (1)(B); and

23 “(vi) publish on a publicly accessible
24 website—

1 “(I) whether the covered entity
2 or business associate has received a
3 notification from the Secretary pursu-
4 ant to paragraph (1)(B)(ii)(I);

5 “(II) whether the covered entity
6 or business associate meets the min-
7 imum security requirements and, if
8 applicable, the enhanced security re-
9 quirements under paragraph (1)(B);
10 and

11 “(III) a copy of each statement
12 provided under clause (v) with respect
13 to each year in a machine-readable
14 format.

15 “(B) STRESS TEST METHODOLOGY.—The
16 Secretary shall provide for not less than 2 dif-
17 ferent sets of conditions under which the test
18 described in subparagraph (A)(iii) is to be con-
19 ducted.

20 “(C) WAIVER AUTHORITY.—The Secretary
21 may waive the requirements of this paragraph
22 with respect to a covered entity or business as-
23 sociate if the burden on the entity or associate
24 significantly outweighs the benefits, taking into
25 account the revenue of the entity or associate,

1 the volume of protected health information or
2 health care transactions processed by the entity
3 or associate, and such other factors as the Sec-
4 retary determines appropriate.

5 “(D) REPORTING.—

6 “(i) IN GENERAL.—Subject to clause
7 (ii), each covered entity and business asso-
8 ciate shall submit the documentation re-
9 quired under subparagraph (A) at such
10 time, in such form, and containing such in-
11 formation as the Secretary may require.

12 “(ii) ANNUAL REPORTING FOR COV-
13 ERED ENTITIES AND BUSINESS ASSOCI-
14 ATES SUBJECT TO ENHANCED SECURITY
15 REQUIREMENTS.—Each covered entity and
16 business associate that is subject to en-
17 hanced security requirements shall submit
18 the documentation required under subpara-
19 graph (A) to the Secretary not less fre-
20 quently than on an annual basis.

21 “(E) DEFINITIONS.—For purposes of this
22 subsection:

23 “(i) CYBER INCIDENT.—The term
24 ‘cyber incident’ has the meaning given the
25 term ‘incident’ in section 2200(12) of the

1 Homeland Security Act of 2002 (6 U.S.C.
2 650(12)).

3 “(ii) MACHINE-READABLE.—The term
4 ‘machine-readable’ has the meaning given
5 such term in section 3502 of title 44,
6 United States Code.

7 “(iii) STRESS TEST.—The term ‘stress
8 test’ means an extensive real-world simula-
9 tion intended to test the operational resil-
10 ience of the health care operations of a
11 covered entity or business associate in re-
12 sponse to a substantial interruption in in-
13 formation systems, including the ability
14 to—

15 “(I) continue to provide essential
16 care and services during and in the
17 recovery period from such substantial
18 interruption; and

19 “(II) timely rebuild the informa-
20 tion systems (as defined in section
21 2200(14) of the Homeland Security
22 Act of 2002 (6 U.S.C. 650(14))) of
23 such covered entity or business asso-
24 ciate.

1 “(F) EFFECTIVE DATE.—The require-
2 ments under this paragraph shall take effect on
3 the date that is 3 years after the date of enact-
4 ment of this paragraph.”.

5 (b) INDEPENDENT SECURITY COMPLIANCE AU-
6 DITS.—Section 1173(d) of the Social Security Act (42
7 U.S.C. 1320d–2(d)), as amended by subsection (a), is
8 amended by adding at the end the following new para-
9 graph:

10 “(4) INDEPENDENT SECURITY COMPLIANCE AU-
11 DITS.—

12 “(A) IN GENERAL.—Each covered entity
13 and business associate shall—

14 “(i) contract with an independent
15 auditor that meets such requirements for
16 independence and technical expertise as
17 the Inspector General of the Department
18 of Health and Human Services may estab-
19 lish to conduct an annual audit in accord-
20 ance with subparagraph (B); and

21 “(ii) document the findings of each
22 audit conducted under clause (i).

23 “(B) AUDIT REQUIREMENTS.—An audit
24 conducted under subparagraph (A)(i) shall—

1 “(i) assess compliance of the covered
2 entity or business associate with—

3 “(I) during the period prior to
4 the effective date of the requirements
5 under paragraph (1)(B), the
6 Healthcare and Public Health Sector
7 Cybersecurity Performance Goals as
8 described in the report published by
9 the Department of Health and
10 Human Services as of the date of en-
11 actment of this paragraph, and titled
12 ‘Healthcare and Public Health Sector-
13 Specific Cybersecurity Performance
14 Goals: Strengthening the Cybersecu-
15 rity of the Healthcare Sector and
16 Keeping Patients Safe and Secure’;
17 and

18 “(II) on or after the effective
19 date of the requirements under para-
20 graph (1)(B), the minimum and en-
21 hanced security requirements adopted
22 under such paragraph, as applicable;

23 “(ii) identify any areas in which the
24 covered entity or business associate did not

1 meet such goals or requirements, as appli-
2 cable; and

3 “(iii) certify that the covered entity or
4 business associate—

5 “(I) has resolved any areas of
6 noncompliance; or

7 “(II) is implementing an appro-
8 priate plan to resolve such areas of
9 noncompliance in a timely manner.

