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AMENDMENT NO. **570**

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

H. R. 1

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

February 7, 2009

Ordered to lie on the table and to be printed

Intended to be proposed by Ms. COLLINS (for herself and Mr. NELSON of Nebraska)

Viz:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Recovery and Reinvestment Act of 2009''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

DIVISION A—APPROPRIATIONS PROVISIONS

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES
TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES
TITLE III—DEPARTMENT OF DEFENSE

TITLE IV—ENERGY AND WATER DEVELOPMENT
TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT
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TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
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TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS
TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES
TITLE XIII—HEALTH INFORMATION TECHNOLOGY
TITLE XIV—STATE FISCAL STABILIZATION
TITLE XV—RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD AND RECOVERY INDEPENDENT ADVISORY PANEL
TITLE XVI—GENERAL PROVISIONS—THIS ACT

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

TITLE I—TAX PROVISIONS
TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES
TITLE III—HEALTH INSURANCE ASSISTANCE
TITLE IV—HEALTH INFORMATION TECHNOLOGY
TITLE V—STATE FISCAL RELIEF

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to ''this Act'' contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—APPROPRIATIONS PROVISIONS

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

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

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for the ''Office of the Secretary'', $200,000,000, to remain available until September 30, 2010: *Provided,* That the Secretary may transfer these funds to agencies of the Department, other than the Forest Service, for necessary replacement, modernization, or upgrades of laboratories or other facilities to improve workplace safety and mission-area efficiencies as deemed appropriate by the Secretary: *Provided further,* that the Secretary shall provide to the Committees on Appropriations of the House and Senate a plan on the allocation of these funds no later than 60 days after the date of enactment of this Act.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $5,000,000, to remain available until September 30, 2011, for oversight and audit of programs, grants, and activities funded under this title and an additional $17,500,000 for such purposes, to remain available until September 30, 2011.

COOPERATIVE STATE RESEARCH, EDUCATION AND ECONOMIC SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for competitive grants authorized at 7 U.S.C. 450(i)(b), $50,000,000, to remain available until September 30, 2010.

FARM SERVICE AGENCY

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

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

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2010, as follows: farm ownership loans, $17,530,000 of which

$330,000 shall be for unsubsidized guaranteed loans and $17,200,000 shall be for direct loans; and operating loans, $24,900,000 of which $1,300,000 shall be for unsubsidized guaranteed loans and $23,600,000 shall be for direct loans.

Funds appropriated by this Act to the Agricultural Credit Insurance Fund Program Account for farm ownership, operating, and emergency direct loans and unsubsidized guaranteed loans may be transferred among these programs: *Provided,* That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', $275,000,000, to remain available until September 30, 2010.

WATERSHED REHABILITATION PROGRAM

For an additional amount for the ''Watershed Rehabilitation Program'', $65,000,000, to remain available until September 30, 2010.

RURAL DEVELOPMENT SALARIES AND EXPENSES

For an additional amount for ''Rural Development, Salaries and Expenses'', $80,000,000, to remain available until September 30, 2010.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE PROGRAM ACCOUNT

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

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2010, as follows: $67,000,000 for section 502 direct loans; and $133,000,000 for section 502 unsubsidized guaranteed loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

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

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

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

BIOREFINERY ASSISTANCE

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

RURAL ENERGY FOR AMERICA PROGRAM

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

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for the rural water, waste

water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $1,375,000,000, to remain available until September 30, 2010.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM ACCOUNT

For an additional amount for direct loans and grants for distance learning and telemedicine services in rural areas, as authorized by 7 U.S.C. 950aaa, et seq., $100,000,000, to remain available until September 30, 2010.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For additional amount for the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et. seq.), except sections 17 and 21, $100,000,000, to remain available until September 30, 2010, to carry out a grant program for National School Lunch Program equipment assistance: *Provided,* That such funds shall be provided to States administering a school lunch program through a formula based on the ratio that the total number of lunches served in the Pro-

gram during the second preceding fiscal year bears to the total number of such lunches served in all States in such second preceding fiscal year: *Provided further,* That of such funds, the Secretary may approve the reserve by States of up to $20,000,000 for necessary enhancements to the State Distributing Agency's commodity ordering and management system to achieve compatibility with the Department's web-based supply chain management system: *Provided further,* That of the funds remaining, the State shall provide competitive grants to school food authorities based upon the need for equipment assistance in participating schools with priority given to schools in which not less than 50 percent of the students are eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act and priority given to schools purchasing equipment for the purpose of offering more healthful foods and meals, in accordance with standards established by the Secretary.

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

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), to remain available until September 30, 2010, $500,000,000, of which $380,000,000 shall be placed in reserve to be

allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates, and of which $120,000,000 shall be for the purposes specified in section 17(h)(10)(B)(ii): *Provided,* That up to one percent of the funding provided for the purposes specified in section 17(h)(10)(B)(ii) may be reserved by the Secretary for Federal administrative activities in support of those purposes.

COMMODITY ASSISTANCE PROGRAM

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

GENERAL PROVISIONS—THIS TITLE

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

ing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.

(a) MAXIMUM BENEFIT INCREASES.—

(1) ECONOMIC RECOVERY 1-MONTH BEGINNING STIMULUS PAYMENT.—For the first month that begins not less than 25 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 85 percent.

(2) REMAINDER OF FISCAL YEAR 2009.—Beginning with the second month that begins not less than 25 days after the date of enactment of this Act, and for each subsequent month through the month ending September 30, 2009, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 12 percent.

(3) SUBSEQUENT INCREASE FOR FISCAL YEAR 2010.—Beginning on October 1, 2009, and for each subsequent month through the month ending Sep-

tember 30, 2010, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by an amount equal to 12 percent, less the percentage by which the Secretary determines the thrifty food plan would otherwise be adjusted on October 1, 2009, as required under section 3(u) of that Act (7 U.S.C. 2012(u)), if the percentage is less than 12 percent.

(4) SUBSEQUENT INCREASE FOR FISCAL YEAR 2011.—Beginning on October 1, 2010, and for each subsequent month through the month ending September 30, 2011, the Secretary shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by an amount equal to 12 percent, less the sum of the percentages by which the Secretary determines the thrifty food plan would otherwise be adjusted on October 1, 2009 and October 1, 2010, as required under section 3(u) of that Act (7 U.S.C. 2012(u)), if the sum of such percentages is less than 12 percent.

(5) TERMINATION OF EFFECTIVENESS.—Effective beginning October 1, 2011, the authority pro-

vided by this subsection terminates and has no effect.

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

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

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

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

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

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

(c) ADMINISTRATIVE EXPENSES.—

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

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

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

(A) 75 percent of the amounts available for each fiscal year shall be allocated to States based on the share of each State of households

that participate in the supplemental nutrition assistance program as reported to the Department of Agriculture for the most recent 12-month period for which data are available, adjusted by the Secretary (in the discretion of the Secretary) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)); and

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

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

(5) MAINTENANCE OF EFFORT.—

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

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

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

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

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

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

(B) REQUIREMENT.—The Secretary shall make funds under this subsection available only to States that, as determined by the Secretary, maintain State expenditures on specified State administrative costs.

(6) MONITORING AND EVALUATION.—Of the amounts made available under paragraph (1), the Secretary may retain up to $5,000,000 for the costs incurred by the Secretary in monitoring the integrity and evaluating the effects of the payments made under this section.

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

(e) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—

(1) FISCAL YEAR 2009.—

(A) IN GENERAL.—For fiscal year 2009, the Secretary shall increase by 12 percent the amount available for nutrition assistance for eligible households under the consolidated block grants for the Commonwealth of Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).

(B) AVAILABILITY OF FUNDS.—Funds made available under subparagraph (A) shall remain available through September 30, 2010.

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

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

19(a)(2)(A)(ii) of that Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the sum of the percentages is less than 12 percent.

(f) TREATMENT OF JOBLESS WORKERS.—

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

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

(g) FUNDING.—There are appropriated to the Secretary out of funds of the Treasury not otherwise appro-

priated such sums as are necessary to carry out this section.

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

"(7) 2008 TRANSITION ASSISTANCE.—

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

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

"(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle) for the next insurance year for which crop insurance is

available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

"(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the ex-

pected market price, or an equivalent coverage; and

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

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

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

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

"(I) in clause (i) of that subparagraph, '120 percent' is substituted for '115 percent'; and

"(II) in clause (ii) of that subparagraph, '125' is substituted for '120 percent'.

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

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

multiyear production losses, as determined by the Secretary.

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

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

"(ii) as determined by the Secretary—

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

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

"(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the

Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).''.

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

''(7) 2008 TRANSITION ASSISTANCE.—

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

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

''(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act) for the next

insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

''(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average

yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

"(i) the amount that would have been calculated under subparagraph (B) if the eligible producers on the farm had paid the

appropriate fee under that subparagraph; or

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

"(I) in clause (i) of that subparagraph, '120 percent' is substituted for '115 percent'; and

"(II) in clause (ii) of that subparagraph, '125' is substituted for '120 percent'.

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

"(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production

losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

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

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

"(ii) as determined by the Secretary—

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

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

"(II) are not eligible for the noninsured crop disaster assistance pro-

gram established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).''.

(c) EMERGENCY LOANS.—

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

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

(d) 2008 AQUACULTURE ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2008 calendar year, as determined by the Secretary—

(i) produced an aquaculture species for which feed costs represented a substan-

tial percentage of the input costs of the aquaculture operation; and

(ii) experienced a substantial price increase of feed costs above the previous 5-year average.

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

(2) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000, to remain available until September 30, 2010, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2008 calendar year.

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

(C) PROVISION OF GRANTS.—

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

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

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

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

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

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

(I) the manner in which the State provided assistance;

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

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

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

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

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

(B) includes the information reported to the Secretary under paragraph (2)(D)(iii).

(e) ADMINISTRATION.—There is hereby appropriated $54,000,000 to carry out this section.

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

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

SEC. 105. STATE AND LOCAL GOVERNMENTS. Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting ''(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)'' before the period at the end.

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

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

DEPARTMENT OF COMMERCE

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

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

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $150,000,000, to remain available until September 30, 2010: *Provided,* That $50,000,000 shall be for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149): *Provided further,* That in allocating the funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation

that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for ''Periodic Censuses and Programs'', $1,000,000,000, to remain available until September 30, 2010.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

For an amount for ''Broadband Technology Opportunities Program'', $7,000,000,000, to remain available until September 30, 2010: *Provided,* That of the funds provided under this heading, $6,650,000,000 shall be expended pursuant to section 201 of this Act, of which: not less than $200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than $250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and $10,000,000 shall be transferred to ''Department of Commerce, Office of Inspector General'' for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: *Provided further,* That 50

1 percent of the funds provided in the previous proviso shall
2 be used to support projects in rural communities, which
3 in part may be transferred to the Department of Agri-
4 culture for administration through the Rural Utilities
5 Service if deemed necessary and appropriate by the Sec-
6 retary of Commerce, in consultation with the Secretary of
7 Agriculture, and only if the Committees on Appropriations
8 of the House and the Senate are notified not less than
9 15 days in advance of the transfer of such funds: *Provided*
10 *further,* That of the funds provided under this heading,
11 up to $350,000,000 may be expended pursuant to Public
12 Law 110–385 (47 U.S.C. 1301 note) and for the purposes
13 of developing and maintaining a broadband inventory map
14 pursuant to section 201 of this Act: *Provided further,* That
15 of the funds provided under this heading, amounts deemed
16 necessary and appropriate by the Secretary of Commerce,
17 in consultation with the Federal Communications Com-
18 mission (FCC), may be transferred to the FCC for the
19 purposes of developing a national broadband plan or for
20 carrying out any other FCC responsibilities pursuant to
21 section 201 of this Act, and only if the Committees on
22 Appropriations of the House and the Senate are notified
23 not less than 15 days in advance of the transfer of such
24 funds: *Provided further,* That not more than 3 percent of
25 funds provided under this heading may be used for admin-

1 istrative costs, and this limitation shall apply to funds
2 which may be transferred to the Department of Agri-
3 culture and the FCC.

4 DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

5 For an amount for ''Digital-to-Analog Converter Box
6 Program'', $650,000,000, for additional coupons and re-
7 lated activities under the program implemented under sec-
8 tion 3005 of the Digital Television Transition and Public
9 Safety Act of 2005, to remain available until September
10 30, 2010: *Provided,* That of the amounts provided under
11 this heading, $90,000,000 may be for education and out-
12 reach, including grants to organizations for programs to
13 educate vulnerable populations, including senior citizens,
14 minority communities, people with disabilities, low-income
15 individuals, and people living in rural areas, about the
16 transition and to provide one-on-one assistance to vulner-
17 able populations, including help with converter box instal-
18 lation: *Provided further,* That the amounts provided in the
19 previous proviso may be transferred to the Federal Com-
20 munications Commission (Commission) if deemed nec-
21 essary and appropriate by the Secretary of Commerce in
22 consultation with the Commission, and only if the Com-
23 mittees on Appropriations of the House and the Senate
24 are notified not less than 5 days in advance of transfer
25 of such funds: *Provided further,* That $2,000,000 of funds

provided under this heading shall be transferred to ''Department of Commerce, Office of Inspector General'' for audits and oversight of funds provided under this heading.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for ''Scientific and Technical Research and Services'', $168,000,000, to remain available until September 30, 2010.

CONSTRUCTION OF RESEARCH FACILITIES

For an additional amount for ''Construction of Research Facilities'', $307,000,000, to remain available until September 30, 2010.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $377,000,000, to remain available until September 30, 2010.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'', $645,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $6,000,000, to remain available until September 30, 2012.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

TACTICAL LAW ENFORCEMENT WIRELESS COMMUNICATIONS

For an additional amount for ''Tactical Law Enforcement Wireless Communications'', $100,000,000 for the costs of developing and implementing a nationwide Integrated Wireless network supporting Federal law enforcement, to remain available until September 30, 2010.

DETENTION TRUSTEE

For an additional amount for ''Detention Trustee'', $100,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

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

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

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

CONSTRUCTION

For an additional amount for ''Construction'', $100,000,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

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

CONSTRUCTION

For an additional amount for ''Construction'', $300,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for ''Federal Prison System, Buildings and Facilities'', $800,000,000, to remain available until September 30, 2010.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For an additional amount for ''Violence Against Women Prevention and Prosecution Programs'', $300,000,000 for grants to combat violence against women, as authorized by part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.): *Provided,* That, $50,000,000 shall be transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', $1,200,000,000 for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), to remain available until September 30, 2010.

For an additional amount for ''State and Local Law Enforcement Assistance'', $300,000,000 for competitive grants to improve the functioning of the criminal justice system, to assist victims of crime (other than compensation), and youth mentoring grants, to remain available until September 30, 2010.

For an additional amount for ''State and Local Law Enforcement Assistance'', $90,000,000, to remain available until September 30, 2010, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotics activity stemming from the Southern border, of which $10,000,000 shall be transferred to ''Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses'' for the ATF Project Gunrunner.

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

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

(2) $25,000,000 shall be available for the Tribal Courts Initiative; and

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

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

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

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

COMMUNITY ORIENTED POLICING SERVICES

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

tional career law enforcement officers under part Q of such title, and civilian public safety personnel, notwithstanding subsection (i) of such section and notwithstanding 42 U.S.C. 3796dd–3(c), $1,000,000,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES

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

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For an additional amount for ''Science'', $450,000,000, to remain available until September 30, 2010.

AERONAUTICS

For an additional amount for ''Aeronautics'', $200,000,000, to remain available until September 30, 2010.

EXPLORATION

For an additional amount for ''Exploration'', $450,000,000, to remain available until September 30, 2010.

CROSS AGENCY SUPPORT

For an additional amount for ''Cross Agency Support'', $200,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

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

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

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

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

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

EDUCATION AND HUMAN RESOURCES

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

OFFICE OF INSPECTOR GENERAL

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

GENERAL PROVISIONS—THIS TITLE

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

(1) The purposes of the program are to—

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

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

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

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

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

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

Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture.

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

(E) stimulate the demand for broadband, economic growth, and job creation.

(2) The Assistant Secretary may consult with the chief executive officer of any State with respect to—

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

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

(3) The Assistant Secretary shall—

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

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

(C) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accord-

ance with project timelines, not to exceed 2 years following an award; and

(D) report on the status of the program to the Committees on Appropriations of the House and the Senate, the Committee on Energy and Commerce of the House, and the Committee on Commerce, Science, and Transportation of the Senate, every 90 days.

(4) To be eligible for a grant under the program an applicant shall—

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

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

(C) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section

in an efficient and expeditious manner, including a demonstration that the project would not have been implemented during the grant period without Federal grant assistance;

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

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

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

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

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

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

(B) the Assistant Secretary determines that the petition demonstrates financial need.

(6) The Assistant Secretary may make competitive grants under the program to—

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

(B) construct and deploy broadband service related infrastructure;

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

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

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

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

(7) The Assistant Secretary—

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

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

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

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

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

(8) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Federal Communications Commission, publish the non-discrimination and network inter-

connection obligations that shall be contractual conditions of grants awarded under this section.

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

(A) consider the most effective and efficient national strategy for ensuring that all Americans have access to, and take advantage of, advanced broadband services;

(B) have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note);

(C) evaluate the status of deployments of broadband service, including the progress of projects supported by the grants made pursuant to this section; and

(D) develop recommendations for achieving the goal of nationally available broadband service for the United States and for promoting broadband adoption nationwide.

(10) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that entities and depicts

the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State: *Provided,* That not later than 2 years after the date of the enactment of the Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible to the public.

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

TITLE III—DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $1,169,291,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $571,843,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $112,167,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $927,113,000, to remain available for obligation until September 30, 2010.

OPERATION AND MAINTENANCE, ARMY RESERVE

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

OPERATION AND MAINTENANCE, NAVY RESERVE

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

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

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

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

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

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

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

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

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

PROCUREMENT

DEFENSE PRODUCTION ACT PURCHASES

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

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

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

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $250,000,000 for operation and maintenance, to remain available for obligation until September 30, 2010.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $12,000,000 for operation and maintenance, to remain available for obligation until September 30, 2011, and an additional $3,000,000 for such purposes, to remain available until September 30, 2011.

TITLE IV—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for ''Investigations'' for expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restora-

tion projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $25,000,000: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

CONSTRUCTION

For an additional amount for ''Construction'' for expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law, $2,000,000,000, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303: *Provided,* That not less than $200,000,000 of the funds provided shall be for water-related environmental infrastructure assistance: *Provided further,* That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this title: *Provided further,* That notwithstanding any other provision of law, no funds shall be drawn from the Inland Waterways Trust Fund, as authorized in Public Law 99–662: *Provided further,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that

can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further,* That funds appropriated under this heading may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330); or section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), notwithstanding the program cost limitations set forth in those sections: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary shall have unlimited re-

programming authority for these funds provided under this heading.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'' for expenses necessary for flood damage reduction projects and related efforts as authorized by law, $500,000,000, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further,* That for projects that

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

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' for expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law, and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, $1,900,000,000, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104–303, shall be used to cover the cost of operation and maintenance of the

dredged material disposal facilities for which fees have been collected: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That $90,000,000 of the funds provided under this heading shall be used for activities described in section 9004 of Public Law 110–114: *Provided further,* That section 9006 of Public Law 110–114 shall not apply to funds provided in this title: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

REGULATORY PROGRAM

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

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For an additional amount for ''Formerly Utilized Sites Remedial Action Program'' for expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, $100,000,000: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, over engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

FLOOD CONTROL AND COASTAL EMERGENCIES

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

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

WATER AND RELATED RESOURCES

For an additional amount for management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $1,400,000,000; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided,* That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further,* That funds contributed under 43 U.S.C. 395 are available until

expended for the purposes for which contributed: *Provided further,* That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided in this Act shall be used for elements of projects, programs or activities that can be completed within these funding amounts and not create budgetary obligations in future fiscal years: *Provided further,* That $50,000,000 of the funds provided under this heading may be transferred to the Department of the Interior for programs, projects and activities authorized by the Central Utah Project Completion Act (titles II–V of Public Law 102–575): *Provided further,* That $50,000,000 of the funds provided under this heading may be used for programs, projects, and activities authorized by the California Bay-Delta Restoration Act (Public Law 108–361): *Provided further,* That not less than $60,000,000 of the funds provided under this heading shall be used for rural water projects and shall be expended primarily on water intake and treatment facilities of such projects: *Provided further,*

1 That not less than $10,000,000 of the funds provided
2 under this heading shall be used for a bureau-wide inspec-
3 tion of canals program in urbanized areas: *Provided fur-*
4 *ther,* That not less than $110,000,000 of the funds pro-
5 vided under this heading shall be used for water reclama-
6 tion and reuse projects (title 16 of Public Law 102–575):
7 *Provided further,* That the costs of reimbursable activities,
8 other than for maintenance and rehabilitation, carried out
9 with funds provided in this Act shall be repaid pursuant
10 to existing authorities and agreements: *Provided further,*
11 That the costs of maintenance and rehabilitation activities
12 carried out with funds provided in this Act shall be repaid
13 pursuant to existing authority, except the length of repay-
14 ment period shall be determined on needs-based criteria
15 to be established and adopted by the Commissioner, but
16 in no case shall the repayment period exceed 25 years:
17 *Provided further,* That for projects that are being com-
18 pleted with funds appropriated in this Act that would oth-
19 erwise be expired for obligation, expired funds appro-
20 priated in this Act may be used to pay the cost of associ-
21 ated supervision, inspection, over engineering and design
22 on those projects and on subsequent claims, if any: *Pro-*
23 *vided further,* That the Secretary shall have unlimited re-
24 programming authority for these funds provided under
25 this heading.