10 “(C) WAIVER AUTHORITY.—The Secretary
11 may waive the requirements of this paragraph
12 with respect to a covered entity or business as-
13 sociate if the burden on the entity or associate
14 significantly outweighs the benefits, taking into
15 account the revenue of the entity or associate,
16 the volume of protected health information or
17 health care transactions processed by the entity
18 or associate, and such as other factors as the
19 Secretary determines appropriate.

20 “(D) REPORTING.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), each covered entity and business asso-
23 ciate shall submit the documentation re-
24 quired under subparagraph (A)(ii) at such

1 time, in such form, and containing such in-
2 formation as the Secretary may require.

3 “(ii) ANNUAL REPORTING FOR ENTI-
4 TIES AND ASSOCIATES SUBJECT TO EN-
5 HANCED SECURITY REQUIREMENTS.—Each
6 covered entity and business associate that
7 is subject to enhanced security require-
8 ments shall submit the documentation re-
9 quired under subparagraph (A)(ii) to the
10 Secretary not less frequently than on an
11 annual basis.

12 “(E) EFFECTIVE DATE.—The require-
13 ments under this paragraph shall take effect on
14 the date that is 180 days after the date of en-
15 actment of this paragraph.”.

16 (c) SECRETARIAL AUDITS OF DATA SECURITY PRAC-
17 TICES.—Section 1173(d) of the Social Security Act (42
18 U.S.C. 1320d–2(d)), as amended by subsections (a) and
19 (b), is amended by adding at the end the following new
20 paragraph:

21 “(5) SECRETARIAL AUDITS OF DATA SECURITY
22 PRACTICES.—

23 “(A) IN GENERAL.—Each year (beginning
24 on or after the date that is 4 years after the
25 date of enactment of this paragraph) the Sec-

1 retary shall conduct an annual audit of the data
2 security practices of at least 20 covered entities
3 or business associates under this part. The
4 Comptroller General of the United States shall
5 monitor auditing activities conducted under this
6 paragraph.

7 “(B) CONSIDERATIONS.—In selecting cov-
8 ered entities or business associates for audit
9 under subparagraph (A) the Secretary shall
10 consider—

11 “(i) whether the covered entity or
12 business associate is of systemic impor-
13 tance;

14 “(ii) whether any complaints have
15 been made with respect to the data secu-
16 rity practices of the covered entity or busi-
17 ness associate; and

18 “(iii) whether the covered entity or
19 business associate has a history of previous
20 violations.

21 “(C) CORRECTIVE ACTION PLAN AND PEN-
22 ALTIES.—The findings of an audit under this
23 paragraph may result in a civil money penalty
24 based on the failure of a covered entity or busi-
25 ness associate to submit documentation dem-

1 onstrating that the covered entity or business
2 associate has taken corrective actions to achieve
3 compliance in response to a finding of a poten-
4 tial violation of a provision of this part within
5 a period of time specified by the Secretary after
6 receipt of such findings.

7 “(D) REPORTS TO CONGRESS.—The Sec-
8 retary shall submit to Congress reports summa-
9 rizing the results of the audits conducted under
10 this paragraph biennially ending on the date
11 that is 10 years after the date on which the
12 first report is submitted under this subpara-
13 graph.”.

14 (d) CIVIL AND CRIMINAL PENALTIES FOR FAILURE
15 TO COMPLY WITH DOCUMENTATION, REPORTING, AND
16 AUDIT REQUIREMENTS.—Section 1173(d) of the Social
17 Security Act (42 U.S.C. 1320d–2(d)), as amended by sub-
18 sections (a), (b), and (c), is amended by adding at the
19 end the following new paragraph:

20 “(6) CIVIL AND CRIMINAL PENALTIES FOR
21 FAILURE TO COMPLY WITH DOCUMENTATION, RE-
22 PORTING, AND AUDIT REQUIREMENTS.—

23 “(A) CIVIL PENALTIES.—

24 “(i) IN GENERAL.—A covered entity
25 or business associate that—

1 “(I) fails to timely submit docu-
2 mentation or a report required under
3 paragraph (3), (4), or (5);

4 “(II) fails to comply with an
5 audit under paragraph (5); or

6 “(III) fails to comply with a re-
7 sponsibility of a covered entity or a
8 business associate under section
9 160.310 of title 45, Code of Federal
10 Regulations (or a successor regula-
11 tion);

12 shall be subject to a civil money penalty of
13 not more than \$5,000 per day for each
14 such failure.

15 “(ii) PROCEDURES.—The provisions
16 of section 1128A (other than subsections
17 (a), (b), and (d)(1), and the second sen-
18 tence of subsection (f)) shall apply to the
19 imposition of a civil money penalty under
20 this subparagraph in the same manner as
21 such provisions apply to the imposition of
22 a penalty under such section 1128A.

23 “(iii) CLARIFICATION.—Any civil
24 money penalty under this subparagraph
25 with respect to a failure described in clause

1 (i) shall be in lieu of the penalties de-
2 scribed in section 1176.

3 “(B) CRIMINAL PENALTIES.—In addition
4 to any penalties imposed under subparagraph
5 (A), whoever submits, or causes to be sub-
6 mitted, any documentation or report required of
7 a covered entity or business associate under
8 paragraph (3), (4), or (5) knowing that such
9 documentation or report contains false informa-
10 tion, or willfully fails to timely submit, or will-
11 fully causes to not be timely submitted, such a
12 document or report, shall be guilty of a felony
13 and upon conviction thereof fined not more
14 than \$1,000,000 or imprisoned for not more
15 than 10 years, or both.”.

16 **SEC. 103. INCREASED CIVIL PENALTIES FOR FAILURE TO**
17 **COMPLY WITH SECURITY STANDARDS AND**
18 **REQUIREMENTS FOR HEALTH INFORMATION.**

19 (a) INCREASED CIVIL PENALTIES.—Section 1176 of
20 the Social Security Act (42 U.S.C. 1320d–5) is amend-
21 ed—

22 (1) in subsection (a)(1), in the matter pre-
23 ceding subparagraph (A), by striking “subsection
24 (b)” and inserting “subsections (b) and (d)”;

1 (2) by redesignating subsections (d) and (e) as
2 subsections (e) and (f); and

3 (3) by inserting after subsection (c) the fol-
4 lowing new subsection:

5 “(d) SPECIAL RULES FOR FAILURE TO COMPLY
6 WITH SECURITY STANDARDS AND REQUIREMENTS FOR
7 HEALTH INFORMATION.—

8 “(1) IN GENERAL.—In the case of a violation of
9 the security standards and requirements under sec-
10 tion 1173(d) that occurs after the effective date of
11 the requirements under paragraph (1)(B) of such
12 section, the following rules shall apply:

13 “(A) Subsection (a)(1)(A) shall be applied
14 by substituting ‘that is at least \$500’ for ‘that
15 is at least the amount described in paragraph
16 (3)(A) but not to exceed the amount described
17 in paragraph (3)(D)’.

18 “(B) Subsection (a)(1)(B) shall be applied
19 by substituting ‘that is at least \$5,000’ for
20 ‘that is at least the amount described in para-
21 graph (3)(B) but not to exceed the amount de-
22 scribed in paragraph (3)(D)’.

23 “(C) Subsection (a)(1)(C)(i) shall be ap-
24 plied by substituting ‘that is at least \$50,000’
25 for ‘that is at least the amount described in

1 paragraph (3)(C) but not to exceed the amount
2 described in paragraph (3)(D)’.

3 “(D) Subsection (a)(1)(C)(ii) shall be ap-
4 plied by substituting ‘that is at least \$250,000’
5 for ‘that is at least the amount described in
6 paragraph (3)(D)’.

7 “(E) In addition to the factors described in
8 the second sentence of subsection (a)(1), in de-
9 termining the amount of a penalty under this
10 section for a violation of the security standards
11 and requirements under section 1173(d), the
12 Secretary shall also base such determination
13 on—

14 “(i) the size of the covered entity or
15 business associate (as such terms are de-
16 fined in section 1173(d)(1)(B)(vi)) subject
17 to the penalty;

18 “(ii) the full compliance history of the
19 covered entity or business associate,

20 “(iii) good faith efforts to comply with
21 the security standards and requirements;
22 and

23 “(iv) such other matters as the Sec-
24 retary determines appropriate.

25 “(F) Subsection (a)(3) shall not apply.

1 “(2) DISTRIBUTION OF CERTAIN CIVIL MONE-
2 TARY PENALTIES COLLECTED.—

3 “(A) IN GENERAL.—Subject to the regula-
4 tion promulgated pursuant to subparagraph
5 (B), any civil monetary penalty or monetary
6 settlement collected with respect to a violation
7 of the security standards and requirements
8 under section 1173(d) that occurs after the ef-
9 fective date of such requirements under para-
10 graph (1)(B) of such section shall be trans-
11 ferred to the Office for Civil Rights of the De-
12 partment of Health and Human Services to be
13 used for the purposes of enforcing the provi-
14 sions of this part and subparts C and E of part
15 164 of title 45, Code of Federal Regulations (or
16 any successor regulation).

17 “(B) ESTABLISHMENT OF METHODOLOGY
18 TO DISTRIBUTE PERCENTAGE OF CMPS COL-
19 LECTED TO HARMED INDIVIDUALS.—Not later
20 than 18 months after the date of the enactment
21 of this subparagraph, the Secretary shall estab-
22 lish by regulation a methodology under which
23 an individual who is harmed by an act that con-
24 stitutes a violation referred to in subparagraph
25 (A) may receive a percentage of any civil mone-

1 tary penalty or monetary settlement collected
2 with respect to such violation.

3 “(C) APPLICATION OF METHODOLOGY.—

4 The methodology under subparagraph (B) shall
5 be applied to any civil monetary penalty or
6 monetary settlement collected with respect to a
7 violation of the security standards and require-
8 ments under section 1173(d) that occurs after
9 the effective date of such requirements under
10 paragraph (1)(B) of such section.”.