1 DEPARTMENT OF ENERGY

2 ENERGY PROGRAMS

3 ENERGY EFFICIENCY AND RENEWABLE ENERGY

4 For an additional amount for ''Energy Efficiency and
5 Renewable Energy'', $14,398,000,000, for necessary ex-
6 penses, to remain available until September 30, 2010: *Pro-*
7 *vided,* That $4,200,000,000 shall be available for Energy
8 Efficiency and Conservation Block Grants for implementa-
9 tion of programs authorized under subtitle E of title V
10 of the Energy Independence and Security Act of 2007 (42
11 U.S.C. 17151 et seq.), of which $2,100,000,000 is avail-
12 able through the formula in subtitle E: *Provided further,*
13 That the remaining $2,100,000,000 shall be awarded on
14 a competitive basis only to competitive grant applicants
15 from States in which the Governor certifies to the Sec-
16 retary of Energy that the applicable State regulatory au-
17 thority will implement the integrated resource planning
18 and rate design modifications standards required to be
19 considered under paragraphs (16) and (17) of section
20 111(d) of the Public Utility Regulatory Policies Act of
21 1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor
22 will take all actions within his or her authority to ensure
23 that the State, or the applicable units of local government
24 that have authority to adopt building codes, will imple-
25 ment—

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

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

(C) a plan for implementing and enforcing the building energy codes described in subparagraphs (A) and (B) that is likely to ensure that at least 90 percent of the new and renovated residential and commercial building space will meet the standards within 8 years after the date of enactment of this Act:

Provided further, That $2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers: *Provided further,* That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309

through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further,* That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further,* That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability'', $4,500,000,000, for necessary expenses, to remain available until September 30, 2010: *Provided,* That $100,000,000 shall be available for worker training activities: *Provided further,* That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided*

further, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further,* That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: *Provided,* That for the purpose of facilitating the development of regional transmission plans, the Office of Electricity Delivery and Energy Reliability within the Department of Energy is provided $80,000,000 within the available funds to conduct a resource assessment and an analysis of future demand and transmission requirements: *Provided further,* That the Office of Electricity Delivery and Energy Reliability will provide technical assistance to the North American Electric Reliability Corporation, the regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT: *Provided further,* That such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies, programs, laws, and regulations: *Provided further,* That $10,000,000 is provided to implement section 1305 of Public Law 110–140.

1 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

2 For an additional amount for ''Fossil Energy Re-
3 search and Development'', $4,600,000,000, to remain
4 available until September 30, 2010: *Provided,* That
5 $2,000,000,000 is available for one or more near zero
6 emissions powerplant(s): *Provided further,* $1,000,000,000
7 is available for selections under the Department's Clean
8 Coal Power Initiative Round III Funding Opportunity An-
9 nouncement; notwithstanding the mandatory eligibility re-
10 quirements of the Funding Opportunity Announcement,
11 the Department shall consider applications that utilize pe-
12 troleum coke for some or all of the project's fuel input:
13 *Provided further,* $1,520,000,000 is available for a com-
14 petitive solicitation pursuant to section 703 of Public Law
15 110–140 for projects that demonstrate carbon capture
16 from industrial sources: *Provided further,* That awards for
17 such projects may include plant efficiency improvements
18 for integration with carbon capture technology.

19 NON-DEFENSE ENVIRONMENTAL CLEANUP

20 For an additional amount for ''Non-Defense Environ-
21 mental Cleanup'', $483,000,000, to remain available until
22 September 30, 2010.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

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

SCIENCE

For an additional amount for ''Science'', $330,000,000, to remain available until September 30, 2010.

TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under section 1702(b)(2) of the Energy Policy Act of 2005, shall not exceed a total principal amount of $50,000,000,000 for eligible projects, to remain available until committed: *Provided,* That these amounts are in addition to any authority provided elsewhere in this Act and this and previous fiscal years: *Provided further,* That such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in this and prior Acts, shall be collected

in accordance with section 502(7) of the Congressional Budget Act of 1974: *Provided further,* That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: *Provided further,* That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees: *Provided further,* That none of the loan guarantee authority made available in this Act shall be available for commitments to guarantee loans under section 1702(b)(2) of the Energy Policy Act of 2005 for any projects where funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further,* That none of the loan guarantee authority made available in this Act shall be available under section 1702(b)(2) of the Energy Policy Act of 2005 for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this title: *Provided further,* That

for an additional amount for the cost of guaranteed loans authorized by section 1702(b)(1) and section 1705 of the Energy Policy Act of 2005, $8,500,000,000, available until expended, to pay the costs of guarantees made under this section: *Provided further,* That of the amount provided for Title XVII, $15,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $5,000,000, to remain available until September 30, 2012, and an additional $10,000,000 for such purposes, to remain available until September 30, 2012.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for weapons activities, $1,000,000,000, to remain available until September 30, 2010.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

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

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

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

GENERAL PROVISIONS—THIS TITLE

SEC. 401. BONNEVILLE POWER ADMINISTRATION BORROWING AUTHORITY. For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to implement the authority of the Administrator of the Bonneville Power Administra-

tion under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional $3,250,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any time.

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

"TITLE III—BORROWING AUTHORITY

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

''(a) DEFINITIONS.—In this section:

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

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(b) AUTHORITY.—

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

"(A) the Western Area Power Administration may borrow funds from the Treasury; and

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

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

"(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after the date of enactment of this section.

"(2) INTEREST.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

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

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

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

"(c) TRANSMISSION LINE AND RELATED FACILITY PROJECTS.—

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

"(A) each other such project; and

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

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

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

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

"(3) SOURCE OF REVENUE.—Revenue from the use of projects under this section shall be the only source of revenue for—

1 "(A) repayment of the associated loan for
2 the project; and
3 "(B) payment of expenses for ancillary
4 services and operation and maintenance.
5 "(4) LIMITATION ON AUTHORITY.—Nothing in
6 this section confers on the Administrator any addi-
7 tional authority or obligation to provide ancillary
8 services to users of transmission facilities developed
9 under this section.
10 "(5) TREATMENT OF CERTAIN REVENUES.—
11 Revenue from ancillary services provided by existing
12 Federal power systems to users of transmission
13 projects funded pursuant to this section shall be
14 treated as revenue to the existing power system that
15 provided the ancillary services.
16 "(d) CERTIFICATION.—
17 "(1) IN GENERAL.—For each project in which
18 the Western Area Power Administration participates
19 pursuant to this section, the Administrator shall cer-
20 tify, prior to committing funds for any such project,
21 that—
22 "(A) the project is in the public interest;
23 "(B) the project will not adversely impact
24 system reliability or operations, or other statu-
25 tory obligations; and

"(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

"(2) FORGIVENESS OF BALANCES.—

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

"(B) UNCONSTRUCTED PROJECTS.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

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

"(e) PUBLIC PROCESSES.—

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

"(2) REQUESTS FOR INTEREST.—In the course of selecting potential projects to be funded under this section, the Administrator shall seek Requests For Interest from entities interested in identifying

potential projects through one or more notices published in the Federal Register.''

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

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

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

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

''(C) FEDERAL SHARE OF COST OF TECHNOLOGY INVESTMENTS.—The Secretary shall provide to an electric utility described in subparagraph (B) or to other parties financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments

made by the electric utility or other party to carry out a demonstration project.''.

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

''(E) AVAILABILITY OF DATA.—The Secretary shall establish and maintain a smart grid information clearinghouse in a timely manner which will make data from smart grid demonstration projects and other sources available to the public. As a condition of receiving financial assistance under this subsection, a utility or other participant in a smart grid demonstration project shall provide such information as the Secretary may require to become available through the smart grid information clearinghouse in the form and within the timeframes as directed by the Secretary. The Secretary shall assure that business proprietary information and individual customer information is not included in the information made available through the clearinghouse.''.

(4) By amending paragraph (2) of section 1304(c) to read as follows:

"(2) to carry out subsection (b), such sums as may be necessary.".

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

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

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

(8) By amending subsection (e) of section 1306 to read as follows:

"(e) The Secretary shall—

"(1) establish within 60 days after the enactment of the American Recovery and Reinvestment Act of 2009 procedures by which applicants can obtain grants of not more than one-half of their documented costs;

"(2) establish procedures to ensure that there is no duplication or multiple payment for the same investment or costs, that the grant goes to the party making the actual expenditures for Qualifying Smart Grid Investments, and that the grants made have significant effect in encouraging and facilitating the development of a smart grid;

"(3) maintain public records of grants made, recipients, and qualifying Smart Grid investments which have received grants;

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

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

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

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

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

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

"(1) Renewable energy systems.

"(2) Electric power transmission systems.

"(c) AUTHORIZATION LIMIT.—There are authorized to be appropriated $10,000,000,000 to the Secretary for fiscal years 2009 through 2012 to provide the cost of guarantees made under section.

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

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

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

SEC. 405. WEATHERIZATION PROGRAM AMENDMENTS. (a) INCOME LEVEL.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking "150 percent" both places it appears and inserting "200 percent".

(b) ASSISTANCE LEVEL PER DWELLING UNIT.—Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended by striking "$2,500" and inserting "$5,000".

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 416 of the Energy Conservation and Production Act (42 U.S.C. 6866) is amended by striking "10 percent" and inserting "up to 20 percent".

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

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

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For an additional amount for ''Community Development Financial Institutions Fund Program Account'', $250,000,000, to remain available until September 30, 2010, for qualified applicants under the fiscal year 2008 and 2009 funding rounds of the Community Development Financial Institutions Program, of which up to

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

DISTRICT OF COLUMBIA

FEDERAL PAYMENTS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

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

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $5,548,000,000, to carry out the purposes of the Fund, of which not less than $1,400,000,000 shall be available for Federal buildings and United States courthouses, not less than $1,200,000,000 shall be available for border stations, and not less than $2,500,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140: *Provided,* That not to exceed $108,000,000 of the amounts provided under this heading may be expended for rental of space, related to leasing of temporary space in connection with projects funded under this heading: *Provided further,* That not to exceed $127,000,000 of the amounts provided under this heading may be expended for building operations, for the administrative costs of completing projects funded under this heading: *Provided further,* That not less than $5,000,000,000 of the funds provided under this heading shall be obligated by September 30, 2010: *Provided further,* That the Adminis-

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

ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of acquiring motor vehicles with higher fuel economy, including: hybrid vehicles; neighborhood electric vehicles; electric vehicles; and commercially-available, plug-in hybrid vehicles, $300,000,000, to remain available until September 30, 2011.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, to remain available until September 30, 2011, $2,000,000 and an additional $5,000,000 for such purposes, to remain available until September 30, 2012.

RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

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

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount, to remain available until September 30, 2010, $84,000,000, of which $24,000,000 is for marketing, management, and technical assistance under section 7(m) of the Small Business Act (15 U.S.C.

636(m)(4)) by intermediaries that make microloans under the microloan program, of which $15,000,000 is for lender oversight activities as authorized in section 501(c) of this title, and of which $20,000,000 is for improving, streamlining, and automating information technology systems related to lender processes and lender oversight: *Provided,* That no later than 60 days after the date of enactment of this Act, the Small Business Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under the heading ''Small Business Administration'' in this Act.

OFFICE OF INSPECTOR GENERAL

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

SURETY BOND GUARANTEES REVOLVING FUND

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

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $6,000,000, to remain available until September 30, 2010,

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

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 501. ECONOMIC STIMULUS FOR SMALL BUSINESS CONCERNS. (a) TEMPORARY FEE ELIMINATION FOR THE 7(a) LOAN PROGRAM.—Until September 30, 2010, and to the extent that the cost of such elimination of fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

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

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

(b) TEMPORARY FEE ELIMINATION FOR THE 504 LOAN PROGRAM.—

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

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

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

(2) REIMBURSEMENT FOR WAIVED FEES.—

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

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

(c) TEMPORARY FEE ELIMINATION OF LENDER OVERSIGHT FEES.—Until September 30, 2010, and to the extent the cost of such elimination in fees is offset by appropriations, the Administrator shall, in lieu of the fee otherwise applicable under section 5(b)(14) of the Small Business Act (15 U.S.C. 634(b)(14)), collect no fee.

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

1 SEC. 502. FINANCIAL ASSISTANCE PROGRAM IM-
2 PROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Sec-
3 tion 7(a)(3)(A) of the Small Business Act (15 U.S.C.
4 636(a)(3)(A)) is amended by striking "$1,500,000 (or if
5 the gross loan amount would exceed $2,000,000)" and in-
6 serting "$2,250,000 (or if the gross loan amount would
7 exceed $3,000,000)".
8 (b) SMALL BUSINESS INVESTMENT COMPANIES.—
9 (1) MAXIMUM LEVERAGE.—Section 303(b) of
10 the Small Business Investment Act of 1958 (15
11 U.S.C. 683(b)) is amended—
12 (A) in paragraph (2), by striking subpara-
13 graphs (A), (B), and (C) and inserting the fol-
14 lowing:
15 "(A) IN GENERAL.—The maximum
16 amount of outstanding leverage made available
17 to any 1 company licensed under section 301(c)
18 may not exceed the lesser of—
19 "(i) 300 percent of the private capital
20 of the company; or
21 "(ii) $150,000,000.
22 "(B) MULTIPLE LICENSES UNDER COM-
23 MON CONTROL.—The maximum amount of out-
24 standing leverage made available to 2 or more
25 companies licensed under section 301(c) that

are commonly controlled (as determined by the Administrator) may not exceed $225,000,000.

"(C) INVESTMENTS IN LOW-INCOME GEOGRAPHIC AREAS.—

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

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

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

"(bb) $175,000,000; and

"(II) 2 or more companies described in clause (ii) that are commonly controlled (as determined by the Administrator) may not exceed $250,000,000.

"(ii) APPLICABILITY.—A company described in this clause is a company licensed under section 301(c) that certifies in writing that not less than 50 percent of the dollar amount of investments of that company shall be made in companies that are located in a low-income geographic area

(as that term is defined in section 351).''; and

(B) by striking paragraph (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i) refinancing existing indebtedness; or

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

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

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

(2) the term "development company" has the meaning given the term "development companies" in

section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); and

(3) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 505. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(3) by adding at the end the following:

''(B) The Administrator may guarantee a surety under subparagraph (A) for a total work order or contract amount that does not exceed $10,000,000, if a contracting officer of a Federal agency certifies that such a guarantee is necessary.''.

(b) SIZE STANDARDS.—Section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a) is amended by adding at the end the following:

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business

concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

(c) SUNSET.—The amendments made by this section shall remain in effect until September 30, 2010.

SEC. 506.—OFFICE OF INSPECTOR GENERAL. For an additional amount for ''Treasury Office of Inspector General for Tax Administration'', $7,000,000, to remain available until September 30, 2012, for oversight and audit of programs grants and activities funded under this title.

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the ''Office of the Under Secretary for Management'', $198,000,000, to remain available until September 30, 2011, solely for planning, design, and construction costs, including site security, information technology infrastructure, fixtures, and related costs to consolidate the Department of Homeland Security headquarters: *Provided,* That no later than 60

days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of General Services, shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the ''Office of Inspector General'', $5,000,000, to remain available until September 30, 2012, for oversight and audit of programs, grants, and projects funded under this title.

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

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

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

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

CONSTRUCTION

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

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

AUTOMATION MODERNIZATION

For an additional amount for ''Automation Modernization'', $27,800,000, to remain available until Sep-

tember 30, 2010, for the procurement and deployment of tactical communications equipment and radios: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

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

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction, and Improvements'', $450,000,000, to remain available until September 30, 2010, of which $195,000,000 shall be for shore facilities and aids to navigation facilities; and of which $255,000,000 shall be for priority procure-

ments due to materials and labor cost increases, and to repair, renovate, assess, or improve vessels: *Provided,* That amounts made available for the activities under this heading shall be available for all necessary expenses related to the oversight and management of such activities: *Provided further,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

ALTERATION OF BRIDGES

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For an additional amount for ''Management and Administration'', $6,000,000 for the acquisition of commu-

nications response vehicles to be deployed in response to a disaster or a national security event.

STATE AND LOCAL PROGRAMS

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

(1) $100,000,000, to remain available until September 30, 2010, for Public Transportation Security Assistance, Railroad Security Assistance, and Systemwide Amtrak Security Upgrades under sections 1406, 1513, and 1514 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163, and 1164).

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

(3) $250,000,000, to remain available until September 30, 2010, for upgrading, modifying, or constructing emergency operations centers under section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, notwithstanding section 614(c) of that Act or for upgrading, modifying, or constructing State and local fusion centers as de-

fined by section 210A(j)(1) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j)(1)).

(4) $500,000,000 for construction to upgrade or modify critical infrastructure, as defined in section 1016(e) of the USA PATRIOT Act of 2001 (42 U.S.C. 5195c(e)), to mitigate consequences related to potential damage from all-hazards: *Provided,* That funds in this paragraph shall remain available until September 30, 2011: *Provided further,* That 5 percent shall be for program administration: *Provided further,* That no later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

FIREFIGHTER ASSISTANCE GRANTS

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

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

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

EMERGENCY FOOD AND SHELTER

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

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for ''Acquisition, Construction, Improvements, and Related Expenses'', $15,000,000, to remain available until September 30, 2010, for security

systems and law enforcement upgrades for all Federal Law Enforcement Training Center facilities: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

GENERAL PROVISIONS—THIS TITLE

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

SEC. 602. The Administrator of the Federal Emergency Management Agency may not prohibit or restrict the use of funds designated under the hazard mitigation grant program for damage caused by Hurricanes Katrina and Rita if the homeowner who is an applicant for assist-

ance under such program commenced work otherwise eligible for hazard mitigation grant program assistance under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) without approval in writing from the Administrator.

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

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

CONSTRUCTION

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

WILDLAND FIRE MANAGEMENT

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

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for ''Resource Management'', $165,000,000, to remain available until September 30, 2010.

CONSTRUCTION

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

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

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

CONSTRUCTION

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

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

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

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

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

CONSTRUCTION

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

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For an additional amount for ''Indian Guaranteed Loan Program Account'', $10,000,000, to remain available until September 30, 2010.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for ''Assistance to Territories'', $62,000,000, to remain available until September 30, 2010.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for ''Office of Inspector General'', $7,600,000, to remain available until September

30, 2011, and an additional $7,400,000 for such purposes, to remain available until September 30, 2011.

DEPARTMENT-WIDE PROGRAMS

CENTRAL HAZARDOUS MATERIALS FUND

For an additional amount for ''Central Hazardous Materials Fund'', $20,000,000, to remain available until September 30, 2010.

ENVIROMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Hazardous Substance Superfund'', $600,000,000, to remain available until September 30, 2010, as a payment from general revenues to the Hazardous Substance Superfund, to carry out remedial actions: *Provided,* That the Administrator may retain up to 2 percent of the funds appropriated herein for Superfund remedial actions for program oversight and support purposes, and may transfer those funds to other accounts as needed.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for ''Leaking Underground Storage Tank Trust Fund Program'', $200,000,0000, to remain available until September 30, 2010, for cleanup

activities: *Provided,* That none of these funds shall be subject to cost share requirements.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''State and Tribal Assistance Grants'', $6,400,000,000, to remain available until September 30, 2010, of which $4,000,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended; of which $2,000,000,000 shall be for making capitalization grants for the Drinking Water State Revolving Fund under section 1452 of the Safe Drinking Water Act, as amended; of which $100,000,000 shall be available for Brownfields remediation grants pursuant to section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended; and of which $300,000,000 shall be for Diesel Emission Reduction Act grants pursuant to title VII, subtitle G of the Energy Policy Act of 2005, as amended: *Provided,* That notwithstanding the priority ranking they would otherwise receive under each program, priority for funds appropriated herein for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds (Revolving Funds) shall be allocated to projects that are ready to proceed to con-

1 struction within 180 days of enactment of this Act: *Pro-*
2 *vided further,* That the Administrator of the Environ-
3 mental Protection Agency (Administrator) may reallocate
4 funds appropriated herein for the Revolving Funds that
5 are not under binding commitments to proceed to con-
6 struction within 180 days of enactment of this Act: *Pro-*
7 *vided further,* That notwithstanding any other provision of
8 law, financial assistance provided from funds appropriated
9 herein for the Revolving Funds may include additional
10 subsidization, including forgiveness of principal and nega-
11 tive interest loans: *Provided further,* That not less than
12 15 percent of the funds appropriated herein for the Re-
13 volving Funds shall be designated for green infrastructure,
14 water efficiency improvements or other environmentally
15 innovative projects: *Provided further,* That notwith-
16 standing the limitation on amounts specified in section
17 518(c) of the Federal Water Pollution Control Act, up to
18 a total of 1.5 percent of the funds appropriated herein
19 for the Clean Water State Revolving Funds may be re-
20 served by the Administrator for tribal grants under section
21 518(c) of such Act: *Provided further,* That section 1452(k)
22 of the Safe Drinking Water Act shall not apply to amounts
23 appropriated herein for the Drinking Water State Revolv-
24 ing Funds: *Provided further,* That the Administrator may
25 exceed the 30 percent limitation on State grants for funds

appropriated herein for Diesel Emission Reduction Act grants if the Administrator determines such action will expedite allocation of funds: *Provided further,* That none of the funds appropriated herein shall be subject to cost share requirements: *Provided further,* That the Administrator may retain up to 0.25 percent of the funds appropriated herein for the Clean Water State Revolving Funds and Drinking Water State Revolving Funds and up to 1.5 percent of the funds appropriated herein for the Diesel Emission Reduction Act grants program for program oversight and support purposes and may transfer those funds to other accounts as needed.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

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

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'', $485,000,000, to remain available until September 30, 2010, for hazardous fuels reduction and hazard mitigation activities in areas at high risk of cata-

strophic wildfire, of which $260,000,000 is available for work on State and private lands using all the authorities available to the Forest Service: *Provided,* That of the funds provided for State and private land fuels reduction activities, up to $50,000,000 may be used to make grants for the purpose of creating incentives for increased use of biomass from national forest lands.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

INDIAN HEALTH SERVICES

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

INDIAN HEALTH FACILITIES

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

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

For an additional amount for ''Facilities Capital'', $75,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

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

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

SEC. 702. In carrying out the work for which funds in this title are being made available, the Secretary of the Interior and the Secretary of Agriculture may utilize the

Public Lands Corps, Youth Conservation Corps, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.