11 (b) STRIKING AMENDMENT TO THE HEALTH INFOR-
12 MATION TECHNOLOGY FOR ECONOMIC AND CLINICAL
13 HEALTH ACT RELATED TO FINES AND AUDITS.—

14 (1) IN GENERAL.—Part 1 of subtitle D of the
15 Health Information Technology for Economic and
16 Clinical Health Act (42 U.S.C. 17931 et seq.), as
17 amended by Public Law 116–321, is amended by
18 striking section 13412.

19 (2) EFFECTIVE DATE.—The amendment made
20 by this subsection shall take effect on the date of en-
21 actment of this Act, and apply to determinations
22 made on or after such date.

1 **SEC. 104. USER FEE TO SUPPORT DATA SECURITY OVER-**
2 **SIGHT AND ENFORCEMENT ACTIVITIES.**

3 Section 1173(d) of the Social Security Act (42 U.S.C.
4 1320d–2(d)), as amended by section 102, is amended by
5 adding at the end the following new paragraph:

6 “(7) USER FEE TO SUPPORT DATA SECURITY
7 OVERSIGHT AND ENFORCEMENT ACTIVITIES.—

8 “(A) IN GENERAL.—Each covered entity
9 and business associate shall pay the fee estab-
10 lished by the Secretary under subparagraph
11 (B).

12 “(B) AUTHORIZATION.—The Secretary is
13 authorized to charge a fee to each covered enti-
14 ty and business associate that is equal to the
15 pro rata share of the entity or associate (equal
16 to the ratio, as estimated by the Secretary, of
17 the revenue of the entity or associate for the
18 preceding fiscal year to national health expendi-
19 tures, as determined by the Secretary, for the
20 preceding fiscal year) of the aggregate amount
21 of fees which the Secretary is directed to collect
22 in a fiscal year. Any amounts collected shall be
23 available without further appropriation to the
24 Secretary for the purpose of carrying out over-
25 sight and enforcement activities under this sub-
26 section.

1 “(C) LIMITATION.—In any fiscal year (be-
2 ginning with fiscal year 2028) the fees collected
3 by the Secretary under subparagraph (B) shall
4 not exceed the lesser of—

5 “(i) the estimated costs to be incurred
6 by the Secretary in the fiscal year in car-
7 rying out oversight and enforcement activi-
8 ties under this subsection; or

9 “(ii)(I) in fiscal year 2028,
10 \$40,000,000;

11 “(II) in fiscal year 2029,
12 \$50,000,000; and

13 “(III) in fiscal year 2030 or a subse-
14 quent fiscal year, the amount determined
15 under this clause for the preceding fiscal
16 year, increased by the percentage increase
17 in the consumer price index for all urban
18 consumers (all items; United States city
19 average) over the previous year.”.

1 **TITLE II—MEDICARE ASSIST-**
2 **ANCE TO ADDRESS CYBERSE-**
3 **CURITY INCIDENTS**

4 **SEC. 201. MEDICARE SAFE CYBERSECURITY PRACTICES**
5 **ADOPTION PROGRAM FOR ELIGIBLE HOS-**
6 **PITALS AND CRITICAL ACCESS HOSPITALS.**

7 (a) INCENTIVE PAYMENTS.—Section 1886 of the So-
8 cial Security Act (42 U.S.C. 1395ww) is amended by add-
9 ing at the end the following new subsection:

10 “(u) INCENTIVES FOR ADOPTION OF ESSENTIAL AND
11 ENHANCED CYBERSECURITY PRACTICES.—

12 “(1) INVESTMENT.—

13 “(A) FISCAL YEARS 2029 AND 2030.—For
14 fiscal years 2029 and 2030, upon request, a
15 critical access hospital or an eligible high-needs
16 hospital shall be paid from the Federal Hospital
17 Insurance Trust Fund established under section
18 1817 a proportional share (as determined by
19 the Secretary) of \$800,000,000 to adopt essen-
20 tial cybersecurity practices.

21 “(B) FISCAL YEARS 2031 AND 2032.—For
22 fiscal years 2031 and 2032, upon request, a
23 critical access hospital or an eligible hospital
24 shall be paid from the Federal Hospital Insur-
25 ance Trust Fund established under section

1 1817 a proportional share (as determined by
2 the Secretary) of \$500,000,000 to adopt en-
3 hanced cybersecurity practices.

4 “(C) FORM OF PAYMENT.—A payment
5 under this subsection may be in the form of a
6 single consolidated payment or in the form of
7 such periodic installments as the Secretary may
8 specify.

9 “(2) ADOPTION.—

10 “(A) ESSENTIAL CYBERSECURITY PRAC-
11 TICES.—Beginning in fiscal year 2031 for an
12 eligible hospital, and in calendar year 2031 for
13 a critical access hospital, such hospital or crit-
14 ical access hospital shall be treated as an adopt-
15 er of essential cybersecurity practices for a pay-
16 ment year if such hospital or critical access hos-
17 pital submits information to the Secretary, in a
18 form and manner specified by the Secretary,
19 and in addition to the information required by
20 subsection (n)(3)(A)(iii), attesting to implemen-
21 tation of essential cybersecurity practices se-
22 lected by the Secretary for the EHR reporting
23 period with respect to such year.