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

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

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

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

(2) $1,200,000,000 for grants to the States for youth activities, including summer employment for youth: *Provided,* That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further,* That for purposes of section

127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: *Provided further,* That, with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': *Provided further,* That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of youth activities provided with such funds;

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

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

(5) $250,000,000 under the dislocated worker national reserve for a program of competitive grants for worker training in high growth and emerging industry sectors and assistance under 132(b)(2)(A) of the WIA: *Provided,* That the Secretary of Labor shall give priority when awarding such grants to projects that prepare workers for careers in energy efficiency and renewable energy as described in sec-

tion 171(e)(1)(B) of the WIA and for careers in the health care sector; and

(6) $100,000,000 for YouthBuild activities as described in section 173A of the WIA: *Provided,* That for program years 2008 and 2009, the YouthBuild program may serve an individual who has dropped out of high school and re-enrolled in an alternative school, if that re-enrollment is part of a sequential service strategy:

Provided, That funds made available in this paragraph shall remain available through June 30, 2010: *Provided further,* That a local board may award a contract to an institution of higher education if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for ''Community Service Employment for Older Americans'' for carrying out title V of the Older Americans Act of 1965, $120,000,000, which shall be available on the date of enactment of this Act and shall remain available through June 30, 2010: *Provided,* That funds shall be allotted within 30 days of

1 such enactment to current grantees in proportion to their
2 allotment in program year 2008: *Provided further,* That
3 funds made available under this heading in this Act may,
4 in accordance with section 517(c) of the Older Americans
5 Act of 1965, be recaptured and reobligated.

6 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT
7 SERVICE OPERATIONS

8 For an additional amount for ''State Unemployment
9 Insurance and Employment Service Operations'' for
10 grants to States in accordance with section 6 of the Wag-
11 ner-Peyser Act, $400,000,000, which may be expended
12 from the Employment Security Administration account in
13 the Unemployment Trust Fund: *Provided,* That such
14 funds shall be available on the date of enactment of this
15 Act and remain available to the States through September
16 30, 2010: *Provided further,* That $250,000,000 of such
17 funds shall be used by States for reemployment services
18 for unemployment insurance claimants (including the inte-
19 grated Employment Service and Unemployment Insurance
20 information technology required to identify and serve the
21 needs of such claimants): *Provided further,* That the Sec-
22 retary of Labor shall establish planning and reporting pro-
23 cedures necessary to provide oversight of funds used for
24 reemployment services.

1 DEPARTMENTAL MANAGEMENT

2 OFFICE OF JOB CORPS

3 For an additional amount for ''Office of Job Corps''
4 for construction, alteration and repairs of buildings and
5 other facilities, $160,000,000, which shall remain avail-
6 able through June 30, 2010: *Provided,* That the Secretary
7 of Labor may transfer up to 15 percent of such funds to
8 meet the operational needs of Job Corps Centers, which
9 may include training for careers in the energy efficiency,
10 renewable energy, and environmental protection indus-
11 tries: *Provided further,* That not later than 90 days after
12 the date of enactment of this Act, the Secretary shall pro-
13 vide to the Committee on Appropriations of the House of
14 Representatives and the Senate an operating plan describ-
15 ing the planned uses of funds available in this paragraph.

16 OFFICE OF INSPECTOR GENERAL

17 For an additional amount for the ''Office of Inspector
18 General'', $3,000,000, which shall remain available
19 through September 30, 2011, for salaries and expenses
20 necessary for oversight and audit of programs, grants, and
21 projects funded in this Act and administered by the De-
22 partment of Labor.

1 DEPARTMENT OF HEALTH AND HUMAN
2 SERVICES

3 HEALTH RESOURCES AND SERVICES ADMINISTRATION

4 HEALTH RESOURCES AND SERVICES

5 For an additional amount for ''Health Resources and
6 Services'', $1,958,000,000, which shall remain available
7 through September 30, 2010, of which $88,000,000 shall
8 be for necessary expenses related to leasing and renovating
9 a headquarters building for Public Health Service agencies
10 and other components of the Department of Health and
11 Human Services, including renovation and fit-out costs,
12 and of which $1,870,000,000 shall be for grants for con-
13 struction, renovation and equipment for health centers re-
14 ceiving operating grants under section 330 of the Public
15 Health Service Act, notwithstanding the limitation in sec-
16 tion 330(e)(3).

17 CENTERS FOR DISEASE CONTROL AND PREVENTION

18 DISEASE CONTROL, RESEARCH, AND TRAINING

19 For an additional amount for ''Disease Control, Re-
20 search, and Training'' for acquisition of real property,
21 equipment, construction, and renovation of facilities, in-
22 cluding necessary repairs and improvements to leased lab-
23 oratories, $412,000,000, which shall remain available
24 through September 30, 2010: *Provided,* That notwith-
25 standing any other provision of law, the Centers for Dis-

ease Control and Prevention may award a single contract or related contracts for development and construction of facilities that collectively include the full scope of the project: *Provided further,* That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

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

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $2,700,000,000, which shall be available through September 30, 2010: *Provided,* That $1,350,000,000 shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: *Provided further,* That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes

as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further,* That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

The additional amount available for 'Office of the Director' in the previous sentence shall be increased by $6,500,000,000: *Provided*, That a total of $7,850,000,000 shall be transferred pursuant to such sentence: *Provided further*, That any amounts in this sentence shall be designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $500,000,000, which shall be available through September 30, 2010, to fund high-priority repair, construction and improvement projects for National Institutes of

Health facilities on the Bethesda, Maryland campus and other agency locations.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Healthcare Research and Quality'' to carry out titles III and IX of the Public Health Service Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $700,000,000 for comparative clinical effectiveness research, which shall remain available through September 30, 2010: *Provided,* That of the amount appropriated in this paragraph, $400,000,000 shall be transferred to the Office of the Director of the National Institutes of Health (''Office of the Director'') to conduct or support comparative clinical effectiveness research under section 301 and title IV of the Public Health Service Act: *Provided further,* That funds transferred to the Office of the Director may be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further,* That

1 within the amount available in this paragraph for the
2 Agency for Healthcare Research and Quality, not more
3 than 1 percent shall be made available for additional full-
4 time equivalents.

5 In addition, $400,000,000 shall be available for com-
6 parative clinical effectiveness research to be allocated at
7 the discretion of the Secretary of Health and Human
8 Services (''Secretary'') and shall remain available through
9 September 30, 2010: *Provided,* That the funding appro-
10 priated in this paragraph shall be used to accelerate the
11 development and dissemination of research assessing the
12 comparative clinical effectiveness of health care treat-
13 ments and strategies, including through efforts that: (1)
14 conduct, support, or synthesize research that compares the
15 clinical outcomes, effectiveness, and appropriateness of
16 items, services, and procedures that are used to prevent,
17 diagnose, or treat diseases, disorders, and other health
18 conditions and (2) encourage the development and use of
19 clinical registries, clinical data networks, and other forms
20 of electronic health data that can be used to generate or
21 obtain outcomes data: *Provided further,* That the Sec-
22 retary shall enter into a contract with the Institute of
23 Medicine, for which no more than $1,500,000 shall be
24 made available from funds provided in this paragraph, to
25 produce and submit a report to the Congress and the Sec-

1 retary by not later than June 30, 2009 that includes rec-
2 ommendations on the national priorities for comparative
3 clinical effectiveness research to be conducted or sup-
4 ported with the funds provided in this paragraph and that
5 considers input from stakeholders: *Provided further,* That
6 the Secretary shall consider any recommendations of the
7 Federal Coordinating Council for Comparative Clinical Ef-
8 fectiveness Research established by section 802 of this Act
9 and any recommendations included in the Institute of
10 Medicine report pursuant to the preceding proviso in des-
11 ignating activities to receive funds provided in this para-
12 graph and may make grants and contracts with appro-
13 priate entities, which may include agencies within the De-
14 partment of Health and Human Services and other gov-
15 ernmental agencies, as well as private sector entities, that
16 have demonstrated experience and capacity to achieve the
17 goals of comparative clinical effectiveness research: *Pro-*
18 *vided further,* That the Secretary shall publish information
19 on grants and contracts awarded with the funds provided
20 under this heading within a reasonable time of the obliga-
21 tion of funds for such grants and contracts and shall dis-
22 seminate research findings from such grants and contracts
23 to clinicians, patients, and the general public, as appro-
24 priate: *Provided further,* That, to the extent feasible, the
25 Secretary shall ensure that the recipients of the funds pro-

1 vided by this paragraph offer an opportunity for public
2 comment on the research: *Provided further,* That the Sec-
3 retary shall provide the Committees on Appropriations of
4 the House of Representatives and the Senate, the Com-
5 mittee on Energy and Commerce and the Committee on
6 Ways and Means of the House of Representatives, and the
7 Committee on Health, Education, Labor, and Pensions
8 and the Committee on Finance of the Senate with an an-
9 nual report on the research conducted or supported
10 through the funds provided under this heading.

11 ADMINISTRATION FOR CHILDREN AND FAMILIES

12 PAYMENTS TO STATES FOR THE CHILD CARE AND

13 DEVELOPMENT BLOCK GRANT

14 For an additional amount for ''Payments to States
15 for the Child Care and Development Block Grant'' for car-
16 rying out the Child Care and Development Block Grant
17 Act of 1990, $2,000,000,000, which shall remain available
18 through September 30, 2010: *Provided,* That funds pro-
19 vided under this heading shall be used to supplement, not
20 supplant State general revenue funds for child care assist-
21 ance for low-income families: *Provided further,* That, in
22 addition to the amounts required to be reserved by the
23 States under section 658G of such Act, $255,186,000
24 shall be reserved by the States for activities authorized

under section 658G, of which $93,587,000 shall be for activities that improve the quality of infant and toddler care.

SOCIAL SERVICES BLOCK GRANT

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

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for ''Children and Families Services Programs'' for carrying out activities under the Head Start Act, $500,000,000, which shall remain available through September 30, 2010. In addition, $550,000,000, which shall remain available through September 30, 2010, is hereby appropriated for expansion of Early Head Start programs, as described in section 645A of such Act: *Provided,* That of the funds provided in this sentence, up to 10 percent shall be available for the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act.

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

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

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

OFFICE OF THE SECRETARY

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the National Coordinator for Health Information Technology'', $3,000,000,000, to carry out title XIII of this Act which shall be available until expended: *Provided,* That of this amount, the Secretary of Health and Human Services shall transfer $20,000,000 to the Director of the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care information enterprise integration through activities such as technical standards analysis and establishment of conformance testing infrastructure so long as such activities are coordinated with the Office of the National Coordinator for Health Information Technology: *Provided further,* That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each

major set of activities not later than November 1, 2009 and every 6 months thereafter as long as funding under this heading is available for obligation or expenditure.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, $4,000,000 which shall remain available until September 30, 2012, and an additional $15,000,000 for such purposes, to remain available until September 30, 2012.

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For an additional amount for carrying out title I of the Elementary and Secondary Education Act of 1965, $12,400,000,000, which shall be available through September 30, 2010: *Provided,* That $5,500,000,000 shall be for targeted grants under section 1125, $5,500,000,000 shall be for education finance incentive grants under section 1125A, and $1,400,000,000 shall be for school improvement grants under section 1003(g): *Provided further*, That each local educational agency receiving funds available under this paragraph for sections 1125 and 1125A shall use not less than 15 percent of such funds for activities serving children who are eligible pursuant to section 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K): *Provided further*, That each local educational agency re-

1 ceiving funds available under this paragraph shall be re-
2 quired to file with the State educational agency, no later
3 than December 1, 2009, a school-by-school listing of per-
4 pupil educational expenditures from State and local
5 sources during the 2008–2009 academic year.

6 SCHOOL IMPROVEMENT PROGRAMS

7 For an additional amount for ''School Improvement
8 Programs,'' $1,070,000,000, which shall be available
9 through September 30, 2010, for carrying out activities
10 authorized by part D of title II of the Elementary and
11 Secondary Education Act of 1965, and subtitle B of title
12 VII of the McKinney-Vento Homeless Assistance Act
13 (''McKinney-Vento''): *Provided,* That the Secretary shall
14 allot $70,000,000 for grants under McKinney-Vento to
15 each State in proportion to the number of homeless stu-
16 dents identified by the State during the 2007–2008 school
17 year relative to the number of such children identified na-
18 tionally during that school year: *Provided further,* That
19 State educational agencies shall subgrant the McKinney-
20 Vento funds to local educational agencies on a competitive
21 basis or according to a formula based on the number of
22 homeless students identified by the local educational agen-
23 cies in the State: *Provided further,* That the Secretary
24 shall distribute the McKinney-Vento funds to the States
25 not later than 60 days after the date of the enactment

of this Act: *Provided further,* That each State shall subgrant the McKinney-Vento funds to local educational agencies not later than 120 days after receiving its grant from the Secretary.

SPECIAL EDUCATION

For an additional amount for ''Special Education'' for carrying out parts B and C of the Individuals with Disabilities Education Act (''IDEA''), $13,500,000,000, which shall remain available through September 30, 2010: *Provided,* That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: *Provided further,* That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further,* That the amount for section 611(b)(2) of the IDEA shall be equal to the lesser of the amount available for that activity during fiscal year 2008, increased by the amount of inflation as specified in section 619(d)(2)(B), or the percentage increase in the funds appropriated under section 611(i): *Provided further*, That

each local educational agency receiving funds available under this paragraph for part B shall use not less than 15 percent for special education and related services to children described in section 619(a) of the IDEA.

REHABILITATION SERVICES AND DISABILITY RESEARCH

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

STUDENT FINANCIAL ASSISTANCE

For an additional amount for ''Student Financial Assistance'' to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965, $13,869,000,000: *Pro-*

vided, That such funds shall be used to increase the maximum Pell Grant by $281 for award year 2009–2010, to increase the maximum Pell Grant by $400 for the award year 2010–2011, and to reduce or eliminate the Pell Grant shortfall: *Provided further,* That these funds shall remain available through September 30, 2011.

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

HIGHER EDUCATION

For an additional amount for ''Higher Education'' for carrying out activities under part A of title II of the Higher Education Act of 1965, $50,000,000: *Provided,* That these funds shall remain available through September 30, 2010.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the ''Office of the Inspector General'', $4,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act and administered by the Department of Education and an additional

$10,000,000 for such purposes, to remain available until September 30, 2012.

RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operating Expenses'' to carry out the Domestic Volunteer Service Act of 1973 (''1973 Act'') and the National and Community Service Act of 1990 (''1990 Act''), $160,000,000, to remain available through September 30, 2010: *Provided,* That funds made available in this paragraph may be used to provide adjustments to awards under subtitle C of title I of the 1990 Act made prior to September 30, 2010 for which the Chief Executive Officer of the Corporation for National and Community Service (''CEO'') determines that a waiver of the Federal share limitation is warranted under section 2521.70 of title 45 of the Code of Federal Regulations: *Provided further,* That of the amount made available in this paragraph, not less than $6,000,000 shall be transferred to ''Salaries and Expenses'' for necessary expenses relating to information technology upgrades: *Provided further,* That of the amount provided in this paragraph, $10,000,000 shall be available for additional

members in the Civilian Community Corps authorized under subtitle E of title I of the 1990 Act: *Provided further,* That of the amount provided in this paragraph, $1,000,000 shall be made available for a one-time supplement grant to State commissions on national and community service under section 126(a) of the 1990 Act without regard to the limitation on Federal share under section 126(a)(2) of the 1990 Act: *Provided further,* That of the amount made available in this paragraph, not less than $13,000,000 shall be for research activities authorized under subtitle H of title I of the 1990 Act: *Provided further,* That of the amount made available in this paragraph, not less than $65,000,000 shall be for programs under title I, part A of the 1973 Act: *Provided further,* That funds provided in the previous proviso shall not be made available in connection with cost-share agreements authorized under section 192A(g)(10) of the 1990 Act: *Provided further*, That of the funds available under this heading, up to 20 percent of funds allocated to grants authorized under section 124(b) of title I, subtitle C of the 1990 Act may be used to administer, reimburse, or support any national service program under section 129(d)(2) of the 1990 Act: *Provided further,* That, except as provided herein and in addition to requirements identified herein, funds provided in this paragraph shall be subject to the terms

1 and conditions under which funds were appropriated in
2 fiscal year 2008: *Provided further,* That the CEO shall
3 provide the Committees on Appropriations of the House
4 of Representatives and the Senate a fiscal year 2009 oper-
5 ating plan for the funds appropriated in this paragraph
6 prior to making any Federal obligations of such funds in
7 fiscal year 2009, but not later than 90 days after the date
8 of enactment of this Act, and a fiscal year 2010 operating
9 plan for such funds prior to making any Federal obliga-
10 tions of such funds in fiscal year 2010, but not later than
11 November 1, 2009, that detail the allocation of resources
12 and the increased number of members supported by the
13 AmeriCorps programs: *Provided further,* That the CEO
14 shall provide to the Committees on Appropriations of the
15 House of Representatives and the Senate a report on the
16 actual obligations, expenditures, and unobligated balances
17 for each activity funded under this heading not later than
18 November 1, 2009, and every 6 months thereafter as long
19 as funding provided under this heading is available for ob-
20 ligation or expenditure.

21 OFFICE OF THE INSPECTOR GENERAL

22 For an additional amount for the Office of the In-
23 spector General, $1,000,000, which shall remain available
24 until September 30, 2011.

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

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

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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

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

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

OFFICE OF INSPECTOR GENERAL

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

GENERAL PROVISIONS—THIS TITLE

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

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

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

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–

28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

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

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

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

"(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

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

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

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bu-

1 reau of the Census (as the case may be) shall in the in-
2 terim annually report the best available data that can fea-
3 sibly be secured with respect to such territories. Such in-
4 terim reports shall describe the steps the Department or
5 the respective Bureau will take to improve future data col-
6 lection in the territories to achieve comparability with the
7 data collected in the United States. The Department of
8 Labor, the Bureau of Economic Analysis, and the Bureau
9 of the Census, together with the Department of the Inte-
10 rior, shall coordinate their efforts to achieve such improve-
11 ments.''.

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

15 SEC. 802. FEDERAL COORDINATING COUNCIL FOR
16 COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a)
17 ESTABLISHMENT.—There is hereby established a Federal
18 Coordinating Council for Comparative Clinical Effective-
19 ness Research (in this section referred to as the ''Coun-
20 cil'').

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

22 (1) assist the offices and agencies of the Fed-
23 eral Government, including the Departments of
24 Health and Human Services, Veterans Affairs, and
25 Defense, and other Federal departments or agencies,

to coordinate the conduct or support of comparative clinical effectiveness and related health services research; and

(2) advise the President and Congress on—

(A) strategies with respect to the infrastructure needs of comparative clinical effectiveness research within the Federal Government;

(B) appropriate organizational expenditures for comparative clinical effectiveness research by relevant Federal departments and agencies; and

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

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall be composed of not more than 15 members, all of whom are senior Federal officers or employees with responsibility for health-related programs, appointed by the President, acting through the Secretary of Health and Human Services (in this sec-

1 tion referred to as the ''Secretary''). Members shall
2 first be appointed to the Council not later than 30
3 days after the date of the enactment of this Act.
4 (2) MEMBERS.—
5 (A) IN GENERAL.—The members of the
6 Council shall include one senior officer or em-
7 ployee from each of the following agencies:
8 (i) The Agency for Healthcare Re-
9 search and Quality.
10 (ii) The Centers for Medicare and
11 Medicaid Services.
12 (iii) The National Institutes of
13 Health.
14 (iv) The Office of the National Coor-
15 dinator for Health Information Tech-
16 nology.
17 (v) The Food and Drug Administra-
18 tion.
19 (vi) The Veterans Health Administra-
20 tion within the Department of Veterans
21 Affairs.
22 (vii) The office within the Department
23 of Defense responsible for management of
24 the Department of Defense Military
25 Health Care System.

1 (B) QUALIFICATIONS.—At least half of the
2 members of the Council shall be physicians or
3 other experts with clinical expertise.
4 (3) CHAIRMAN; VICE CHAIRMAN.—The Sec-
5 retary shall serve as Chairman of the Council and
6 shall designate a member to serve as Vice Chairman.
7 (d) REPORTS.—
8 (1) INITIAL REPORT.—Not later than June 30,
9 2009, the Council shall submit to the President and
10 the Congress a report containing information de-
11 scribing Federal activities on comparative clinical ef-
12 fectiveness research and recommendations for addi-
13 tional investments in such research conducted or
14 supported from funds made available for allotment
15 by the Secretary for comparative clinical effective-
16 ness research in this Act.
17 (2) ANNUAL REPORT.—The Council shall sub-
18 mit to the President and Congress an annual report
19 regarding its activities and recommendations con-
20 cerning the infrastructure needs, appropriate organi-
21 zational expenditures and opportunities for better
22 coordination of comparative clinical effectiveness re-
23 search by relevant Federal departments and agen-
24 cies.

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

(TRANSFER OF FUNDS)

SEC. 803. (a) Not more than 1 percent of the funds made available to the Department of Labor in this title may be transferred by the Secretary of Labor to ''Employment and Training Administration—Program Administration'', ''Employment Standards Administration—Salaries and Expenses'', ''Occupational Safety and Health Administration—Salaries and Expenses'' and ''Departmental Management—Salaries and Expenses'' for expenses necessary to administer and coordinate funds made available to the Department of Labor in this title; oversee and evaluate the use of such funds; and enforce applicable laws and regulations governing worker rights and protections associated with the funds made available in this Act.

(b) Not later than 10 days prior to obligating any funds proposed to be transferred under subsection (a), the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of each amount proposed to be transferred.

(c) Funds transferred under this section may be available for obligation through September 30, 2010.

SEC. 804. ELIGIBLE EMPLOYEES IN THE RECREATIONAL MARINE INDUSTRY. Section 2(3)(F) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(F)) is amended—

(1) by striking ", repair or dismantle"; and

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

TITLE IX—LEGISLATIVE BRANCH

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

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

GENERAL PROVISIONS—THIS TITLE

SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Comptroller General shall conduct bimonthly reviews and prepare reports on such reviews on the use by selected State and localities of funds made available in this Act. Such re-

ports, along with any audits conducted by the Comptroller General of such funds, shall be posted on the Internet and linked to the website established under this Act by the Recovery Accountability and Transparency Board.

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

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

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

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

(2) to interview any current employee regarding such transactions.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

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

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

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

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $871,332,000, to remain available until September 30, 2013, of which $80,100,000 shall be for child

development centers; $612,246,000 shall be for dormitories; and $138,100,000 shall be for health clinics (including acquisition, construction, installation, and equipment): *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further,* That of the funds provided under this heading, not to exceed $40,886,000 shall be available for study, planning, design, and architect and engineer services: *Provided further,* That within 30 days of enactment of this Act the Secretary of the Air Force shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $118,560,000 for the Energy Conservation Investment Program, to remain available until September 30, 2010: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further,* That within 30 days of enactment of this Act the Secretary of Defense shall

submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

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

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for ''Military Construction, Air National Guard'', $110,000,000, to remain available until September 30, 2013: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further,* That within 30

days of enactment of this Act the Director of the Air National Guard shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

FAMILY HOUSING CONSTRUCTION, ARMY

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

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Family Housing Operation and Maintenance, Army'', $3,932,000: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended for operation and maintenance and minor construction projects in the United States not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

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

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

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

HOMEOWNERS ASSISTANCE FUND

For an additional amount for ''Homeowners Assistance Fund'', established by section 1013 of the Demonstration Cities and Metropolitan Development Act of

1966, as amended (42 U.S.C. 3374), $410,973,000, to remain available until expended.

ADMINISTRATIVE PROVISION

SEC. 1001. (a) TEMPORARY EXPANSION OF HOMEOWNERS ASSISTANCE PLAN TO RESPOND TO MORTGAGE FORECLOSURE AND CREDIT CRISIS. Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (a)—

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

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

''(1) ACQUISITION OF PROPERTY AT OR NEAR MILITARY INSTALLATIONS THAT HAVE BEEN ORDERED TO BE CLOSED.—Notwithstanding any other provision of law'';

(C) by striking ''if he determines'' and inserting ''if—

''(A) the Secretary determines—'';

(D) in clause (iii), as redesignated by subparagraph (A), by striking the period at the end and inserting "; or"; and

(E) by adding at the end the following:

"(B) the Secretary determines—

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

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

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

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

"(v) that the property is the primary residence of the owner; and

"(vi) that the owner has not previously received benefit payments authorized under this subsection.

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

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

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

"(ii) is disabled to a degree of 30 percent or more as a result of such wound, injury, or illness, as determined by the Secretary of Defense or the Secretary of Veterans Affairs; and

1 "(iii) is reassigned in furtherance of
2 medical treatment or rehabilitation, or due
3 to medical retirement in connection with
4 such disability;
5 "(B) any civilian employee of the Depart-
6 ment of Defense or the United States Coast
7 Guard who—
8 "(i) was wounded, injured, or became
9 ill in the line of duty during a forward de-
10 ployment in support of the Armed Forces;
11 and
12 "(ii) is reassigned in furtherance of
13 medical treatment, rehabilitation, or due to
14 medical retirement resulting from the sus-
15 tained disability; or
16 "(C) the spouse of a member of the Armed
17 Forces or a civilian employee of the Department
18 of Defense or the United States Coast Guard
19 if—
20 "(i) the member or employee was
21 killed in the line of duty during a deploy-
22 ment in support of the Armed Forces or
23 died from a wound, injury, or illness in-
24 curred in the line of duty during such a
25 deployment; and

"(ii) the spouse relocates from such residence within 2 years after the death of such member or employee.

"(3) TEMPORARY HOMEOWNER ASSISTANCE FOR MEMBERS OF THE ARMED FORCES PERMANENTLY REASSIGNED DURING SPECIFIED MORTGAGE CRISIS.—Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling situated at or near a military base or installation, if the Secretary determines—

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

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

"(C) that the reassignment was ordered between February 1, 2006, and September 30, 2012, or an earlier end date designated by the Secretary;

"(D) that the property was purchased by the owner before July 1, 2006;

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

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

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

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

(3) in subsection (c)—

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

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

"(A) IN GENERAL.—Such persons";

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

"(i) to receive";

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

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

''(II) the fair market value'';

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

''(ii) to receive'';

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

''(B) REIMBURSEMENT OF EXPENSES.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount''; and

(F) by striking ''best interest of the Federal Government. Cash payment'' and inserting the following: ''best interest of the United States.

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

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

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

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

''(II) the fair market value of such property (as such value is so determined) at the time of the wound, injury, or illness qualifying the individual for benefits under subsection (a)(2); or

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

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

"(3) HOMEOWNER ASSISTANCE FOR PERMANENTLY REASSIGNED INDIVIDUALS.—

"(A) IN GENERAL.—Persons eligible under the criteria set forth in subsection (a)(3) may elect either—

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

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

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

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

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

"(4) COMPENSATION AND LIMITATIONS RELATED TO FORECLOSURES AND ENCUMBRANCES.—Cash payment";

(4) by striking subsection (g);

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

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

(7) in subsection (n)—

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

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

(8) in subsection (o)—

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

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

(C) by striking paragraph (4); and

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

"(p) DEFINITIONS.—In this section:

"(1) the term 'Armed Forces' has the meaning given the term 'armed forces' in section 101(a) of title 10, United States Code;

"(2) the term 'civilian employee' has the meaning given the term 'employee' in section 2105(a) of title 5, United States Code;

"(3) the term 'medical transition', in the case of a member of the Armed Forces, means a member who—

"(A) is in Medical Holdover status;

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

"(C) is in Medical Hold status;

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

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

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

"(4) the term 'nonappropriated fund instrumentality employee' means a civilian employee who—

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

"(B) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine

Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.''.

(b) CLERICAL AMENDMENT.—Such section is further amended in the section heading by inserting ''and certain property owned by members of the armed forces, department of defense and united states coast guard civilian employees, and surviving spouses'' after ''ordered to be closed''.

(c) AUTHORITY TO USE APPROPRIATED FUNDS.—Notwithstanding subsection (i) of such section, amounts appropriated or otherwise made available by this title under the heading ''Homeowners Assistance Fund'' may be used for the Homeowners Assistance Fund established under such section.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SUPPORT AND COMPLIANCE

For an additional amount for ''Medical Support and Compliance'', $5,000,000, to remain available until September 30, 2010, to support contract administration and

energy initiative execution at the Veterans Health Administration.

MEDICAL FACILITIES

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

NATIONAL CEMETERY ADMINISTRATION

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

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

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

INFORMATION TECHNOLOGY SYSTEMS

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

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $4,400,000, to remain available until September 30, 2011, for oversight and audit of programs, grants and projects funded under this title.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for ''Construction, Major Projects'', $1,105,333,000, to remain available until September 30, 2013, which shall be for acceleration and construction of ongoing and planned construction, including physical security construction, of major medical facilities and National Cemeteries consistent with the Department of Veterans Affairs' Five Year Capital Plan: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further,* That

within 30 days of enactment of this Act the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading prior to obligation.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for ''Construction, Minor Projects'', $939,836,000, to remain available until September 30, 2010, of which $860,742,000 shall be for Veterans Health Administration minor construction; $20,300,000 shall be for Veterans Benefits Administration minor construction, including $300,000 for energy efficiency initiatives; and $29,012,000 shall be for National Cemetery Administration minor construction.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

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

ADMINISTRATIVE PROVISION

SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO SERVED IN THE UNITED STATES ARMED FORCES IN THE FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Congress makes the following findings:

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

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

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

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

(5) Filipino veterans who were granted benefits prior to the enactment of the so-called Rescissions Acts of 1946 (Public Laws 79–301 and 79–391)

currently receive full benefits under laws administered by the Secretary of Veterans Affairs, but under section 107 of title 38, United States Code, the service of certain other Filipino veterans is deemed not to be active service for purposes of such laws.

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

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

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

(b) COMPENSATION FUND.—

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

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

(c) PAYMENTS.—

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

(2) PAYMENT TO SURVIVING SPOUSE.—If an eligible person who has filed a claim for benefits under this section dies before payment is made under this section, the payment under this section

shall be made instead to the surviving spouse, if any, of the eligible person.

(d) ELIGIBLE PERSONS.—An eligible person is any person who—

(1) served—

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

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

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

(e) PAYMENT AMOUNTS.—Each payment under this section shall be—

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

(2) in the case of an eligible person who is a citizen of the United States, in the amount of $15,000.

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

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

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

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

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

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

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

(h) RELEASE.—

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

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

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

(j) ADMINISTRATION.—

(1) The Secretary shall promptly issue application forms and instructions to ensure the prompt

and efficient administration of the provisions of this section.

(2) The Secretary shall administer the provisions of this section in a manner consistent with applicable provisions of title 38, United States Code, and other provisions of law, and shall apply the definitions in section 101 of such title in the administration of such provisions, except to the extent otherwise provided in this section.

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

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

RELATED AGENCY

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARY AND EXPENSES

For an additional amount for ''Cemeterial Expenses, Army'', $60,300,000, to remain available until September 30, 2010, for land development, columbarium construction, and relocation of utilities at Arlington National Cemetery.

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'' for urgent domestic facilities requirements, $90,000,000, to remain available until September 30, 2010, of which up to $20,000,000 shall be available for passport facilities and systems, and up to $65,000,000 shall be available for a consolidated security training facility in the United States and should be obligated in accordance with United States General Services Administration site selection procedures: *Provided,* That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spend-

ing plan for funds appropriated under this heading: *Provided further,* That with respect to the funds made available for passport facilities and systems, such plan shall be developed in consultation with the Department of Homeland Security and the General Services Administration and shall coordinate and co-locate, to the extent feasible, the construction of passport agencies with other Federal facilities.

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $228,000,000, to remain available until September 30, 2010, which shall be available for information technology security and upgrades to support mission-critical operations: *Provided,* That the Secretary of State and the Administrator of the United States Agency for International Development shall coordinate information technology systems, where appropriate, to increase efficiencies and eliminate redundancies, to include co-location of backup information management facilities: *Provided further,* That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'' for oversight requirements, $1,500,000, to remain available until September 30, 2011.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

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

1 UNITED STATES AGENCY FOR INTERNATIONAL
2 DEVELOPMENT
3 FUNDS APPROPRIATED TO THE PRESIDENT
4 CAPITAL INVESTMENT FUND
5 For an additional amount for ''Capital Investment
6 Fund'', $58,000,000, to remain available until September
7 30, 2010, which shall be available for information tech-
8 nology modernization programs and implementation of the
9 Global Acquisition System: *Provided,* That the Adminis-
10 trator of the United States Agency for International De-
11 velopment shall submit to the Committees on Appropria-
12 tions within 90 days of enactment of this Act a detailed
13 spending plan for funds appropriated under this heading.
14 OPERATING EXPENSES OF THE UNITED STATES AGENCY
15 FOR INTERNATIONAL DEVELOPMENT OFFICE OF IN-
16 SPECTOR GENERAL
17 For an additional amount for ''Operating Expenses
18 of the United States Agency for International Develop-
19 ment Office of Inspector General'' for oversight require-
20 ments, $500,000, to remain available until September 30,
21 2011.

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

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, $5,500,000,000, to remain available until September 30, 2011: *Provided,* That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: *Provided further,* That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small

1 Starts programs that will expedite the completion of those
2 projects and their entry into revenue service; passenger
3 and freight rail transportation projects; and port infra-
4 structure investments, including projects that connect
5 ports to other modes of transportation and improve the
6 efficiency of freight movement: *Provided further,* That of
7 the amount made available under this paragraph, the Sec-
8 retary may use an amount not to exceed $200,000,000
9 for the purpose of paying the subsidy costs of projects eli-
10 gible for federal credit assistance under chapter 6 of title
11 23, United States Code, if the Secretary finds that such
12 use of the funds would advance the purposes of this para-
13 graph: *Provided further,* That in distributing funds pro-
14 vided under this heading, the Secretary shall take such
15 measures so as to ensure an equitable geographic distribu-
16 tion of funds and an appropriate balance in addressing
17 the needs of urban and rural communities: *Provided fur-*
18 *ther,* That a grant funded under this heading shall be not
19 less than $20,000,000 and not greater than
20 $500,000,000: *Provided further,* That the Federal share
21 of the costs for which an expenditure is made under this
22 heading may be up to 100 percent: *Provided further,* That
23 the Secretary shall give priority to projects that require
24 an additional share of Federal funds in order to complete
25 an overall financing package, and to projects that are ex-

pected to be completed within 3 years of enactment of this Act: *Provided further,* That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after enactment of this Act: *Provided further,* That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after enactment of this Act, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: *Provided further,* That the Secretary shall require all additional applications to be submitted not later than 1 year after enactment of this Act, and announce not later than 180 days following such 1-year period all additional projects selected to be funded with funds withdrawn from States and grantees and transferred from ''Supplemental Grants for Highway Investments'' and ''Supplemental Grants for Public Transit Investment'': *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That the Secretary may retain up to $5,000,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the

Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this heading.

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL FUNDING FOR FACILITIES AND EQUIPMENT

For an additional amount for necessary investments in Federal Aviation Administration infrastructure, $200,000,000: *Provided,* That funding provided under this heading shall be used to make improvements to power systems, air route traffic control centers, air traffic control towers, terminal radar approach control facilities, and navigation and landing equipment: *Provided further,* That priority be given to such projects or activities that will be completed within 2 years of enactment of this Act: *Provided further,* That amounts made available under this heading may be provided through grants in addition to the other instruments authorized under section 106(l)(6) of title 49, United States Code: *Provided further,* That the Federal share of the costs for which an expenditure is made under this heading shall be 100 percent: *Provided further,* That amounts provided under this heading may be used for expenses the agency incurs in administering this program: *Provided further,* That not more than 60 days after enactment of this Act, the Administrator shall

establish a process for applying, reviewing and awarding grants and cooperative and other transaction agreements, including the form and content of an application, and requirements for the maintenance of records that are necessary to facilitate an effective audit of the use of the funding provided: *Provided further,* That section 50101 of title 49, United States Code, shall apply to funds provided under this heading.

SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT INVESTMENT

For an additional amount for capital expenditures authorized under sections 47102(3) and 47504(c) of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports of such title, $1,100,000,000: *Provided,* That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to airports, with priority given to those projects that demonstrate to his or her satisfaction their ability to be completed within 2 years of enactment of this Act, and serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: *Provided further,* That the Federal share payable of the costs for which a grant is made under this heading

shall be 100 percent: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for the Grants-in-Aid for Airports program set forth in any Act: *Provided further,* That section 50101 of title 49, United States Code, shall apply to funds provided under this heading: *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That the Administrator of the Federal Aviation Administration may retain and transfer to ''Federal Aviation Administration, Operations'' up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

FEDERAL HIGHWAY ADMINISTRATION

SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, $27,060,000,000: *Provided,* That funds provided under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of such title: *Provided further,* That 180 days following the date of such apportionment, the Secretary of Transportation shall withdraw

from each State an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further,* That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds and transfer such funds to ''Supplemental Discretionary Grants for a National Surface Transportation System'': *Provided further,* That at the request of a State, the Secretary of Transportation may provide an extension of such 1-year period only to the extent that he or she feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: *Provided further,* That before granting a such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further,* That the provisions of subsections 133(d)(3) and 133(d)(4) of title 23, United States Code, shall apply to funds apportioned under this heading, except that the percentage of funds to be allocated to local jurisdictions shall be 40 percent and such

allocation, notwithstanding any other provision of law, shall be conducted in all states within the United States: *Provided further,* That funds allocated to such urbanized areas and other areas shall not be subject to the redistribution of amounts required 180 days following the date of apportionment of funds provided under this heading: *Provided further,* That funds apportioned under this heading may be used for, but not be limited to, projects that address stormwater runoff, investments in passenger and freight rail transportation, and investments in port infrastructure: *Provided further,* that each State shall use not less than 5 percent of funds apportioned to it for activities eligible under subsections 149(b) and (c) of title 23, United States Code: *Provided further,* That of the funds provided under this heading, $60,000,000 shall be for capital expenditures eligible under section 147 of title 23, United States Code: *Provided further,* That the Secretary of Transportation shall distribute such $60,000,000 as competitive discretionary grants to States, with priority given to those projects that demonstrate to his or her satisfaction their ability to be completed within 2 years of enactment of this Act: *Provided further,* That of the funds provided under this heading, $500,000,000 shall be for investments in transportation at Indian reservations and Federal lands, and administered in accordance with chap-

ter 2 of title 23, United States Code: *Provided further,* That of the funds identified in the preceding proviso, $320,000,000 shall be for the Indian Reservation Roads program, $100,000,000 shall be for the Park Roads and Parkways program, $70,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program: *Provided further,* That for investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act: *Provided further,* That 1 year following the enactment of this Act, to ensure the prompt use of the $500,000,000 provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated: *Provided further,* That up to 4 percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses: *Provided further,* That section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds provided under this heading: *Provided further,* That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall

be at the option of the recipient, and may be up to 100 percent of the total cost thereof: *Provided further,* That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2008 and 2009 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act: *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That section 313 of title 23, United States Code, shall apply to funds provided under this heading: *Provided further,* That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further,* That for the purposes of the definition of States for this paragraph, sections 101(a)(32) of title 23, United States Code, shall apply: *Provided further,* That the Administrator of the Federal Highway Administration may retain up to $12,000,000 of the funds provided under this heading to carry out the function of the ''Federal Highway Administration, Limitation on Administrative Expenses'' and

to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act.

FEDERAL RAILROAD ADMINISTRATION

SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY PASSENGER RAIL SERVICE

For an additional amount for discretionary grants to States to pay for the cost of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, United States Code, and subsection (b) of section 24105 of such title, $250,000,000: *Provided,* That to be eligible for assistance under this paragraph, the specific project must be on a Statewide Transportation Improvement Plan at the time of the application to qualify: *Provided further,* That the Secretary of Transportation shall give priority to projects that demonstrate an ability to be completed within 2 years of enactment of this Act, and to projects that improve the safety and reliability of intercity passenger trains: *Provided further,* That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That section 24405(a) of title 49, United States

Code, shall apply to funds provided under this heading: *Provided further,* That the Administrator of the Federal Railroad Administration may retain and transfer to ''Federal Railroad Administration, Safety and Operations'' up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the immediate investment in capital projects necessary to maintain and improve national intercity passenger rail service, including the rehabilitation of rolling stock, $850,000,000: *Provided,* That funds made available under this heading shall be allocated directly to the National Railroad Passenger Corporation: *Provided further,* That the Board of Directors of the corporation shall take measures to ensure that priority is given to capital projects that expand passenger rail capacity: *Provided further,* That the Board of Directors shall take measures to ensure that projects funded under this heading shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further,* That said Board of Directors shall certify to the

House and Senate Committees on Appropriations in writing their compliance with the preceding proviso: *Provided further,* That section 24305(f) of title 49, United States Code, shall apply to funds provided under this heading: *Provided further,* That not more than 50 percent of the funds provided under this heading may be used for capital projects along the Northeast Corridor.

HIGH-SPEED RAIL CORRIDOR PROGRAM

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

FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT INVESTMENT

For an additional amount for capital expenditures authorized under section 5302(a)(1) of title 49, United

States Code, $8,400,000,000: *Provided,* That the Secretary of Transportation shall apportion 71 percent of the funds apportioned under this heading using the formula set forth in subsections (a) through (c) of section 5336 of title 49, United States Code, 19 percent of the funds apportioned under this heading using the formula set forth in section 5340 of such title, and 10 percent of the funding apportioned under this heading using the formula set forth in subsection 5311(c) of such title: *Provided further,* That 180 days following the date of such apportionment, the Secretary shall withdraw from each grantee an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other grantees that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds provided under this paragraph shall be utilized promptly: *Provided further,* That 1 year following the date of such apportionment, the Secretary shall withdraw from each grantee any unobligated funds and transfer such funds to ''Supplemental Discretionary Grants for a National Surface Transportation System'': *Provided further,* That at the request of a grantee, the Secretary of Transportation may provide an extension of such 1-year periods if he or she feels satisfied that the

grantee has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further,* That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further,* That of the funds apportioned using the formula set forth in subsection 5311(c) of title 49, United States Code, 2 percent shall be made available for section 5311(c)(1): *Provided further,* That of the funding provided under this heading, $200,000,000 shall be distributed as discretionary grants to public transit agencies for capital investments that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems: *Provided further,* That for such grants on energy-related investments, priority shall be given to projects based on the total energy savings that are projected to result from the investment, and projected energy savings as a percentage of the total energy usage of the public transit agency: *Provided further,* That the Federal share of the costs for which any grant is made under this heading shall be at the option of the recipient, and may be up to 100 percent: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for transit programs set forth in any Act: *Provided*

further, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further,* That the funds appropriated under this heading shall be subject to subsection 5323(j) and section 5333 of title 49, United States Code as well as sections 5304 and 5305 of said title, as appropriate, but shall not be comingled with funds available under the Formula and Bus Grants account: *Provided further,* That the Administrator of the Federal Transit Administration may retain up to $3,000,000 of the funds provided under this heading to carry out the function of ''Federal Transit Administration, Administrative Expenses'' and to fund the oversight of grants made under this heading by the Administrator.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

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

1 funds provided under this heading to fund the award and
2 oversight by the Administrator of grants made under this
3 heading.