24 “(B) ENHANCED CYBERSECURITY PRAC-
25 TICES.—Beginning in fiscal year 2032 for an

1 eligible hospital, and in calendar year 2032 for
2 a critical access hospital, such hospital or crit-
3 ical access hospital shall be treated as an adopt-
4 er of enhanced cybersecurity practices for a
5 payment year if such hospital or critical access
6 hospital submits information to the Secretary,
7 in a form and manner specified by the Sec-
8 retary, and in addition to the information re-
9 quired by subsection (n)(3)(A)(iii), attesting to
10 implementation of enhanced cybersecurity prac-
11 tices selected by the Secretary during the EHR
12 reporting period with respect to such year.

13 “(C) IDENTIFICATION OF ESSENTIAL CY-
14 BERSECURITY PRACTICES.—Beginning in fiscal
15 year 2029, the Secretary shall, through notice
16 and comment rulemaking, identify essential cy-
17 bersecurity practices for an EHR reporting pe-
18 riod that address known vulnerabilities to data
19 infrastructure and patient health information
20 and ensure patient safety and continuity of pa-
21 tient care.

22 “(D) IDENTIFICATION OF ENHANCED CY-
23 BERSECURITY PRACTICES.—Beginning in fiscal
24 year 2030, the Secretary shall, through notice
25 and comment rulemaking, identify enhanced cy-

bersecurity practices for an EHR reporting period that address the safe use of digital data, safety and continuity of patient care, advance cybersecurity resilience across the hospital sector, address high-risk cybersecurity vulnerabilities (as determined by the Secretary), and ensure patient safety and continuity of care.

“(E) UPDATING.—The Secretary may update essential and enhanced cybersecurity practices required under this subsection through notice and comment rulemaking as needed to reflect evolving cybersecurity practices.

“(3) APPLICATION.—

“(A) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

“(i) the methodology and standards for determining payment amounts under this subsection and payment adjustments under subsection (b)(3)(B)(xiii) and section 1814(l)(5)(A);

“(ii) the methodology and standards for determining whether an eligible hos-

1 pital is an essential or enhanced cybersecu-
2 rity practices adopter under paragraph (2)
3 and the Secretary’s determination of
4 whether to apply the hardship exception to
5 an eligible hospital under subsection
6 (b)(3)(B)(xiii)(III); or

7 “(iii) any alteration by the Secretary
8 of the requirements specified in paragraph
9 (2).

10 “(B) POSTING ON WEBSITE.—The Sec-
11 retary shall post on the Internet website of the
12 Centers for Medicare & Medicaid Services, in an
13 easily understandable format, the number by
14 State of eligible hospitals and critical access
15 hospitals that are not essential or enhanced cy-
16 bersecurity adopters as applicable for a year.

17 “(4) DEFINITIONS.—For purposes of this sub-
18 section:

19 “(A) EHR REPORTING PERIOD.—The term
20 ‘EHR reporting period’ means the period deter-
21 mined by the Secretary under subsection
22 (n)(6)(A).

23 “(B) ELIGIBLE HIGH-NEEDS HOSPITAL.—
24 The term ‘eligible high-needs hospital’ means
25 an eligible hospital that—

1 “(i) is a subsection (d) Puerto Rico
2 hospital (as defined in subsection
3 (d)(9)(A));

4 “(ii) is operated by the Indian Health
5 Service or by an Indian tribe or tribal or-
6 ganization (as those terms are defined in
7 section 4 of the Indian Health Care Im-
8 provement Act);

9 “(iii) has a disproportionate percent-
10 age of Medicare beneficiaries who are du-
11 ally eligible for benefits under this title and
12 title XIX across all subsection (d) hospitals
13 in the baseline period (as specified by the
14 Secretary) of at least 75 percent;

15 “(iv) has a disproportionate percent-
16 age of Medicare beneficiaries who are sub-
17 sidy eligible individuals (as defined in sec-
18 tion 1860D–14(a)(3)) across all subsection
19 (d) hospitals in the baseline period (as
20 specified by the Secretary) of at least 75
21 percent (as determined by the Secretary
22 under subsection (d)(5)(F)(vi));

23 “(v) is located in a rural area (as de-
24 fined in subsection (d)(2)(D));

1 “(vi) is classified as a rural referral
2 center under subsection (d)(5)(C);

3 “(vii) is a sole community hospital (as
4 defined in subsection (d)(5)(D)(iii));

5 “(viii) is a low-volume hospital (as de-
6 fined in subsection (d)(12)(C)(i)); or

7 “(ix) is a medicare-dependent, small
8 rural hospital (as defined in subsection
9 (d)(5)(G)).

10 “(C) ELIGIBLE HOSPITAL.—The term ‘eli-
11 gible hospital’ has the meaning given that term
12 in subsection (n)(6)(B).

13 “(D) ENHANCED CYBERSECURITY PRAC-
14 TICES.—The term ‘enhanced cybersecurity
15 practices’ means enhanced security require-
16 ments adopted under section
17 1173(d)(1)(B)(i)(II) and such additional prac-
18 tices as the Secretary may select for a year that
19 are greater than essential cybersecurity prac-
20 tices.