4 OFFICE OF INSPECTOR GENERAL

5 SALARIES AND EXPENSES

6 For an additional amount for necessary expenses of
7 the Office of Inspector General to carry out the provisions
8 of the Inspector General Act of 1978, as amended,
9 $7,750,000, to remain available until September 30, 2011,
10 and an additional $12,250,000 for such purposes, to re-
11 main available until September 30, 2012: *Provided,* That
12 the funding made available under this heading shall be
13 used for conducting audits and investigations of projects
14 and activities carried out with funds made available in this
15 Act to the Department of Transportation and to the Na-
16 tional Railroad Passenger Corporation: *Provided further,*
17 That the Inspector General shall have all necessary au-
18 thority, in carrying out the duties specified in the Inspec-
19 tor General Act, as amended (5 U.S.C. App. 3), to inves-
20 tigate allegations of fraud, including false statements to
21 the Government (18 U.S.C. 1001), by any person or entity
22 that is subject to regulation by the Department.

GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for ''Native American Housing Block Grants'', as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (''NAHASDA'') (25 U.S.C. 4111 et seq.), $510,000,000, to remain available until September 30, 2011: *Provided,* That $255,000,000 of the amount provided under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further,* That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 180 days from the date that funds are available to recipients: *Provided further,* That the Secretary shall obligate $255,000,000 of the amount

1 provided under this heading for competitive grants to eligi-
2 ble entities that apply for funds authorized under
3 NAHASDA: *Provided further,* That in awarding competi-
4 tive funds, the Secretary shall give priority to projects that
5 will spur construction and rehabilitation and will create
6 employment opportunities for low-income and unemployed
7 persons: *Provided further,* That recipients of funds under
8 this heading shall obligate 100 percent of such funds with-
9 in 1 year of the date of enactment of this Act, expend
10 at least 50 percent of such funds within 2 years of the
11 date on which funds become available to such jurisdictions
12 for obligation, and expend 100 percent of such funds with-
13 in 3 years of such date: *Provided further,* That if a recipi-
14 ent fails to comply with either the 1-year obligation re-
15 quirement or the 2-year expenditure requirement, the Sec-
16 retary shall recapture all remaining funds awarded to the
17 recipient and reallocate such funds to recipients that are
18 in compliance with those requirements: *Provided further,*
19 That if a recipient fails to comply with the 3-year expendi-
20 ture requirement, the Secretary shall recapture the bal-
21 ance of the funds awarded to the recipient: *Provided fur-*
22 *ther,* That, notwithstanding any other provision of this
23 paragraph, the Secretary may institute measures to en-
24 sure participation in the formula and competitive alloca-
25 tion of funds provided under this paragraph by any hous-

ing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.): *Provided further,* That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'': *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of

the Department of Housing and Urban Development: *Provided further,* That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

PUBLIC HOUSING CAPITAL FUND

For an additional amount for the ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the ''Act''), $5,000,000,000, to remain available until September 30, 2011: *Provided,* That the Secretary of Housing and Urban Development shall allocate $3,000,000,000 of this amount by the formula authorized under section 9(d)(2) of the Act, except that the Secretary may determine not to allocate funding to public housing agencies currently designated as troubled or to public housing agencies that elect not to accept such funding: *Provided further,* That the Secretary shall make available $2,000,000,000 by competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments: *Provided further,* That public housing agencies shall prioritize capital projects that are already underway or included in the 5-year capital fund

1 plans required by the Act (42 U.S.C. 1437c–1(a)): *Pro-*
2 *vided further,* That in allocating competitive grants under
3 this heading, the Secretary shall give priority consider-
4 ation to the rehabilitation of vacant rental units: *Provided*
5 *further,* That notwithstanding any other provision of law,
6 (1) funding provided herein may not be used for operating
7 or rental assistance activities, and (2) any restriction of
8 funding to replacement housing uses shall be inapplicable:
9 *Provided further,* That notwithstanding any other provi-
10 sion of law, the Secretary shall institute measures to en-
11 sure that funds provided under this heading shall serve
12 to supplement and not supplant expenditures from other
13 Federal, State, or local sources or funds independently
14 generated by the grantee: *Provided further,* That notwith-
15 standing section 9(j), public housing agencies shall obli-
16 gate 100 percent of the funds within 1 year of the date
17 of enactment of this Act, shall expend at least 60 percent
18 of funds within 2 years of the date on which funds become
19 available to the agency for obligation, and shall expend
20 100 percent of the funds within 3 years of such date: *Pro-*
21 *vided further,* That if a public housing agency fails to com-
22 ply with either the 1-year obligation requirement or the
23 2-year expenditure requirement, the Secretary shall recap-
24 ture all remaining funds awarded to the public housing
25 agency and reallocate such funds to agencies that are in

compliance with those requirements: *Provided further,* That if a public housing agency fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the public housing agency: *Provided further,* That in administering funds provided in this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to conditions on use of funds for development and modernization, fair housing, non-discrimination, labor standards, and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'': *Provided further,* That any funds made available under this heading

used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the ''HOME Investment Partnerships Program'' as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (the ''Act''), $250,000,000, to remain available until September 30, 2011: *Provided,* That except as specifically provided herein, funds provided under this heading shall be distributed pursuant to the formula authorized by section 217 of the Act: *Provided further,* That the Secretary may establish a minimum grant size: *Provided further,* That participating jurisdictions shall obligate 100 percent of the funds within 1 year of the date of enactment of this Act, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the participating jurisdiction for obligation and shall expend 100 percent of the funds within 3 years of such date:

Provided further, That if a participating jurisdiction fails to comply with either the 1-year obligation requirement or the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the participating jurisdiction and reallocate such funds to participating jurisdictions that are in compliance with those requirements: *Provided further,* That if a participating jurisdiction fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the participating jurisdiction: *Provided further,* That in administering funds under this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, non-discrimination, labor standards and the environment, upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That the Secretary may use funds provided under this heading to provide incentives to grantees to use funding for investments in energy efficiency and green building technology: *Provided further,* That such incentives may include allocation of up to 20 percent of funds made avail-

able under this heading other than pursuant to the formula authorized by section 217 of the Act: *Provided further,* That, of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Community Planning and Development'': *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

For an additional amount for capital investments in low-income housing tax credit projects, $2,000,000,000, to remain available until September 30, 2011: *Provided,* That the funds shall be allocated to States under the HOME program under this Heading shall be made avail-

able to State housing finance agencies in an amount totaling $2,000,000,000, subject to any changes made to a State allocation for the benefit of a State by the Secretary of Housing and Urban Development for areas that have suffered from disproportionate job loss and foreclosure: *Provided further,* That the Secretary, in consultation with the States, shall determine the amount of funds each State shall have available under HOME: *Provided further,* That the State housing finance agencies (including for purposes throughout this heading any entity that is responsible for distributing low-income housing tax credits) or as appropriate as an entity as a gap financer, shall distribute these funds competitively under this heading to housing developers for projects eligible for funding (such terms including those who may have received funding) under the low-income housing tax credit program as provided under section 42 of the I.R.C. of 1986, with a review of both the decisionmaking and process for the award by the Secretary of Housing and Urban Development: *Provided further,* That funds under this heading must be awarded by State housing finance agencies within 120 days of enactment of the Act and obligated by the developer of the low-income housing tax credit project within one year of the date of enactment of this Act, shall expend 75 percent of the funds within two years of the date on which the funds

1 become available, and shall expend 100 percent of the
2 funds within 3 years of such date: *Provided further,* That
3 failure by a developer to expend funds within the param-
4 eters required within the previous proviso shall result in
5 a redistribution of these funds by a State housing finance
6 agency or by the Secretary if there is a more deserving
7 project in another jurisdiction: *Provided further,* That
8 projects awarded tax credits within 3 years prior to the
9 date of enactment of this Act shall be eligible for funding
10 under this heading: *Provided further,* That as part of the
11 review, the Secretary shall ensure equitable distribution of
12 funds and an appropriate balance in addressing the needs
13 of urban and rural communities with a special priority on
14 areas that have suffered from excessive job loss and fore-
15 closures: *Provided further,* That State housing finance
16 agencies shall give priority to projects that require an ad-
17 ditional share of Federal funds in order to complete an
18 overall funding package, and to projects that are expected
19 to be completed within 3 years of enactment: *Provided fur-*
20 *ther,* That any assistance provided to an eligible low-in-
21 come housing tax credit project under this heading shall
22 be made in the same manner and be subject to the same
23 limitations (including rent, income, and use restrictions)
24 as an allocation of the housing credit amount allocated
25 by the State housing finance agency under section 42 of

the I.R.C. of 1986, except that such assistance shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing finance agency applicable to such agency: *Provided further,* That the State housing finance agency shall perform asset management functions to ensure compliance with section 42 of the I.R.C. of 1986, and the long term viability of buildings funded by assistance under this heading: *Provided further,* That the term basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: *Provided further,* That the Secretary shall collect all information related to the award of Federal funds from state housing finance agencies and establish an internet site that shall identify all projects selected for an award, including the amount of the award as well as the process and all information that was used to make the award decision.

HOMELESSNESS PREVENTION FUND

For homelessness prevention activities, $1,500,000,000, to remain available until September 30, 2011: *Provided,* That funds provided under this heading shall be used for the provision of short-term or medium-term rental assistance; housing relocation and stabiliza-

1 tion services including housing search, mediation or out-
2 reach to property owners, credit repair, security or utility
3 deposits, utility payments, rental assistance for a final
4 month at a location, and moving cost assistance; or other
5 appropriate homelessness prevention activities: *Provided*
6 *further,* That grantees receiving such assistance shall col-
7 lect data on the use of the funds awarded and persons
8 served with this assistance in the Homeless Management
9 Information System (HMIS) or other comparable data-
10 base: *Provided further,* That grantees may use up to 5 per-
11 cent of any grant for administrative costs: *Provided fur-*
12 *ther,* That funding made available under this heading shall
13 be allocated to eligible grantees (as defined and designated
14 in sections 411 and 412 of subtitle B of title IV of the
15 McKinney-Vento Homeless Assistance Act, (the ''Act''))
16 pursuant to the formula authorized by section 413 of the
17 Act: *Provided further,* That the Secretary may establish
18 a minimum grant size: *Provided further,* That grantees
19 shall expend at least 75 percent of funds within 2 years
20 of the date that funds became available to them for obliga-
21 tion, and 100 percent of funds within 3 years of such date,
22 and the Secretary may recapture unexpended funds in vio-
23 lation of the 2-year expenditure requirement and reallo-
24 cate such funds to grantees in compliance with that re-
25 quirement: *Provided further,* That the Secretary may

1 waive statutory or regulatory provisions (except provisions
2 for fair housing, nondiscrimination, labor standards, and
3 the environment) necessary to facilitate the timely expend-
4 iture of funds: *Provided further,* That the Secretary shall
5 publish a notice to establish such requirements as may be
6 necessary to carry out the provisions of this section within
7 30 days of enactment of the Act and that this notice shall
8 take effect upon issuance: *Provided further,* That of the
9 funds provided under this heading, up to 1.5 percent shall
10 be available for staffing, training, technical assistance,
11 technology, monitoring, research and evaluation activities:
12 *Provided further,* That any funds made available under
13 this heading used by the Secretary for personnel expense
14 shall be transferred to and merged with funding provided
15 to ''Community Planning and Development Personnel
16 Compensation and Benefits'': *Provided further,* That any
17 funds made available under this heading used by the Sec-
18 retary for training or other administrative expenses shall
19 be transferred to and merged with funding provided to
20 ''Administration, Operations, and Management'' for non-
21 personnel expenses of the Department of Housing and
22 Urban Development: *Provided further,* That any funding
23 made available under this heading used by the Secretary
24 for technology shall be transferred to and merged with the
25 funding provided to ''Working Capital Fund.''

1 ASSISTED HOUSING STABILITY AND ENERGY AND
2 GREEN RETROFIT INVESTMENTS

3 For assistance to owners of properties receiving
4 project-based assistance pursuant to section 202 of the
5 Housing Act of 1959 (12 U.S.C. 17012), section 811 of
6 the Cranston-Gonzalez National Affordable Housing Act
7 (42 U.S.C. 8013), or section 8 of the United States Hous-
8 ing Act of 1937 as amended (42 U.S.C. 1437f),
9 $2,250,000,000, of which $2,132,000,000 shall be for an
10 additional amount for paragraph (1) under the heading
11 ''Project-Based Rental Assistance'' in Public Law 110–
12 161 for payments to owners for 12-month periods, and
13 of which $118,000,000 shall be for grants or loans for
14 energy retrofit and green investments in such assisted
15 housing: *Provided,* That projects funded with grants or
16 loans provided under this heading must comply with the
17 requirements of subchapter IV of chapter 31 of title 40,
18 United States Code: *Provided further,* That such grants
19 or loans shall be provided through the existing policies,
20 procedures, contracts, and transactional infrastructure of
21 the authorized programs administered by the Office of Af-
22 fordable Housing Preservation of the Department of
23 Housing and Urban Development, on such terms and con-
24 ditions as the Secretary of Housing and Urban Develop-
25 ment deems appropriate to ensure the maintenance and

1 preservation of the property, the continued operation and
2 maintenance of energy efficiency technologies, and the
3 timely expenditure of funds: *Provided further,* That the
4 Secretary may provide incentives to owners to undertake
5 energy or green retrofits as a part of such grant or loan
6 terms, including, but not limited to, investment fees to
7 cover oversight and implementation costs incurred by said
8 owner, or to encourage job creation for low-income or very
9 low-income individuals: *Provided further,* That the grants
10 or loans shall include a financial assessment and physical
11 inspection of such property: *Provided further,* That eligible
12 owners must have at least a satisfactory management re-
13 view rating, be in substantial compliance with applicable
14 performance standards and legal requirements, and com-
15 mit to an additional period of affordability determined by
16 the Secretary, but of not fewer than 15 years: *Provided*
17 *further,* That the Secretary shall undertake appropriate
18 underwriting and oversight with respect to grant and loan
19 transactions and may set aside up to 5 percent of the
20 funds made available under this heading for grants or
21 loans for such purpose: *Provided further,* That the Sec-
22 retary shall take steps necessary to ensure that owners
23 receiving funding for energy and green retrofit invest-
24 ments under this heading shall expend such funding with-
25 in 2 years of the date they received the funding: *Provided*

further, That the Secretary may waive or modify statutory or regulatory requirements with respect to any existing grant, loan, or insurance mechanism authorized to be used by the Secretary to enable or facilitate the accomplishment of investments supported with funds made available under this heading for grants or loans: *Provided further,* That of the funds provided under this heading, up to 1.5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That funding made available under this heading and used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Housing Compensation and Benefits'': *Provided further,* That any funding made available under this heading used by the Secretary for training and other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations and Management'' for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funding made available under this heading used by the Secretary for technology shall be transferred to and merged with funding provided to ''Working Capital Fund.''

1 OFFICE OF HEALTHY HOMES AND LEAD HAZARD
2 CONTROL

3 For an additional amount for the ''Lead Hazard Re-
4 duction'', as authorized by section 1011 of the Residential
5 Lead-Based Paint Hazard Reduction Act of 1992,
6 $100,000,000, to remain available until September 30,
7 2011: *Provided,* That funds shall be awarded first to appli-
8 cant jurisdictions which had applied under the Lead-
9 Based Paint Hazard Control Grant Program Notice of
10 Funding Availability for fiscal year 2008, and were found
11 in the application review to be qualified for award, but
12 were not awarded because of funding limitations, and that
13 any funds which remain after reservation of funds for such
14 grants shall be added to the amount of funds to be award-
15 ed under the Lead-Based Paint Hazard Control Grant
16 Program Notice of Funding Availability for fiscal year
17 2009: *Provided further,* That each applicant jurisdiction
18 for the Lead-Based Paint Hazard control Grant Program
19 Notice of Funding Availability for fiscal year 2009 shall
20 submit a detailed plan and strategy that demonstrates
21 adequate capacity that is acceptable to the Secretary to
22 carry out the proposed use of funds: *Provided further,*
23 That recipients of funds under this heading shall obligate
24 100 percent of such funds within 1 year of the date of
25 enactment of this Act, expend at least 75 percent of such

1 funds within 2 years of the date on which funds become
2 available to such jurisdictions for obligation, and expend
3 100 percent of such funds within 3 years of such date:
4 *Provided further,* That if a recipient fails to comply with
5 either the 1-year obligation requirement or the 2-year ex-
6 penditure requirement, the Secretary shall recapture all
7 remaining funds awarded to the recipient and reallocate
8 such funds to recipients that are in compliance with those
9 requirements: *Provided further,* That if a recipient fails to
10 comply with the 3-year expenditure requirement, the Sec-
11 retary shall recapture the balance of the funds awarded
12 to the recipient: *Provided further,* That in administering
13 funds provided in this heading, the Secretary may waive
14 any provision of any statute or regulation that the Sec-
15 retary administers in connection with the obligation by the
16 Secretary or the use by the recipient of these funds except
17 for requirements imposed by this heading and require-
18 ments related to fair housing, nondiscrimination, labor
19 standards, and the environment, upon a finding that such
20 waiver is required to facilitate the timely use of such funds
21 and would not be inconsistent with the overall purpose of
22 the statute or regulation: *Provided further,* That, of the
23 funds made available under this heading, up to 1 percent
24 shall be available for staffing, training, technical assist-
25 ance, technology, monitoring, research and evaluation ac-

tivities: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses shall be transferred to and merged with funding provided to ''Personnel Compensation and Benefits, Office of Healthy Homes and Lead Hazard Control'': *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to and merged with funding provided to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funds made available under this heading used by the Secretary for technology shall be transferred to and merged with the funding provided to ''Working Capital Fund''.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $2,750,000, to remain available until September 30, 2011, and an additional $12,250,000 for such purposes, to remain available until September 30, 2012: *Provided,* That the Inspector General shall have independent authority over all personnel issues within this office.

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Health Information Technology for Economic and Clinical Health Act'' or the ''HITECH Act''.

Subtitle A—Promotion of Health Information Technology

PART I—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3000. DEFINITIONS.

''In this title:

''(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record and that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary,

1 such as an ambulatory electronic health record for
2 office-based physicians or an inpatient hospital elec-
3 tronic health record for hospitals).

4 "(2) ENTERPRISE INTEGRATION.—The term
5 'enterprise integration' means the electronic linkage
6 of health care providers, health plans, the govern-
7 ment, and other interested parties, to enable the
8 electronic exchange and use of health information
9 among all the components in the health care infra-
10 structure in accordance with applicable law, and
11 such term includes related application protocols and
12 other related standards.

13 "(3) HEALTH CARE PROVIDER.—The term
14 'health care provider' means a hospital, skilled nurs-
15 ing facility, nursing facility, home health entity, or
16 other long-term care facility, health care clinic, com-
17 munity mental health center (as defined in section
18 1913(b)), renal dialysis facility, blood center, ambu-
19 latory surgical center described in section 1833(i) of
20 the Social Security Act, emergency medical services
21 provider, Federally qualified health center, group
22 practice (as defined in section 1877(h)(4) of the So-
23 cial Security Act), a pharmacist, a pharmacy, a lab-
24 oratory, a physician (as defined in section 1861(r) of
25 the Social Security Act), a practitioner (as described

in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, and any other category of facility or clinician determined appropriate by the Secretary.

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

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

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

1 "(7) HIT POLICY COMMITTEE.—The term 'HIT
2 Policy Committee' means such Committee estab-
3 lished under section 3002(a).
4 "(8) HIT STANDARDS COMMITTEE.—The term
5 'HIT Standards Committee' means such Committee
6 established under section 3003(a).
7 "(9) INDIVIDUALLY IDENTIFIABLE HEALTH IN-
8 FORMATION.—The term 'individually identifiable
9 health information' has the meaning given such term
10 in section 1171(6) of the Social Security Act.
11 "(10) LABORATORY.—The term 'laboratory'
12 has the meaning given such term in section 353(a).
13 "(11) NATIONAL COORDINATOR.—The term
14 'National Coordinator' means the head of the Office
15 of the National Coordinator for Health Information
16 Technology established under section 3001(a).
17 "(12) PHARMACIST.—The term 'pharmacist'
18 has the meaning given such term in section 804(2)
19 of the Federal Food, Drug, and Cosmetic Act.
20 "(13) QUALIFIED ELECTRONIC HEALTH
21 RECORD.—The term 'qualified electronic health
22 record' means an electronic record of health-related
23 information on an individual that—

1 "(A) includes patient demographic and
2 clinical health information, such as medical his-
3 tory and problem lists; and
4 "(B) has the capacity—
5 "(i) to provide clinical decision sup-
6 port;
7 "(ii) to support physician order entry;
8 "(iii) to capture and query informa-
9 tion relevant to health care quality; and
10 "(iv) to exchange electronic health in-
11 formation with, and integrate such infor-
12 mation from other sources.
13 "(14) STATE.—The term 'State' means each of
14 the several States, the District of Columbia, Puerto
15 Rico, the Virgin Islands, Guam, American Samoa,
16 and the Northern Mariana Islands.

17 **"Subtitle A—Promotion of Health**
18 **Information Technology**

19 **"SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR**
20 **HEALTH INFORMATION TECHNOLOGY.**

21 "(a) ESTABLISHMENT.—There is established within
22 the Department of Health and Human Services an Office
23 of the National Coordinator for Health Information Tech-
24 nology (referred to in this section as the 'Office'). The Of-
25 fice shall be headed by a National Coordinator who shall

be appointed by the Secretary and shall report directly to the Secretary.