21 “(E) ESSENTIAL CYBERSECURITY PRAC-
22 TICES.—The term ‘essential cybersecurity prac-
23 tices’ means the minimum security require-
24 ments adopted under section

1 1173(d)(1)(B)(i)(I) and such additional prac-
2 tices as the Secretary may select for a year.”.

(b) PAYMENT REDUCTIONS FOR FAILURE TO ADOPT
SAFE CYBERSECURITY PRACTICES; SIGNIFICANT HARD-
SHIP EXCEPTION.—

(1) HOSPITALS.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

10 “(xiii)(I) For purposes of clause (i)—

“(aa) for fiscal year 2031, in the case of an eligible hospital that is not an adopter of the essential cybersecurity practices for a payment year (as determined under subsection (u)(2)(A)) for an EHR reporting period for such year, the applicable percentage increase otherwise applicable under clause (i) (determined without regard to clause (viii) or (xi)) for such fiscal year shall be reduced (but not below zero) by 0.25 percentage point;

“(bb) for fiscal year 2032, in the case of an eligible hospital that is not an adopter of the essential cybersecu-

1 rity practices for a payment year (as
2 determined under subsection
3 (u)(2)(A)) for an EHR reporting pe-
4 riod for such year—

5 “(AA) the applicable per-
6 centage increase otherwise appli-
7 cable under clause (i) (deter-
8 mined without regard to clause
9 (viii) or (xi)) for such fiscal year
10 shall be reduced (but not below
11 zero) by 0.50 percentage point;
12 and

13 “(BB) the base operating
14 DRG payment amount (as de-
15 fined in subsection (o)(7)(D)) for
16 such hospital for each discharge
17 in such fiscal year shall be re-
18 duced by 0.25 percent;

19 “(cc) for fiscal year 2033, in the
20 case of an eligible hospital that is not
21 an adopter of the enhanced cybersecu-
22 rity practices for a payment year (as
23 determined under subsection
24 (u)(2)(B)) for an EHR reporting pe-
25 riod for such fiscal year—

1 “(AA) the applicable per-
2 centage increase otherwise appli-
3 cable under clause (i) (deter-
4 mined without regard to clause
5 (viii) or (xi)) for such fiscal year
6 shall be reduced (but not below
7 zero) by 0.75 percentage point;
8 and

9 “(BB) the base operating
10 DRG payment amount (as de-
11 fined in subsection (o)(7)(D)) for
12 such hospital for each discharge
13 in such fiscal year shall be re-
14 duced by 0.50 percent;

15 “(dd) for fiscal year 2034, in the
16 case of an eligible hospital that is not
17 an adopter of the enhanced cybersecu-
18 rity practices for a payment year (as
19 determined under subsection
20 (u)(2)(B)) for an EHR reporting pe-
21 riod for such fiscal year—

22 “(AA) the applicable per-
23 centage increase otherwise appli-
24 cable under clause (i) (deter-
25 mined without regard to clause

1 (viii) or (xi)) for such fiscal year
2 shall be reduced (but not below
3 zero) by 1.0 percentage point;
4 and

5 “(BB) the base operating
6 DRG payment amount (as de-
7 fined in subsection (o)(7)(D)) for
8 such hospital for each discharge
9 in such fiscal year shall be re-
10 duced by 0.75 percent; and

11 “(ee) for fiscal year 2035 and
12 each subsequent fiscal year, in the
13 case of an eligible hospital that is not
14 an adopter of the enhanced cybersecu-
15 rity practices for a payment year (as
16 determined under subsection
17 (u)(2)(B)) for an EHR reporting pe-
18 riod for such fiscal year—

19 “(AA) the applicable per-
20 centage increase otherwise appli-
21 cable under clause (i) (deter-
22 mined without regard to clause
23 (viii) or (xi)) for such fiscal year
24 shall be reduced (but not below

1 zero) by 1.0 percentage point;
2 and

3 “(BB) the base operating
4 DRG payment amount (as de-
5 fined in subsection (o)(7)(D)) for
6 such hospital for each discharge
7 in such fiscal year shall be re-
8 duced by 1.0 percent.

9 “(II) A reduction under subclause (I)
10 shall apply only with respect to the fiscal
11 year involved, and the Secretary shall not
12 take into account such reduction in making
13 payments to a hospital under this section
14 in a subsequent fiscal year.

15 “(III) The Secretary may, on a case-
16 by-case basis, except an eligible hospital
17 from the application of subclause (I) with
18 respect to a fiscal year if the Secretary de-
19 termines, subject to annual renewal, that
20 requiring such hospital to be an essential
21 or enhanced cybersecurity practices adopt-
22 er during such fiscal year would result in
23 a significant hardship, such as in the case
24 of a natural disaster, a bankruptcy, limited
25 internet connectivity, an incident (as de-

1 fined in section 2200 of the Homeland Se-
2 curity Act of 2002) that significantly dis-
3 rupts medicare claims processing, or any
4 other similar situation that the Secretary
5 determines interfered with the ability of
6 the eligible hospital to meet the require-
7 ments. An eligible hospital may not be
8 granted an exemption under this subclause
9 for more than 5 years, except in cases
10 where the Secretary determines such hos-
11 pital has experienced an incident (as so de-
12 fined) that significantly disrupts medicare
13 claims processing. The Secretary shall es-
14 tablish an exception process and post an
15 application for an exception on the Inter-
16 net website of the Centers for Medicare &
17 Medicaid Services. Such process shall re-
18 quire that the application be submitted to
19 the Secretary by not later than 6 months
20 after the conclusion of the EHR reporting
21 period for the relevant year.

22 “(IV) In the case of a State for which
23 the Secretary has waived all or part of this
24 section under the authority of section
25 1115A, nothing in this section shall pre-

1 clude such State from implementing an ad-
2 justment similar to the adjustment under
3 subclause (I).

4 “(V) In this clause, the term ‘eligible
5 hospital’ has the meaning given such term
6 in subsection (u)(4).”.

7 (2) CRITICAL ACCESS HOSPITALS.—Section
8 1814(l) of the Social Security Act (42 U.S.C.
9 1395f(l)) is amended—

10 (A) by redesignating paragraph (5) as
11 paragraph (6);

12 (B) by inserting after paragraph (4) the
13 following new paragraph:

14 “(5)(A) Subject to subparagraphs (B) and (C),
15 for cost reporting periods beginning in—

16 “(i) fiscal year 2031, in the case of a crit-
17 ical access hospital that is not an essential cy-
18 bersecurity practices adopter (as determined
19 under section 1886(u)(3)(A)) for an EHR re-
20 porting period with respect to such fiscal year,
21 the percent described in paragraph (1) shall be
22 reduced by 0.25 percent;

23 “(ii) fiscal year 2032, in the case of a crit-
24 ical access hospital that is not an essential cy-
25 bersecurity practices adopter (as determined

1 under section 1886(u)(3)(A)) for an EHR re-
2 porting period with respect to such fiscal year,
3 the percent described in paragraph (1) shall be
4 reduced by 0.50 percent;

5 “(iii) fiscal year 2033, in the case of a crit-
6 ical access hospital that is not an enhanced cy-
7 bersecurity practices adopter (as determined
8 under section 1886(u)(3)(B)) for a EHR re-
9 porting period with respect to such fiscal year,
10 the percent described in paragraph (1) shall be
11 reduced by 0.75 percent; and

12 “(iv) fiscal year 2034 or a subsequent fis-
13 cal year, in the case of a critical access hospital
14 that is not an enhanced cybersecurity practices
15 adopter (as determined under section
16 1886(u)(3)(B)) for a EHR reporting period
17 with respect to such fiscal year, the percent de-
18 scribed in paragraph (1) shall be reduced by 1
19 percent.

20 “(B) The percent described in paragraph (1)
21 shall be reduced by no more than a total of 1 per-
22 cent for a fiscal year as the result of the application
23 of this paragraph and other sections of this title.

24 “(C) The provisions of subclause (III) of sec-
25 tion 1886(b)(3)(B)(xiii) shall apply with respect to

1 subparagraph (A) for a critical access hospital with
2 respect to a cost reporting period in the same man-
3 ner as such subclause applies with respect to sub-
4 clause (I) of such section for an eligible hospital.”;
5 and

6 (C) in paragraph (6), as redesignated by
7 subparagraph (A)—

8 (i) in subparagraph (C), by striking
9 “and” at the end;

10 (ii) in subparagraph (D), by striking
11 the period at the end and inserting “;
12 and”; and

13 (iii) by adding at the end the fol-
14 lowing new subparagraphs:

15 “(E) the methodology and standards for deter-
16 mining payment amounts for critical access hospitals
17 under section 1886(u) and payment adjustments
18 under paragraph (5);

19 “(F) the methodology and standards for deter-
20 mining whether a critical access hospital is an essen-
21 tial or enhanced cybersecurity practices adopter
22 under section 1886(u)(2) and the Secretary’s deter-
23 mination of whether to apply the hardship exception
24 under subsection (b)(3)(B)(xiii)(III) to a critical ac-
25 cess hospital pursuant to paragraph (5)(C); or

1 “(G) any alteration by the Secretary of the re-
2 quirements specified in section 1886(u)(2) with re-
3 spect to a critical access hospital.”.

4 (c) IMPLEMENTATION FUNDING.—In addition to any
5 amounts otherwise made available, there is appropriated
6 to the Centers for Medicare & Medicaid Services Program
7 Management Account from the Federal Hospital Insur-
8 ance Trust Fund under section 1817 of the Social Secu-
9 rity Act (42 U.S.C. 1395i), \$40,000,000 for fiscal year
10 2027 and \$15,000,000 for each of fiscal years 2029
11 through 2033, to remain available until expended, to carry
12 out the amendments made by this section.

13 **SEC. 202. MEDICARE ACCELERATED AND ADVANCE PAY-**
14 **MENTS IN RESPONSE TO CYBERSECURITY IN-**
15 **CIDENTS.**

16 (a) PART A.—Section 1815(e)(3) of the Social Secu-
17 rity Act (42 U.S.C. 1395g(e)(3)) is amended to read as
18 follows:

19 “(3)(A) Subject to subsection (f), in the case of an
20 eligible provider of services (as defined in subparagraph
21 (B)) that has an agreement in effect under section 1866
22 and that has significant cash flow problems resulting from
23 operations of its medicare administrative contractor under
24 section 1874A or from unusual circumstances of such pro-
25 vider’s operation, including significant disruption to Medi-

1 care claims processing due to a cybersecurity incident (as
2 defined in subparagraph (C)), the Secretary may make
3 available appropriate accelerated payments subject to ap-
4 propriate safeguards against fraud, waste, and abuse de-
5 termined by the Secretary.