"(b) PURPOSE.—The National Coordinator shall perform the duties under subsection (c) in a manner consistent with the development of a nationwide health information technology infrastructure that allows for the electronic use and exchange of information and that—

"(1) ensures that each patient's health information is secure and protected, in accordance with applicable law;

"(2) improves health care quality, reduces medical errors, and advances the delivery of patient-centered medical care;

"(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, duplicative care, and incomplete information;

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

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

"(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infra-

1 structure for the secure and authorized exchange of
2 health care information;
3 "(7) improves public health activities and facili-
4 tates the early identification and rapid response to
5 public health threats and emergencies, including bio-
6 terror events and infectious disease outbreaks;
7 "(8) facilitates health and clinical research and
8 health care quality;
9 "(9) promotes early detection, prevention, and
10 management of chronic diseases;
11 "(10) promotes a more effective marketplace,
12 greater competition, greater systems analysis, in-
13 creased consumer choice, and improved outcomes in
14 health care services; and
15 "(11) improves efforts to reduce health dispari-
16 ties.
17 "(c) DUTIES OF THE NATIONAL COORDINATOR.—
18 "(1) STANDARDS.—The National Coordinator
19 shall—
20 "(A) review and determine whether to en-
21 dorse each standard, implementation specifica-
22 tion, and certification criterion for the elec-
23 tronic exchange and use of health information
24 that is recommended by the HIT Standards

1 Committee under section 3003 for purposes of
2 adoption under section 3004;
3 "(B) make such determinations under sub-
4 paragraph (A), and report to the Secretary
5 such determinations, not later than 45 days
6 after the date the recommendation is received
7 by the Coordinator;
8 "(C) review Federal health information
9 technology investments to ensure that Federal
10 health information technology programs are
11 meeting the objectives of the strategic plan pub-
12 lished under paragraph (3); and
13 "(D) provide comments and advice regard-
14 ing specific Federal health information tech-
15 nology programs, at the request of the Office of
16 Management and Budget.
17 "(2) HIT POLICY COORDINATION.—
18 "(A) IN GENERAL.—The National Coordi-
19 nator shall coordinate health information tech-
20 nology policy and programs of the Department
21 with those of other relevant executive branch
22 agencies with a goal of avoiding duplication of
23 efforts and of helping to ensure that each agen-
24 cy undertakes health information technology ac-
25 tivities primarily within the areas of its greatest

1 expertise and technical capability and in a man-
2 ner towards a coordinated national goal.
3 "(B) HIT POLICY AND STANDARDS COM-
4 MITTEES.—The National Coordinator shall be a
5 leading member in the establishment and oper-
6 ations of the HIT Policy Committee and the
7 HIT Standards Committee and shall serve as a
8 liaison among those two Committees and the
9 Federal Government.
10 "(3) STRATEGIC PLAN.—
11 "(A) IN GENERAL.—The National Coordi-
12 nator shall, in consultation with other appro-
13 priate Federal agencies (including the National
14 Institute of Standards and Technology), update
15 the Federal Health IT Strategic Plan (devel-
16 oped as of June 3, 2008) to include specific ob-
17 jectives, milestones, and metrics with respect to
18 the following:
19 "(i) The electronic exchange and use
20 of health information and the enterprise
21 integration of such information.
22 "(ii) The utilization of an electronic
23 health record for each person in the United
24 States by 2014.

1 "(iii) The incorporation of privacy and
2 security protections for the electronic ex-
3 change of an individual's individually iden-
4 tifiable health information.
5 "(iv) Ensuring security methods to
6 ensure appropriate authorization and elec-
7 tronic authentication of health information
8 and specifying technologies or methodolo-
9 gies for rendering health information unus-
10 able, unreadable, or indecipherable.
11 "(v) Specifying a framework for co-
12 ordination and flow of recommendations
13 and policies under this subtitle among the
14 Secretary, the National Coordinator, the
15 HIT Policy Committee, the HIT Standards
16 Committee, and other health information
17 exchanges and other relevant entities.
18 "(vi) Methods to foster the public un-
19 derstanding of health information tech-
20 nology.
21 "(vii) Strategies to enhance the use of
22 health information technology in improving
23 the quality of health care, reducing medical
24 errors, reducing health disparities, improv-
25 ing public health, increasing prevention

1 and coordination with community re-
2 sources, and improving the continuity of
3 care among health care settings.
4 "(viii) Specific plans for ensuring that
5 populations with unique needs, such as
6 children, are appropriately addressed in
7 the technology design, as appropriate,
8 which may include technology that
9 automates enrollment and retention for eli-
10 gible individuals.
11 "(B) COLLABORATION.—The strategic
12 plan shall be updated through collaboration of
13 public and private entities.
14 "(C) MEASURABLE OUTCOME GOALS.—
15 The strategic plan update shall include measur-
16 able outcome goals.
17 "(D) PUBLICATION.—The National Coor-
18 dinator shall republish the strategic plan, in-
19 cluding all updates.
20 "(4) WEBSITE.—The National Coordinator
21 shall maintain and frequently update an Internet
22 website on which there is posted information on the
23 work, schedules, reports, recommendations, and
24 other information to ensure transparency in pro-

1 motion of a nationwide health information tech-
2 nology infrastructure.
3 "(5) HARMONIZATION.—The Secretary may
4 recognize an entity or entities for the purpose of
5 harmonizing or updating standards and implementa-
6 tion specifications in order to achieve uniform and
7 consistent implementation of the standards and im-
8 plementation specifications.
9 "(6) CERTIFICATION.—
10 "(A) IN GENERAL.—The National Coordi-
11 nator, in consultation with the Director of the
12 National Institute of Standards and Tech-
13 nology, shall recognize a program or programs
14 for the voluntary certification of health infor-
15 mation technology as being in compliance with
16 applicable certification criteria adopted under
17 this subtitle. Such program shall include, as ap-
18 propriate, testing of the technology in accord-
19 ance with section 14201(b) of the Health Infor-
20 mation Technology for Economic and Clinical
21 Health Act.
22 "(B) CERTIFICATION CRITERIA DE-
23 SCRIBED.—In this title, the term 'certification
24 criteria' means, with respect to standards and
25 implementation specifications for health infor-

1 mation technology, criteria to establish that the
2 technology meets such standards and implemen-
3 tation specifications.
4 "(6) REPORTS AND PUBLICATIONS.—
5 "(A) REPORT ON ADDITIONAL FUNDING
6 OR AUTHORITY NEEDED.—Not later than 12
7 months after the date of the enactment of this
8 title, the National Coordinator shall submit to
9 the appropriate committees of jurisdiction of
10 the House of Representatives and the Senate a
11 report on any additional funding or authority
12 the Coordinator or the HIT Policy Committee
13 or HIT Standards Committee requires to evalu-
14 ate and develop standards, implementation
15 specifications, and certification criteria, or to
16 achieve full participation of stakeholders in the
17 adoption of a nationwide health information
18 technology infrastructure that allows for the
19 electronic use and exchange of health informa-
20 tion.
21 "(B) IMPLEMENTATION REPORT.—The
22 National Coordinator shall prepare a report
23 that identifies lessons learned from major pub-
24 lic and private health care systems in their im-
25 plementation of health information technology,

1 including information on whether the tech-
2 nologies and practices developed by such sys-
3 tems may be applicable to and usable in whole
4 or in part by other health care providers.

5 "(C) ASSESSMENT OF IMPACT OF HIT ON
6 COMMUNITIES WITH HEALTH DISPARITIES AND
7 UNINSURED, UNDERINSURED, AND MEDICALLY
8 UNDERSERVED AREAS.—The National Coordi-
9 nator shall assess and publish the impact of
10 health information technology in communities
11 with health disparities and in areas with a high
12 proportion of individuals who are uninsured,
13 underinsured, and medically underserved indi-
14 viduals (including urban and rural areas) and
15 identify practices to increase the adoption of
16 such technology by health care providers in
17 such communities, and the use of health infor-
18 mation technology to reduce and better manage
19 chronic diseases.

20 "(D) EVALUATION OF BENEFITS AND
21 COSTS OF THE ELECTRONIC USE AND EX-
22 CHANGE OF HEALTH INFORMATION.—The Na-
23 tional Coordinator shall evaluate and publish
24 evidence on the benefits and costs of the elec-
25 tronic use and exchange of health information

1 and assess to whom these benefits and costs ac-
2 crue.
3 (E) RESOURCE REQUIREMENTS.—The Na-
4 tional Coordinator shall estimate and publish
5 resources required annually to reach the goal of
6 utilization of an electronic health record for
7 each person in the United States by 2014, in-
8 cluding—
9 (i) the required level of Federal fund-
10 ing;
11 (ii) expectations for regional, State,
12 and private investment;
13 (iii) the expected contributions by vol-
14 unteers to activities for the utilization of
15 such records; and
16 (iv) the resources needed to establish
17 or expand education programs in medical
18 and health informatics and health informa-
19 tion management to train health care and
20 information technology students and pro-
21 vide a health information technology work-
22 force sufficient to ensure the rapid and ef-
23 fective deployment and utilization of health
24 information technologies.

1 "(7) ASSISTANCE.—The National Coordinator
2 may provide financial assistance to consumer advo-
3 cacy groups and not-for-profit entities that work in
4 the public interest for purposes of defraying the cost
5 to such groups and entities to participate under,
6 whether in whole or in part, the National Tech-
7 nology Transfer Act of 1995 (15 U.S.C. 272 note).
8 "(8) GOVERNANCE FOR NATIONWIDE HEALTH
9 INFORMATION NETWORK.—The National Coordi-
10 nator shall establish a governance mechanism for the
11 nationwide health information network.
12 "(d) DETAIL OF FEDERAL EMPLOYEES.—
13 "(1) IN GENERAL.—Upon the request of the
14 National Coordinator, the head of any Federal agen-
15 cy is authorized to detail, with or without reimburse-
16 ment from the Office, any of the personnel of such
17 agency to the Office to assist it in carrying out its
18 duties under this section.
19 "(2) EFFECT OF DETAIL.—Any detail of per-
20 sonnel under paragraph (1) shall—
21 "(A) not interrupt or otherwise affect the
22 civil service status or privileges of the Federal
23 employee; and

1 "(B) be in addition to any other staff of
2 the Department employed by the National Co-
3 ordinator.
4 "(3) ACCEPTANCE OF DETAILEES.—Notwith-
5 standing any other provision of law, the Office may
6 accept detailed personnel from other Federal agen-
7 cies without regard to whether the agency described
8 under paragraph (1) is reimbursed.
9 "(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF
10 THE NATIONAL COORDINATOR.—Not later than 12
11 months after the date of the enactment of this title, the
12 Secretary shall appoint a Chief Privacy Officer of the Of-
13 fice of the National Coordinator, whose duty it shall be
14 to advise the National Coordinator on privacy, security,
15 and data stewardship of electronic health information and
16 to coordinate with other Federal agencies (and similar pri-
17 vacy officers in such agencies), with State and regional
18 efforts, and with foreign countries with regard to the pri-
19 vacy, security, and data stewardship of electronic individ-
20 ually identifiable health information.
21 **"SEC. 3002. HIT POLICY COMMITTEE.**
22 "(a) ESTABLISHMENT.—There is established a HIT
23 Policy Committee to make policy recommendations to the
24 National Coordinator relating to the implementation of a
25 nationwide health information technology infrastructure,

1 including implementation of the strategic plan described
2 in section 3001(c)(3).
3 "(b) DUTIES.—
4 "(1) RECOMMENDATIONS ON HEALTH INFOR-
5 MATION TECHNOLOGY INFRASTRUCTURE.—The HIT
6 Policy Committee shall recommend a policy frame-
7 work for the development and adoption of a nation-
8 wide health information technology infrastructure
9 that permits the electronic exchange and use of
10 health information as is consistent with the strategic
11 plan under section 3001(c)(3) and that includes the
12 recommendations under paragraph (2). The Com-
13 mittee shall update such recommendations and make
14 new recommendations as appropriate.
15 "(2) SPECIFIC AREAS OF STANDARD DEVELOP-
16 MENT.—
17 "(A) IN GENERAL.—The HIT Policy Com-
18 mittee shall recommend the areas in which
19 standards, implementation specifications, and
20 certification criteria are needed for the elec-
21 tronic exchange and use of health information
22 for purposes of adoption under section 3004
23 and shall recommend an order of priority for
24 the development, harmonization, and recogni-
25 tion of such standards, specifications, and cer-

1 tification criteria among the areas so rec-
2 ommended. Such standards and implementation
3 specifications shall include named standards,
4 architectures, and software schemes for the au-
5 thentication and security of individually identifi-
6 able health information and other information
7 as needed to ensure the reproducible develop-
8 ment of common solutions across disparate en-
9 tities.

10 "(B) AREAS REQUIRED FOR CONSIDER-
11 ATION.—For purposes of subparagraph (A), the
12 HIT Policy Committee shall make recommenda-
13 tions for at least the following areas:

14 "(i) Technologies that protect the pri-
15 vacy of health information and promote se-
16 curity in a qualified electronic health
17 record, including for the segmentation and
18 protection from disclosure of specific and
19 sensitive individually identifiable health in-
20 formation with the goal of minimizing the
21 reluctance of patients to seek care (or dis-
22 close information about a condition) be-
23 cause of privacy concerns, in accordance
24 with applicable law, and for the use and

1 disclosure of limited data sets of such in-
2 formation.
3 ''(ii) A nationwide health information
4 technology infrastructure that allows for
5 the electronic use and accurate exchange of
6 health information.
7 ''(iii) The utilization of a certified
8 electronic health record for each person in
9 the United States by 2014.
10 ''(iv) Technologies that as a part of a
11 qualified electronic health record allow for
12 an accounting of disclosures made by a
13 covered entity (as defined for purposes of
14 regulations promulgated under section
15 264(c) of the Health Insurance Portability
16 and Accountability Act of 1996) for pur-
17 poses of treatment, payment, and health
18 care operations (as such terms are defined
19 for purposes of such regulations).
20 ''(v) The use of certified electronic
21 health records to improve the quality of
22 health care, such as by promoting the co-
23 ordination of health care and improving
24 continuity of health care among health
25 care providers, by reducing medical errors,

by improving population health, reducing chronic disease, and by advancing research and education.

"(vi) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and gender information.

"(vii) Technologies and design features that address the needs of children and other vulnerable populations.

"(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

"(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

"(I) the collection of quality data and public reporting;

"(II) biosurveillance and public health;

"(III) medical and clinical research; and

"(IV) drug safety.

1 "(ii) Self-service technologies that fa-
2 cilitate the use and exchange of patient in-
3 formation and reduce wait times.
4 "(iii) Telemedicine technologies, in
5 order to reduce travel requirements for pa-
6 tients in remote areas.
7 "(iv) Technologies that facilitate home
8 health care and the monitoring of patients
9 recuperating at home.
10 "(v) Technologies that help reduce
11 medical errors.
12 "(vi) Technologies that facilitate the
13 continuity of care among health settings.
14 "(vii) Technologies that meet the
15 needs of diverse populations.
16 "(viii) Methods to facilitate secure ac-
17 cess by an individual to such individual's
18 protected health information.
19 "(ix) Methods, guidelines, and safe-
20 guards to facilitate secure access to patient
21 information by a family member, caregiver,
22 or guardian acting on behalf of a patient
23 due to age-related and other disability,
24 cognitive impairment, or dementia that
25 prevents a patient from accessing the pa-

1 tient's individually identifiable health infor-
2 mation.
3 "(x) Any other technology that the
4 HIT Policy Committee finds to be among
5 the technologies with the greatest potential
6 to improve the quality and efficiency of
7 health care.
8 "(3) FORUM.—The HIT Policy Committee shall
9 serve as a forum for broad stakeholder input with
10 specific expertise in policies relating to the matters
11 described in paragraphs (1) and (2).
12 "(4) CONSISTENCY WITH EVALUATION CON-
13 DUCTED UNDER MIPPA.—
14 "(A) REQUIREMENT FOR CONSISTENCY.—
15 The HIT Policy Committee shall ensure that
16 recommendations made under paragraph
17 (2)(B)(vi) are consistent with the evaluation
18 conducted under section 1809(a) of the Social
19 Security Act.
20 "(B) SCOPE.—Nothing in subparagraph
21 (A) shall be construed to limit the recommenda-
22 tions under paragraph (2)(B)(vi) to the ele-
23 ments described in section 1809(a)(3) of the
24 Social Security Act.

"(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.

"(c) MEMBERSHIP AND OPERATIONS.—

"(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

"(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

"(A) One member shall be appointed by the Secretary.

"(B) One member shall be appointed by the Secretary of Veterans Affairs who shall represent the Department of Veterans Affairs.

"(C) One member shall be appointed by the Secretary of Defense who shall represent the Department of Defense.

"(D) One member shall be appointed by the Majority Leader of the Senate.

1 "(E) One member shall be appointed by
2 the Minority Leader of the Senate.
3 "(F) One member shall be appointed by
4 the Speaker of the House of Representatives.
5 "(G) One member shall be appointed by
6 the Minority Leader of the House of Represent-
7 atives.
8 "(H) Eleven members shall be appointed
9 by the Comptroller General of the United
10 States, of whom—
11 "(i) three members shall represent pa-
12 tients or consumers;
13 "(ii) one member shall represent
14 health care providers;
15 "(iii) one member shall be from a
16 labor organization representing health care
17 workers;
18 "(iv) one member shall have expertise
19 in privacy and security;
20 "(v) one member shall have expertise
21 in improving the health of vulnerable popu-
22 lations;
23 "(vi) one member shall represent
24 health plans or other third party payers;

"(vii) one member shall represent information technology vendors;

"(viii) one member shall represent purchasers or employers; and

"(ix) one member shall have expertise in health care quality measurement and reporting.

"(3) CHAIRPERSON AND VICE CHAIRPERSON.—The HIT Policy Committee shall designate one member to serve as the chairperson and one member to serve as the vice chairperson of the Policy Committee.

"(4) NATIONAL COORDINATOR.—The National Coordinator shall serve as a member of the HIT Policy Committee and act as a liaison among the HIT Policy Committee, the HIT Standards Committee, and the Federal Government.

"(5) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

"(6) TERMS.—

1 "(A) IN GENERAL.—The terms of the
2 members of the HIT Policy Committee shall be
3 for 3 years, except that the Comptroller General
4 shall designate staggered terms for the mem-
5 bers first appointed.
6 "(B) VACANCIES.—Any member appointed
7 to fill a vacancy in the membership of the HIT
8 Policy Committee that occurs prior to the expi-
9 ration of the term for which the member's pred-
10 ecessor was appointed shall be appointed only
11 for the remainder of that term. A member may
12 serve after the expiration of that member's
13 term until a successor has been appointed. A
14 vacancy in the HIT Policy Committee shall be
15 filled in the manner in which the original ap-
16 pointment was made.
17 "(7) OUTSIDE INVOLVEMENT.—The HIT Policy
18 Committee shall ensure an adequate opportunity for
19 the participation of outside advisors, including indi-
20 viduals with expertise in—
21 "(A) health information privacy and secu-
22 rity;
23 "(B) improving the health of vulnerable
24 populations;

1 "(C) health care quality and patient safety,
2 including individuals with expertise in the meas-
3 urement and use of health information tech-
4 nology to capture data to improve health care
5 quality and patient safety;
6 "(D) long-term care and aging services;
7 "(E) medical and clinical research; and
8 "(F) data exchange and developing health
9 information technology standards and new
10 health information technology.
11 "(8) QUORUM.—Ten members of the HIT Pol-
12 icy Committee shall constitute a quorum for pur-
13 poses of voting, but a lesser number of members
14 may meet and hold hearings.
15 "(9) FAILURE OF INITIAL APPOINTMENT.—If,
16 on the date that is 45 days after the date of enact-
17 ment of this title, an official authorized under para-
18 graph (2) to appoint one or more members of the
19 HIT Policy Committee has not appointed the full
20 number of members that such paragraph authorizes
21 such official to appoint—
22 "(A) the number of members that such of-
23 ficial is authorized to appoint shall be reduced
24 to the number that such official has appointed
25 as of that date; and

"(B) the number prescribed in paragraph (8) as the quorum shall be reduced to the smallest whole number that is greater than one-half of the total number of members who have been appointed as of that date.

"(10) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

"(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

"(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

"SEC. 3003. HIT STANDARDS COMMITTEE.

"(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for pur-

1 poses of adoption under section 3004, consistent with the
2 implementation of the strategic plan described in section
3 3001(c)(3) and beginning with the areas listed in section
4 3002(b)(2)(B) in accordance with policies developed by
5 the HIT Policy Committee.

6 "(b) DUTIES.—

7 "(1) STANDARD DEVELOPMENT.—

8 "(A) IN GENERAL.—The HIT Standards
9 Committee shall recommend to the National
10 Coordinator standards, implementation speci-
11 fications, and certification criteria described in
12 subsection (a) that have been developed, har-
13 monized, or recognized by the HIT Standards
14 Committee. The HIT Standards Committee
15 shall update such recommendations and make
16 new recommendations as appropriate, including
17 in response to a notification sent under section
18 3004(b)(2). Such recommendations shall be
19 consistent with the latest recommendations
20 made by the HIT Policy Committee.

21 "(B) PILOT TESTING OF STANDARDS AND
22 IMPLEMENTATION SPECIFICATIONS.—In the de-
23 velopment, harmonization, or recognition of
24 standards and implementation specifications,
25 the HIT Standards Committee shall, as appro-

priate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 14201 of the Health Information Technology for Economic and Clinical Health Act.

"(C) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

"(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

"(3) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed

1 by the HIT Policy Committee under section 3002.
2 The HIT Standards Committee shall update such
3 schedule annually. The Secretary shall publish such
4 schedule in the Federal Register.

5 "(4) PUBLIC INPUT.—The HIT Standards
6 Committee shall conduct open public meetings and
7 develop a process to allow for public comment on the
8 schedule described in paragraph (3) and rec-
9 ommendations described in this subsection. Under
10 such process comments shall be submitted in a time-
11 ly manner after the date of publication of a rec-
12 ommendation under this subsection.

13 "(5) CONSIDERATION.—The National Coordi-
14 nator shall ensure that the relevant recommenda-
15 tions and comments from the National Committee
16 on Vital and Health Statistics are considered in the
17 development of standards.

18 "(c) MEMBERSHIP AND OPERATIONS.—

19 "(1) IN GENERAL.—The National Coordinator
20 shall provide leadership in the establishment and op-
21 erations of the HIT Standards Committee.

22 "(2) MEMBERSHIP.—The membership of the
23 HIT Standards Committee shall at least reflect pro-
24 viders, ancillary healthcare workers, consumers, pur-
25 chasers, health plans, technology vendors, research-

1 ers, relevant Federal agencies, and individuals with
2 technical expertise on health care quality, privacy
3 and security, and on the electronic exchange and use
4 of health information.