6 “(B) In this paragraph, the term ‘eligible providers
7 of services’ means—

8 “(i) a subsection (d) hospital or a subsection
9 (d) Puerto Rico hospital (as defined for purposes of
10 section 1886);

11 “(ii) a hospital described in any of clauses (i)
12 through (vi) of section 1886(d)(1)(B);

13 “(iii) a critical access hospital (as defined in
14 section 1861(mm)(1));

15 “(iv) a rural emergency hospital (as defined in
16 section 1861(kkk)(2));

17 “(v) a skilled nursing facility (as defined in sec-
18 tion 1819(a));

19 “(vi) a home health agency (as defined in sec-
20 tion 1861(o));

21 “(vii) a hospice program (as defined in section
22 1861(dd)(2));

23 “(viii) a comprehensive outpatient rehabilitation
24 facility (as defined in section 1861(cc)(2));

1 “(ix) a rural health clinic (as defined in section
2 1861(aa)(2));

3 “(x) a Federally qualified health center (as de-
4 fined in section 1861(aa)(4));

5 “(xi) an opioid treatment program (as defined
6 in section 1861(jjj)(2)); and

7 “(xii) a community mental health center (as de-
8 fined in section 1861(ff)(3)(B)).

9 “(C) In this paragraph, the term ‘cybersecurity inci-
10 dent’ has the meaning given the term ‘incident’ in section
11 2200 of the Homeland Security Act of 2002.

12 “(D) Notwithstanding any other provision of law, the
13 Secretary may implement the provisions of this paragraph
14 by program instruction or otherwise.”.

15 (b) PART B.—Section 1835 of the Social Security Act
16 (42 U.S.C. 1395n) is amended by adding at the end the
17 following new subsection:

18 “(f)(1) Upon the request of a supplier (as defined in
19 section 1861(d)) that is participating in the Medicare pro-
20 gram under this title, that is furnishing items or services
21 under this part, and that has significant cash flow prob-
22 lems resulting from operations of its medicare administra-
23 tive contractor under section 1874A or from unusual cir-
24 cumstances of such supplier’s operation, including signifi-
25 cant disruption to Medicare claims processing due to a cy-

1 bersecurity incident (as defined in paragraph (2)), the
2 Secretary may make available appropriate advance pay-
3 ments subject to appropriate safeguards against fraud,
4 waste, and abuse determined by the Secretary.

5 “(2) In this paragraph, the term ‘cybersecurity inci-
6 dent’ has the meaning given the term ‘incident’ in section
7 2200 of the Homeland Security Act of 2002.

8 “(3) Notwithstanding any other provision of law, the
9 Secretary may implement the provisions of this subsection
10 by program instruction or otherwise.”.

11 (c) PROTECTION OF TRUST FUNDS.—

12 (1) PART A.—Section 1817 of the Social Secu-
13 rity Act (42 U.S.C. 1395i) is amended by adding at
14 the end the following new subsection:

15 “(1)(1) Beginning on the date of enactment of this
16 subsection, there shall be transferred from the General
17 Fund of the Treasury to the Trust Fund an amount, as
18 estimated by the Chief Actuary of the Centers for Medi-
19 care & Medicaid Services, equal to the amount of acceler-
20 ated payments made for items and services under this
21 part.

22 “(2) There shall be transferred from the Trust Fund
23 to the General Fund of the Treasury amounts equivalent
24 to the sum of—

1 “(A) the amounts by which claims have offset
2 (in whole or in part) the amount of such payments
3 described in paragraph (1); and

4 “(B) the amount of such payments that have
5 been repaid (in whole or in part).

6 “(3) Amounts described in paragraphs (1) and (2)
7 shall be transferred from time to time as determined ap-
8 propriate by the Secretary.”.

9 (2) PART B.—Section 1844 of the Social Secu-
10 rity Act (42 U.S.C. 1395w) is amended by adding
11 at the end the following new subsection:

12 “(g)(1) Beginning on the date of enactment of this
13 subsection, there shall be transferred from the General
14 Fund of the Treasury to the Trust Fund an amount, as
15 estimated by the Chief Actuary of the Centers for Medi-
16 care & Medicaid Services, equal to amounts paid in ad-
17 vance for items and services under this part.

18 “(2) There shall be transferred from the Trust Fund
19 to the General Fund of the Treasury amounts equivalent
20 to the sum of—

21 “(A) the amounts by which claims have offset
22 (in whole or in part) the amount of such payments
23 described in paragraph (1); and

24 “(B) the amount of such payments that have
25 been repaid (in whole or in part).

1 “(3) Amounts described in paragraphs (1) and (2)
2 shall be transferred from time to time as determined ap-
3 propriate by the Secretary.”.