5 "(3) BROAD PARTICIPATION.—There is broad
6 participation in the HIT Standards Committee by a
7 variety of public and private stakeholders, either
8 through membership in the Committee or through
9 another means.

10 "(4) CHAIRPERSON; VICE CHAIRPERSON.—The
11 HIT Standards Committee may designate one mem-
12 ber to serve as the chairperson and one member to
13 serve as the vice chairperson.

14 "(5) DEPARTMENT MEMBERSHIP.—The Sec-
15 retary shall be a member of the HIT Standards
16 Committee. The National Coordinator shall act as a
17 liaison among the HIT Standards Committee, the
18 HIT Policy Committee, and the Federal Govern-
19 ment.

20 "(6) BALANCE AMONG SECTORS.—In developing
21 the procedures for conducting the activities of the
22 HIT Standards Committee, the HIT Standards
23 Committee shall act to ensure a balance among var-
24 ious sectors of the health care system so that no sin-

1 gle sector unduly influences the actions of the HIT
2 Standards Committee.
3 "(7) ASSISTANCE.—For the purposes of car-
4 rying out this section, the Secretary may provide or
5 ensure that financial assistance is provided by the
6 HIT Standards Committee to defray in whole or in
7 part any membership fees or dues charged by such
8 Committee to those consumer advocacy groups and
9 not for profit entities that work in the public inter-
10 est as a part of their mission.
11 "(d) OPEN AND PUBLIC PROCESS.—In providing for
12 the establishment of the HIT Standards Committee pur-
13 suant to subsection (a), the Secretary shall ensure the fol-
14 lowing:
15 "(1) CONSENSUS APPROACH; OPEN PROCESS.—
16 The HIT Standards Committee shall use a con-
17 sensus approach and a fair and open process to sup-
18 port the development, harmonization, and recogni-
19 tion of standards described in subsection (a)(1).
20 "(2) PARTICIPATION OF OUTSIDE ADVISERS.—
21 The HIT Standards Committee shall ensure an ade-
22 quate opportunity for the participation of outside
23 advisors, including individuals with expertise in—
24 "(A) health information privacy;
25 "(B) health information security;

1 "(C) health care quality and patient safety,
2 including individuals with expertise in utilizing
3 health information technology to improve
4 healthcare quality and patient safety;
5 "(D) long-term care and aging services;
6 and
7 "(E) data exchange and developing health
8 information technology standards and new
9 health information technology.
10 "(3) OPEN MEETINGS.—Plenary and other reg-
11 ularly scheduled formal meetings of the HIT Stand-
12 ards Committee (or established subgroups thereof)
13 shall be open to the public.
14 "(4) PUBLICATION OF MEETING NOTICES AND
15 MATERIALS PRIOR TO MEETINGS.—The HIT Stand-
16 ards Committee shall develop and maintain an Inter-
17 net website on which it publishes, prior to each
18 meeting, a meeting notice, a meeting agenda, and
19 meeting materials.
20 "(5) OPPORTUNITY FOR PUBLIC COMMENT.—
21 The HIT Standards Committee shall develop a proc-
22 ess that allows for public comment during the proc-
23 ess by which the Entity develops, harmonizes, or rec-
24 ognizes standards and implementation specifications.

1 "(e) VOLUNTARY CONSENSUS STANDARD BODY.—
2 The provisions of section 12(d) of the National Technology
3 Transfer and Advancement Act of 1995 (15 U.S.C. 272
4 note) and the Office of Management and Budget circular
5 119 shall apply to the HIT Standards Committee.

6 "(f) PUBLICATION.—The Secretary shall provide for
7 publication in the Federal Register and the posting on the
8 Internet website of the Office of the National Coordinator
9 for Health Information Technology of all recommenda-
10 tions made by the HIT Standards Committee under this
11 section.

12 **"SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**
13 **OMMENDATIONS; ADOPTION OF INITIAL SET**
14 **OF STANDARDS, IMPLEMENTATION SPECI-**
15 **FICATIONS, AND CERTIFICATION CRITERIA.**

16 "(a) PROCESS FOR ADOPTION OF ENDORSED REC-
17 OMMENDATIONS.—

18 "(1) REVIEW OF ENDORSED STANDARDS, IM-
19 PLEMENTATION SPECIFICATIONS, AND CERTIFI-
20 CATION CRITERIA.—Not later than 90 days after the
21 date of receipt of standards, implementation speci-
22 fications, or certification criteria endorsed under sec-
23 tion 3001(c), the Secretary, in consultation with rep-
24 resentatives of other relevant Federal agencies, shall
25 jointly review such standards, implementation speci-

fications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

"(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—If the Secretary determines—

"(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

"(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

"(3) PUBLICATION.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

1 "(b) ADOPTION OF STANDARDS, IMPLEMENTATION
2 SPECIFICATIONS, AND CERTIFICATION CRITERIA.—
3 "(1) IN GENERAL.—Not later than December
4 31, 2009, the Secretary shall, through the rule-
5 making process described in section 3003, adopt an
6 initial set of standards, implementation specifica-
7 tions, and certification criteria for the areas required
8 for consideration under section 3002(b)(2)(B).
9 "(2) APPLICATION OF CURRENT STANDARDS,
10 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-
11 CATION CRITERIA.—The standards, implementation
12 specifications, and certification criteria adopted be-
13 fore the date of the enactment of this title through
14 the process existing through the Office of the Na-
15 tional Coordinator for Health Information Tech-
16 nology may be applied towards meeting the require-
17 ment of paragraph (1).
18 "(3) SUBSEQUENT STANDARDS ACTIVITY.—The
19 Secretary shall adopt additional standards, imple-
20 mentation specifications, and certification criteria as
21 necessary and consistent with the schedule published
22 under section 3003(b)(2).

"SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

"For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 13111 of the Health Information Technology for Economic and Clinical Health Act.

"SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

"(a) IN GENERAL.—Except as provided under section 13112 of the Health Information Technology for Economic and Clinical Health Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

"SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

"(a) IN GENERAL.—The National Coordinator shall support the development and routine updating of qualified

electronic health record technology (as defined in section 3000) consistent with subsections (b) and (c) and make available such qualified electronic health record technology unless the Secretary and the HIT Policy Committee determine through an assessment that the needs and demands of providers are being substantially and adequately met through the marketplace.

"(b) CERTIFICATION.—In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

"(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—Nothing in section 3001 shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with the requirements of a voluntary consensus standards body so as to allow the Secretary to recognize the National eHealth Collaborative as the HIT Standards Committee.

''(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

''SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

''(a) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

1 "(1) This title may not be construed as having
2 any effect on the authorities of the Secretary under
3 HIPAA privacy and security law.
4 "(2) The purposes of this title include ensuring
5 that the health information technology standards
6 and implementation specifications adopted under
7 section 3004 take into account the requirements of
8 HIPAA privacy and security law.
9 "(b) DEFINITION.—For purposes of this section, the
10 term 'HIPAA privacy and security law' means—
11 "(1) the provisions of part C of title XI of the
12 Social Security Act, section 264 of the Health Insur-
13 ance Portability and Accountability Act of 1996, and
14 subtitle D of the Health Information Technology for
15 Economic and Clinical Health Act; and
16 "(2) regulations under such provisions.".
17 **SEC. 13102. TECHNICAL AMENDMENT.**
18 Section 1171(5) of the Social Security Act (42 U.S.C.
19 1320d) is amended by striking "or C" and inserting "C,
20 or D".

PART II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined in the Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004(b) of the Public Health Service Act, as added by section 13101.

(b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation specification adopted under section 3004(b) of the Public Health Service Act, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implemen-

1 tation specification, respectively, within three years after
2 the date of such adoption.

3 (c) APPLICATION OF DEFINITIONS.—The definitions
4 contained in section 3000 of the Public Health Service
5 Act, as added by section 13101, shall apply for purposes
6 of this part.

7 **SEC. 13112. APPLICATION TO PRIVATE ENTITIES.**

8 Each agency (as defined in such Executive Order
9 issued on August 22, 2006, relating to promoting quality
10 and efficient health care in Federal government adminis-
11 tered or sponsored health care programs) shall require in
12 contracts or agreements with health care providers, health
13 plans, or health insurance issuers that as each provider,
14 plan, or issuer implements, acquires, or upgrades health
15 information technology systems, it shall utilize, where
16 available, health information technology systems and prod-
17 ucts that meet standards and implementation specifica-
18 tions adopted under section 3004(b) of the Public Health
19 Service Act, as added by section 13101.

20 **SEC. 13113. STUDY AND REPORTS.**

21 (a) REPORT ON ADOPTION OF NATIONWIDE SYS-
22 TEM.—Not later than 2 years after the date of the enact-
23 ment of this Act and annually thereafter, the Secretary
24 of Health and Human Services shall submit to the appro-

1 priate committees of jurisdiction of the House of Rep-
2 resentatives and the Senate a report that—
3 (1) describes the specific actions that have been
4 taken by the Federal Government and private enti-
5 ties to facilitate the adoption of a nationwide system
6 for the electronic use and exchange of health infor-
7 mation;
8 (2) describes barriers to the adoption of such a
9 nationwide system; and
10 (3) contains recommendations to achieve full
11 implementation of such a nationwide system.
12 (b) REIMBURSEMENT INCENTIVE STUDY AND RE-
13 PORT.—
14 (1) STUDY.—The Secretary of Health and
15 Human Services shall carry out, or contract with a
16 private entity to carry out, a study that examines
17 methods to create efficient reimbursement incentives
18 for improving health care quality in Federally quali-
19 fied health centers, rural health clinics, and free
20 clinics.
21 (2) REPORT.—Not later than 2 years after the
22 date of the enactment of this Act, the Secretary of
23 Health and Human Services shall submit to the ap-
24 propriate committees of jurisdiction of the House of

1 Representatives and the Senate a report on the
2 study carried out under paragraph (1).
3 (c) AGING SERVICES TECHNOLOGY STUDY AND RE-
4 PORT.—
5 (1) IN GENERAL.—The Secretary of Health and
6 Human Services shall carry out, or contract with a
7 private entity to carry out, a study of matters relat-
8 ing to the potential use of new aging services tech-
9 nology to assist seniors, individuals with disabilities,
10 and their caregivers throughout the aging process.
11 (2) MATTERS TO BE STUDIED.—The study
12 under paragraph (1) shall include—
13 (A) an evaluation of—
14 (i) methods for identifying current,
15 emerging, and future health technology
16 that can be used to meet the needs of sen-
17 iors and individuals with disabilities and
18 their caregivers across all aging services
19 settings, as specified by the Secretary;
20 (ii) methods for fostering scientific in-
21 novation with respect to aging services
22 technology within the business and aca-
23 demic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection:

(A) AGING SERVICES TECHNOLOGY.—The term ''aging services technology'' means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) SENIOR.—The term ''senior'' has such meaning as specified by the Secretary.

GENERAL PROVISIONS—HOPE FOR HOMEOWNERS AMENDMENTS

SEC. 1211. Section 257 of the National Housing Act (12 U.S.C. 1715z–23), as amended by the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), is amended—

(1) in subsection (e)(1)(B), by inserting after ''being reset,'' the following: ''or has, due to a decrease in income,'';

(2) in subsection (k)(2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''shall, upon any sale or disposition of the property to which the mortgage relates, be entitled to 25 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the eligible mortgage refinanced under this section.'';

(3) in subsection (i)—

(A) by inserting '', after weighing maximization of participation with consideration for the solvency of the program,'' after ''Secretary shall'';

(B) in paragraph (1), by striking ''equal to 3 percent'' and inserting ''not more than 2 percent''; and

(C) in paragraph (2), by striking ''equal to 1.5 percent'' and inserting ''not more than 1 percent''; and

(4) by adding at the end the following:

''(x) AUCTIONS.—The Board shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

''(y) COMPENSATION OF SERVICERS.—To provide incentive for participation in the program under this section, each servicer of an eligible mortgage insured under this section shall be paid $1,000 for performing services associated with refinancing such mortgage, or such other amount as the Board determines is warranted. Funding for such compensation shall be provided by funds realized through the HOPE bond under subsection (w).''.

Subtitle B—Testing of Health Information Technology

SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT

1 Standards Committee established under section 3003 of
2 the Public Health Service Act, as added by section 13101,
3 with respect to the development of standards and imple-
4 mentation specifications under such section, the Director
5 of the National Institute for Standards and Technology
6 shall test such standards and implementation specifica-
7 tions, as appropriate, in order to assure the efficient im-
8 plementation and use of such standards and implementa-
9 tion specifications.

10 (b) VOLUNTARY TESTING PROGRAM.—In coordina-
11 tion with the HIT Standards Committee established under
12 section 3003 of the Public Health Service Act, as added
13 by section 13101, with respect to the development of
14 standards and implementation specifications under such
15 section, the Director of the National Institute of Stand-
16 ards and Technology shall support the establishment of
17 a conformance testing infrastructure, including the devel-
18 opment of technical test beds. The development of this
19 conformance testing infrastructure may include a program
20 to accredit independent, non-Federal laboratories to per-
21 form testing.

22 **SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.**

23 (a) HEALTH CARE INFORMATION ENTERPRISE INTE-
24 GRATION RESEARCH CENTERS.—

1 (1) IN GENERAL.—The Director of the National
2 Institute of Standards and Technology, in consulta-
3 tion with the Director of the National Science Foun-
4 dation and other appropriate Federal agencies, shall
5 establish a program of assistance to institutions of
6 higher education (or consortia thereof which may in-
7 clude nonprofit entities and Federal Government
8 laboratories) to establish multidisciplinary Centers
9 for Health Care Information Enterprise Integration.
10 (2) REVIEW; COMPETITION.—Grants shall be
11 awarded under this subsection on a merit-reviewed,
12 competitive basis.
13 (3) PURPOSE.—The purposes of the Centers de-
14 scribed in paragraph (1) shall be—
15 (A) to generate innovative approaches to
16 health care information enterprise integration
17 by conducting cutting-edge, multidisciplinary
18 research on the systems challenges to health
19 care delivery; and
20 (B) the development and use of health in-
21 formation technologies and other complemen-
22 tary fields.
23 (4) RESEARCH AREAS.—Research areas may in-
24 clude—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) NATIONAL INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) may review Federal research and development programs related to the development and deployment of health information technology, including activities related to—

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;

(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following new subtitle:

"Subtitle B—Incentives for the Use of Health Information Technology

"SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

''(a) IN GENERAL.—The Secretary of Health and Human Services shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and, as available) under section 3001. To the greatest extent practicable, the Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers

1 for Disease Control and Prevention, and the Indian
2 Health Service to support the following:

3 "(1) Health information technology architecture
4 that will support the nationwide electronic exchange
5 and use of health information in a secure, private,
6 and accurate manner, including connecting health
7 information exchanges, and which may include up-
8 dating and implementing the infrastructure nec-
9 essary within different agencies of the Department
10 of Health and Human Services to support the elec-
11 tronic use and exchange of health information.

12 "(2) Development and adoption of appropriate
13 certified electronic health records for categories of
14 providers not eligible for support under title XVIII
15 or XIX of the Social Security Act for the adoption
16 of such records.

17 "(3) Training on and dissemination of informa-
18 tion on best practices to integrate health information
19 technology, including electronic health records, into
20 a provider's delivery of care, consistent with best
21 practices learned from the Health Information Tech-
22 nology Research Center developed under section
23 3012, including community health centers receiving
24 assistance under section 330 of the Public Health
25 Service Act, covered entities under section 340B of

1 such Act, and providers participating in one or more
2 of the programs under titles XVIII, XIX, and XXI
3 of the Social Security Act (relating to Medicare,
4 Medicaid, and the State Children's Health Insurance
5 Program).

6 "(4) Infrastructure and tools for the promotion
7 of telemedicine, including coordination among Fed-
8 eral agencies in the promotion of telemedicine.

9 "(5) Promotion of the interoperability of clinical
10 data repositories or registries.

11 "(6) Promotion of technologies and best prac-
12 tices that enhance the protection of health informa-
13 tion by all holders of individually identifiable health
14 information.

15 "(7) Improve and expand the use of health in-
16 formation technology by public health departments.

17 "(8) Provide $300,000,000 to support regional
18 or sub-national efforts towards health information
19 exchange.

20 "(b) COORDINATION.—The Secretary shall ensure
21 funds under this section are used in a coordinated manner
22 with other health information promotion activities.

23 "(c) ADDITIONAL USE OF FUNDS.—In addition to
24 using funds as provided in subsection (a), the Secretary
25 may use amounts appropriated under section 3018 to

1 carry out activities that are provided for under laws in
2 effect on the date of enactment of this title.

3 **"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**
4 **MENTATION ASSISTANCE.**

5 "(a) HEALTH INFORMATION TECHNOLOGY EXTEN-
6 SION PROGRAM.—To assist health care providers to adopt,
7 implement, and effectively use certified EHR technology
8 that allows for the electronic exchange and use of health
9 information, the Secretary, acting through the Office of
10 the National Coordinator, shall establish a health informa-
11 tion technology extension program to provide health infor-
12 mation technology assistance services to be carried out
13 through the Department of Health and Human Services.
14 The National Coordinator shall consult with other Federal
15 agencies with demonstrated experience and expertise in in-
16 formation technology services, such as the National Insti-
17 tute of Standards and Technology, in developing and im-
18 plementing this program.

19 "(b) HEALTH INFORMATION TECHNOLOGY RE-
20 SEARCH CENTER.—

21 "(1) IN GENERAL.—The Secretary shall create
22 a Health Information Technology Research Center
23 (in this section referred to as the 'Center') to pro-
24 vide technical assistance and develop or recognize
25 best practices to support and accelerate efforts to

adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004(b).

"(2) INPUT.—The Center shall incorporate input from—

"(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

"(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

"(C) others as appropriate.

"(3) PURPOSES.—The purposes of the Center are to—

"(A) provide a forum for the exchange of knowledge and experience;

"(B) accelerate the transfer of lessons learned from existing public and private sector

1 initiatives, including those currently receiving
2 Federal financial support;
3 "(C) assemble, analyze, and widely dis-
4 seminate evidence and experience related to the
5 adoption, implementation, and effective use of
6 health information technology that allows for
7 the electronic exchange and use of information
8 including through the regional centers described
9 in subsection (c);
10 "(D) provide technical assistance for the
11 establishment and evaluation of regional and
12 local health information networks to facilitate
13 the electronic exchange of information across
14 health care settings and improve the quality of
15 health care;
16 "(E) provide technical assistance for the
17 development and dissemination of solutions to
18 barriers to the exchange of electronic health in-
19 formation; and
20 "(F) learn about effective strategies to
21 adopt and utilize health information technology
22 in medically underserved communities.
23 "(c) HEALTH INFORMATION TECHNOLOGY RE-
24 GIONAL EXTENSION CENTERS.—

1 "(1) IN GENERAL.—The Secretary shall provide
2 assistance for the creation and support of regional
3 centers (in this subsection referred to as 'regional
4 centers') to provide technical assistance and dissemi-
5 nate best practices and other information learned
6 from the Center to support and accelerate efforts to
7 adopt, implement, and effectively utilize health infor-
8 mation technology that allows for the electronic ex-
9 change and use of information in compliance with
10 standards, implementation specifications, and certifi-
11 cation criteria adopted under section 3004. Activities
12 conducted under this subsection shall be consistent
13 with the strategic plan developed by the National
14 Coordinator (and, as available) under section 3001.
15 "(2) AFFILIATION.—Regional centers shall be
16 affiliated with any United States-based nonprofit in-
17 stitution or organization, or group thereof, that ap-
18 plies and is awarded financial assistance under this
19 section. Individual awards shall be decided on the
20 basis of merit.
21 "(3) OBJECTIVE.—The objective of the regional
22 centers is to enhance and promote the adoption of
23 health information technology through—
24 "(A) assistance with the implementation,
25 effective use, upgrading, and ongoing mainte-

1 nance of health information technology, includ-
2 ing electronic health records, to healthcare pro-
3 viders nationwide;
4 "(B) broad participation of individuals
5 from industry, universities, and State govern-
6 ments;
7 "(C) active dissemination of best practices
8 and research on the implementation, effective
9 use, upgrading, and ongoing maintenance of
10 health information technology, including elec-
11 tronic health records, to health care providers
12 in order to improve the quality of healthcare
13 and protect the privacy and security of health
14 information;
15 "(D) participation, to the extent prac-
16 ticable, in health information exchanges;
17 "(E) utilization, when appropriate, of the
18 expertise and capability that exists in federal
19 agencies other than the Department; and
20 "(F) integration of health information
21 technology, including electronic health records,
22 into the initial and ongoing training of health
23 professionals and others in the healthcare in-
24 dustry that would be instrumental to improving
25 the quality of healthcare through the smooth

1 and accurate electronic use and exchange of
2 health information.
3 "(4) REGIONAL ASSISTANCE.—Each regional
4 center shall aim to provide assistance and education
5 to all providers in a region, but shall prioritize any
6 direct assistance first to the following:
7 "(A) Public or not-for-profit hospitals or
8 critical access hospitals.
9 "(B) Federally qualified health centers (as
10 defined in section 1861(aa)(4) of the Social Se-
11 curity Act).
12 "(C) Entities that are located in rural and
13 other areas that serve uninsured, underinsured,
14 and medically underserved individuals (regard-
15 less of whether such area is urban or rural).
16 "(D) Individual or small group practices
17 (or a consortium thereof) that are primarily fo-
18 cused on primary care.
19 "(5) FINANCIAL SUPPORT.—The Secretary may
20 provide financial support to any regional center cre-
21 ated under this subsection for a period not to exceed
22 four years. The Secretary may not provide more
23 than 50 percent of the capital and annual operating
24 and maintenance funds required to create and main-
25 tain such a center, except in an instance of national

economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

"(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this Act, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

"(A) A detailed explanation of the program and the programs goals.

"(B) Procedures to be followed by the applicants.

"(C) Criteria for determining qualified applicants.

"(D) Maximum support levels expected to be available to centers under the program.

"(7) APPLICATION REVIEW.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the mer-

1 its of the application, including those portions of the
2 application regarding—
3 "(A) the ability of the applicant to provide
4 assistance under this subsection and utilization
5 of health information technology appropriate to
6 the needs of particular categories of health care
7 providers;
8 "(B) the types of service to be provided to
9 health care providers;
10 "(C) geographical diversity and extent of
11 service area; and
12 "(D) the percentage of funding and
13 amount of in-kind commitment from other
14 sources.
15 "(8) BIENNIAL EVALUATION.—Each regional
16 center which receives financial assistance under this
17 subsection shall be evaluated biennially by an evalua-
18 tion panel appointed by the Secretary. Each evalua-
19 tion panel shall be composed of private experts, none
20 of whom shall be connected with the center involved,
21 and of Federal officials. Each evaluation panel shall
22 measure the involved center's performance against
23 the objective specified in paragraph (3). The Sec-
24 retary shall not continue to provide funding to a re-
25 gional center unless its evaluation is overall positive.

"(9) CONTINUING SUPPORT.—After the second year of assistance under this subsection a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

"SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

"(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

"(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (d)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (b).

1 "(c) IMPLEMENTATION GRANTS.—The Secretary
2 may award a grant to a State or qualified State designated
3 entity that—
4 "(1) has submitted, and the Secretary has ap-
5 proved, a plan described in subsection (c) (regardless
6 of whether such plan was prepared using amounts
7 awarded under paragraph (1)); and
8 "(2) submits an application at such time, in
9 such manner, and containing such information as
10 the Secretary may specify.
11 "(d) USE OF FUNDS.—Amounts received under a
12 grant under subsection (a)(3) shall be used to conduct ac-
13 tivities to facilitate and expand the electronic movement
14 and use of health information among organizations ac-
15 cording to nationally recognized standards through activi-
16 ties that include—
17 "(1) enhancing broad and varied participation
18 in the authorized and secure nationwide electronic
19 use and exchange of health information;
20 "(2) identifying State or local resources avail-
21 able towards a nationwide effort to promote health
22 information technology;
23 "(3) complementing other Federal grants, pro-
24 grams, and efforts towards the promotion of health
25 information technology;

1 ''(4) providing technical assistance for the de-
2 velopment and dissemination of solutions to barriers
3 to the exchange of electronic health information;
4 ''(5) promoting effective strategies to adopt and
5 utilize health information technology in medically
6 underserved communities;
7 ''(6) assisting patients in utilizing health infor-
8 mation technology;
9 ''(7) encouraging clinicians to work with Health
10 Information Technology Regional Extension Centers
11 as described in section 3012, to the extent they are
12 available and valuable;
13 ''(8) supporting public health agencies' author-
14 ized use of and access to electronic health informa-
15 tion;
16 ''(9) promoting the use of electronic health
17 records for quality improvement including through
18 quality measures reporting;
19 ''(10) establishing and supporting health record
20 banking models to further consumer-based consent
21 models that promote lifetime access to qualified
22 health records, if such activities are included in the
23 plan described in subsection (e), and may contain
24 smart card functionality; and

1 "(11) such other activities as the Secretary may
2 specify.
3 "(e) PLAN.—
4 "(1) IN GENERAL.—A plan described in this
5 subsection is a plan that describes the activities to
6 be carried out by a State or by the qualified State-
7 designated entity within such State to facilitate and
8 expand the electronic movement and use of health
9 information among organizations according to na-
10 tionally recognized standards and implementation
11 specifications.
12 "(2) REQUIRED ELEMENTS.—A plan described
13 in paragraph (1) shall—
14 "(A) be pursued in the public interest;
15 "(B) be consistent with the strategic plan
16 developed by the National Coordinator (and, as
17 available) under section 3001;
18 "(C) include a description of the ways the
19 State or qualified State-designated entity will
20 carry out the activities described in subsection
21 (b); and
22 "(D) contain such elements as the Sec-
23 retary may require.

1 "(f) QUALIFIED STATE-DESIGNATED ENTITY.—For
2 purposes of this section, to be a qualified State-designated
3 entity, with respect to a State, an entity shall—
4 "(1) be designated by the State as eligible to
5 receive awards under this section;
6 "(2) be a not-for-profit entity with broad stake-
7 holder representation on its governing board;
8 "(3) demonstrate that one of its principal goals
9 is to use information technology to improve health
10 care quality and efficiency through the authorized
11 and secure electronic exchange and use of health in-
12 formation;
13 "(4) adopt nondiscrimination and conflict of in-
14 terest policies that demonstrate a commitment to
15 open, fair, and nondiscriminatory participation by
16 stakeholders; and
17 "(5) conform to such other requirements as the
18 Secretary may establish.
19 "(g) REQUIRED CONSULTATION.—In carrying out
20 activities described in subsections (a)(2) and (a)(3), a
21 State or qualified State-designated entity shall consult
22 with and consider the recommendations of—
23 "(1) health care providers (including providers
24 that provide services to low income and underserved
25 populations);

1 "(2) health plans;
2 "(3) patient or consumer organizations that
3 represent the population to be served;
4 "(4) health information technology vendors;
5 "(5) health care purchasers and employers;
6 "(6) public health agencies;
7 "(7) health professions schools, universities and
8 colleges;
9 "(8) clinical researchers;
10 "(9) other users of health information tech-
11 nology such as the support and clerical staff of pro-
12 viders and others involved in the care and care co-
13 ordination of patients; and
14 "(10) such other entities, as may be determined
15 appropriate by the Secretary.
16 "(h) CONTINUOUS IMPROVEMENT.—The Secretary
17 shall annually evaluate the activities conducted under this
18 section and shall, in awarding grants under this section,
19 implement the lessons learned from such evaluation in a
20 manner so that awards made subsequent to each such
21 evaluation are made in a manner that, in the determina-
22 tion of the Secretary, will lead towards the greatest im-
23 provement in quality of care, decrease in costs, and the
24 most effective authorized and secure electronic exchange
25 of health information.

1 "(i) REQUIRED MATCH.—

2 "(1) IN GENERAL.—For a fiscal year (begin-
3 ning with fiscal year 2011), the Secretary may not
4 make a grant under subsection (a) to a State unless
5 the State agrees to make available non-Federal con-
6 tributions (which may include in-kind contributions)
7 toward the costs of a grant awarded under sub-
8 section (a)(3) in an amount equal to—

9 "(A) for fiscal year 2011, not less than $1
10 for each $10 of Federal funds provided under
11 the grant;

12 "(B) for fiscal year 2012, not less than $1
13 for each $7 of Federal funds provided under
14 the grant; and

15 "(C) for fiscal year 2013 and each subse-
16 quent fiscal year, not less than $1 for each $3
17 of Federal funds provided under the grant.

18 "(2) AUTHORITY TO REQUIRE STATE MATCH
19 FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For
20 any fiscal year during the grant program under this
21 section before fiscal year 2011, the Secretary may
22 determine the extent to which there shall be required
23 a non-Federal contribution from a State receiving a
24 grant under this section.

"SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

"(a) IN GENERAL.—The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

"(b) ELIGIBLE ENTITY DEFINED.—For purposes of this subsection, the term 'eligible entity' means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that—

"(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

"(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

"(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);

1 "(4) provides assurances to the National Coor-
2 dinator that the entity will not provide a loan from
3 the Loan Fund to a health care provider unless the
4 provider agrees to—
5 "(A) submit reports on quality measures
6 adopted by the Federal Government (by not
7 later than 90 days after the date on which such
8 measures are adopted), to—
9 "(i) the Director of the Centers for
10 Medicare & Medicaid Services (or his or
11 her designee), in the case of an entity par-
12 ticipating in the Medicare program under
13 title XVIII of the Social Security Act or
14 the Medicaid program under title XIX of
15 such Act; or
16 "(ii) the Secretary in the case of other
17 entities;
18 "(B) demonstrate to the satisfaction of the
19 Secretary (through criteria established by the
20 Secretary) that any certified EHR technology
21 purchased, improved, or otherwise financially
22 supported under a loan under this section is
23 used to exchange health information in a man-
24 ner that, in accordance with law and standards
25 (as adopted under section 3005) applicable to

1 the exchange of information, improves the qual-
2 ity of health care, such as promoting care co-
3 ordination;
4 "(C) comply with such other requirements
5 as the entity or the Secretary may require;
6 "(D) include a plan on how healthcare pro-
7 viders involved intend to maintain and support
8 the certified EHR technology over time; and
9 "(E) include a plan on how the healthcare
10 providers involved intend to maintain and sup-
11 port the certified EHR technology that would
12 be purchased with such loan, including the type
13 of resources expected to be involved and any
14 such other information as the State or Indian
15 tribe, respectively, may require; and
16 "(5) agrees to provide matching funds in ac-
17 cordance with subsection (i).
18 "(c) ESTABLISHMENT OF FUND.—For purposes of
19 subsection (b)(3), an eligible entity shall establish a cer-
20 tified EHR technology loan fund (referred to in this sub-
21 section as a 'Loan Fund') and comply with the other re-
22 quirements contained in this section. A grant to an eligible
23 entity under this section shall be deposited in the Loan
24 Fund established by the eligible entity. No funds author-
25 ized by other provisions of this title to be used for other

1 purposes specified in this title shall be deposited in any
2 Loan Fund.

3 "(d) STRATEGIC PLAN.—

4 "(1) IN GENERAL.—For purposes of subsection
5 (b)(2), a strategic plan of an eligible entity under
6 this subsection shall identify the intended uses of
7 amounts available to the Loan Fund of such entity.

8 "(2) CONTENTS.—A strategic plan under para-
9 graph (1), with respect to a Loan Fund of an eligi-
10 ble entity, shall include for a year the following:

11 "(A) A list of the projects to be assisted
12 through the Loan Fund during such year.

13 "(B) A description of the criteria and
14 methods established for the distribution of
15 funds from the Loan Fund during the year.

16 "(C) A description of the financial status
17 of the Loan Fund as of the date of submission
18 of the plan.

19 "(D) The short-term and long-term goals
20 of the Loan Fund.

21 "(e) USE OF FUNDS.—Amounts deposited in a Loan
22 Fund, including loan repayments and interest earned on
23 such amounts, shall be used only for awarding loans or
24 loan guarantees, making reimbursements described in sub-
25 section (g)(4)(A), or as a source of reserve and security

1 for leveraged loans, the proceeds of which are deposited
2 in the Loan Fund established under subsection (a). Loans
3 under this section may be used by a health care provider
4 to—

5 "(1) facilitate the purchase of certified EHR
6 technology;

7 "(2) enhance the utilization of certified EHR
8 technology (which may include costs associated with
9 upgrading health information technology so that it
10 meets criteria necessary to be a certified EHR tech-
11 nology);

12 "(3) train personnel in the use of such tech-
13 nology; or

14 "(4) improve the secure electronic exchange of
15 health information.

16 "(f) TYPES OF ASSISTANCE.—Except as otherwise
17 limited by applicable State law, amounts deposited into a
18 Loan Fund under this subsection may only be used for
19 the following:

20 "(1) To award loans that comply with the fol-
21 lowing:

22 "(A) The interest rate for each loan shall
23 not exceed the market interest rate.

24 "(B) The principal and interest payments
25 on each loan shall commence not later than 1

year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

"(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

"(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

"(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

"(4) To earn interest on the amounts deposited into the Loan Fund.

"(5) To make reimbursements described in subsection (g)(4)(A).

"(g) ADMINISTRATION OF LOAN FUNDS.—

"(1) COMBINED FINANCIAL ADMINISTRATION.—An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in

accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

"(2) COST OF ADMINISTERING FUND.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this subsection to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

"(3) GUIDANCE AND REGULATIONS.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

"(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this subsection as efficiently as possible in accordance with this title and applicable State laws; and

"(B) guidance to prevent waste, fraud, and abuse.

1 "(4) PRIVATE SECTOR CONTRIBUTIONS.—

2 "(A) IN GENERAL.—A Loan Fund estab-
3 lished under this subsection may accept con-
4 tributions from private sector entities, except
5 that such entities may not specify the recipient
6 or recipients of any loan issued under this sub-
7 section. An eligible entity may agree to reim-
8 burse a private sector entity for any contribu-
9 tion made under this subparagraph, except that
10 the amount of such reimbursement may not be
11 greater than the principal amount of the con-
12 tribution made.

13 "(B) AVAILABILITY OF INFORMATION.—
14 An eligible entity shall make publicly available
15 the identity of, and amount contributed by, any
16 private sector entity under subparagraph (A)
17 and may issue letters of commendation or make
18 other awards (that have no financial value) to
19 any such entity.

20 "(h) MATCHING REQUIREMENTS.—

21 "(1) IN GENERAL.—The National Coordinator
22 may not make a grant under subsection (a) to an el-
23 igible entity unless the entity agrees to make avail-
24 able (directly or through donations from public or
25 private entities) non-Federal contributions in cash to

1 the costs of carrying out the activities for which the
2 grant is awarded in an amount equal to not less
3 than $1 for each $5 of Federal funds provided under
4 the grant.

5 "(2) DETERMINATION OF AMOUNT OF NON-
6 FEDERAL CONTRIBUTION.—In determining the
7 amount of non-Federal contributions that an eligible
8 entity has provided pursuant to subparagraph (A),
9 the National Coordinator may not include any
10 amounts provided to the entity by the Federal Gov-
11 ernment.

12 "(i) EFFECTIVE DATE.—The Secretary may not
13 make an award under this section prior to January 1,
14 2010.

15 **"SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**
16 **FORMATION TECHNOLOGY INTO CLINICAL**
17 **EDUCATION.**

18 "(a) IN GENERAL.—The Secretary may award grants
19 under this section to carry out demonstration projects to
20 develop academic curricula integrating certified EHR
21 technology in the clinical education of health professionals.
22 Such awards shall be made on a competitive basis and
23 pursuant to peer review.

24 "(b) ELIGIBILITY.—To be eligible to receive a grant
25 under subsection (a), an entity shall—

1 "(1) submit to the Secretary an application at
2 such time, in such manner, and containing such in-
3 formation as the Secretary may require;
4 "(2) submit to the Secretary a strategic plan
5 for integrating certified EHR technology in the clin-
6 ical education of health professionals to reduce med-
7 ical errors, increase access to prevention, reduce
8 chronic diseases, and enhance health care quality;
9 "(3) be—
10 "(A) a school of medicine, osteopathic
11 medicine, dentistry, or pharmacy, a graduate
12 program in behavioral or mental health, or any
13 other graduate health professions school;
14 "(B) a graduate school of nursing or phy-
15 sician assistant studies;
16 "(C) a consortium of two or more schools
17 described in subparagraph (A) or (B); or
18 "(D) an institution with a graduate med-
19 ical education program in medicine, osteopathic
20 medicine, dentistry, pharmacy, nursing, or phy-
21 sician assistance studies.
22 "(4) provide for the collection of data regarding
23 the effectiveness of the demonstration project to be
24 funded under the grant in improving the safety of
25 patients, the efficiency of health care delivery, and

in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

"(5) provide matching funds in accordance with subsection (d).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

"(A) use grant funds in collaboration with 2 or more disciplines; and

"(B) use grant funds to integrate certified EHR technology into community-based clinical education.

"(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

"(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification

1 to Congress as to the justification to waive the cost-share
2 requirement.

3 ''(e) EVALUATION.—The Secretary shall take such
4 action as may be necessary to evaluate the projects funded
5 under this section and publish, make available, and dis-
6 seminate the results of such evaluations on as wide a basis
7 as is practicable.

8 ''(f) REPORTS.—Not later than 1 year after the date
9 of enactment of this title, and annually thereafter, the Sec-
10 retary shall submit to the Committee on Health, Edu-
11 cation, Labor, and Pensions and the Committee on Fi-
12 nance of the Senate, and the Committee on Energy and
13 Commerce of the House of Representatives a report
14 that—

15 ''(1) describes the specific projects established
16 under this section; and

17 ''(2) contains recommendations for Congress
18 based on the evaluation conducted under subsection
19 (e).

20 **''SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**
21 **ON HEALTH CARE.**

22 ''(a) IN GENERAL.—The Secretary, in consultation
23 with the Director of the National Science Foundation,
24 shall provide assistance to institutions of higher education
25 (or consortia thereof) to establish or expand medical

1 health informatics education programs, including certifi-
2 cation, undergraduate, and masters degree programs, for
3 both health care and information technology students to
4 ensure the rapid and effective utilization and development
5 of health information technologies (in the United States
6 health care infrastructure).

7 "(b) ACTIVITIES.—Activities for which assistance
8 may be provided under subsection (a) may include the fol-
9 lowing:

10 "(1) Developing and revising curricula in med-
11 ical health informatics and related disciplines.

12 "(2) Recruiting and retaining students to the
13 program involved.

14 "(3) Acquiring equipment necessary for student
15 instruction in these programs, including the installa-
16 tion of testbed networks for student use.

17 "(4) Establishing or enhancing bridge programs
18 in the health informatics fields between community
19 colleges and universities.

20 "(c) PRIORITY.—In providing assistance under sub-
21 section (a), the Secretary shall give preference to the fol-
22 lowing:

23 "(1) Existing education and training programs.

24 "(2) Programs designed to be completed in less
25 than six months.

1 "(d) FINANCIAL SUPPORT.—The Secretary may not
2 provide more than 50 percent of the costs of any activity
3 for which assistance is provided under subsection (a), ex-
4 cept in an instance of national economic conditions which
5 would render the cost-share requirement under this sub-
6 section detrimental to the program and upon notification
7 to Congress as to the justification to waive the cost-share
8 requirement.

9 **"SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

10 "(a) REPORTS.—The Secretary may require that an
11 entity receiving assistance under this title shall submit to
12 the Secretary, not later than the date that is 1 year after
13 the date of receipt of such assistance, a report that in-
14 cludes—

15 "(1) an analysis of the effectiveness of such ac-
16 tivities for which the entity receives such assistance,
17 as compared to the goals for such activities; and

18 "(2) an analysis of the impact of the project on
19 healthcare quality and safety.

20 "(b) REQUIREMENT TO IMPROVE QUALITY OF CARE
21 AND DECREASE IN COSTS.—The National Coordinator
22 shall annually evaluate the activities conducted under this
23 title and shall, in awarding grants, implement the lessons
24 learned from such evaluation in a manner so that awards
25 made subsequent to each such evaluation are made in a

manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

"SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

''For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.''.

Subtitle D—Privacy

SEC. 13400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—The term ''breach'' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, use, or disclosure of such information by an employee or agent of the covered entity or business associate involved if such acquisition, access, use, or disclosure, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered en-

1 tity or business associate and if such information is
2 not further acquired, accessed, used, or disclosed by
3 such employee or agent.

4 (2) BUSINESS ASSOCIATE.—The term ''business
5 associate'' has the meaning given such term in sec-
6 tion 160.103 of title 45, Code of Federal Regula-
7 tions.

8 (3) COVERED ENTITY.—The term ''covered en-
9 tity'' has the meaning given such term in section
10 160.103 of title 45, Code of Federal Regulations.

11 (4) DISCLOSE.—The terms ''disclose'' and ''dis-
12 closure'' have the meaning given the term ''disclo-
13 sure'' in section 160.103 of title 45, Code of Federal
14 Regulations.

15 (5) ELECTRONIC HEALTH RECORD.—The term
16 ''electronic health record'' means an electronic
17 record of health-related information on an individual
18 that is created, gathered, managed, and consulted by
19 authorized health care clinicians and staff.

20 (6) HEALTH CARE OPERATIONS.—The term
21 ''health care operation'' has the meaning given such
22 term in section 164.501 of title 45, Code of Federal
23 Regulations.

24 (7) HEALTH CARE PROVIDER.—The term
25 ''health care provider'' has the meaning given such

1 term in section 160.103 of title 45, Code of Federal
2 Regulations.
3 (8) HEALTH PLAN.—The term ''health plan''
4 has the meaning given such term in section 1171(5)
5 of the Social Security Act.
6 (9) NATIONAL COORDINATOR.—The term ''Na-
7 tional Coordinator'' means the head of the Office of
8 the National Coordinator for Health Information
9 Technology established under section 3001(a) of the
10 Public Health Service Act, as added by section
11 13101.
12 (10) PAYMENT.—The term ''payment'' has the
13 meaning given such term in section 164.501 of title
14 45, Code of Federal Regulations.
15 (11) PERSONAL HEALTH RECORD.—The term
16 ''personal health record'' means an electronic record
17 of individually identifiable health information on an
18 individual that can be drawn from multiple sources
19 and that is managed, shared, and controlled by or
20 for the individual.
21 (12) PROTECTED HEALTH INFORMATION.—The
22 term ''protected health information'' has the mean-
23 ing given such term in section 160.103 of title 45,
24 Code of Federal Regulations.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(14) SECURITY.—The term ''security'' has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

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

(16) TREATMENT.—The term ''treatment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) USE.—The term ''use'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) VENDOR OF PERSONAL HEALTH RECORDS.—The term ''vendor of personal health records'' means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

PART I—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) APPLICATION OF SECURITY PROVISIONS.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision.

(c) ANNUAL GUIDANCE.—For the first year beginning after the date of the enactment of this Act and annu-

1 ally thereafter, the Secretary of Health and Human Serv-
2 ices shall, in consultation with industry stakeholders, an-
3 nually issue guidance on the most effective and appro-
4 priate technical safeguards for use in carrying out the sec-
5 tions referred to in subsection (a) and the security stand-
6 ards in subpart C of part 164 of title 45, Code of Federal
7 Regulations, as such provisions are in effect as of the date
8 before the enactment of this Act.

9 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

10 (a) IN GENERAL.—A covered entity that accesses,
11 maintains, retains, modifies, records, stores, destroys, or
12 otherwise holds, uses, or discloses unsecured protected
13 health information (as defined in subsection (h)(1)) shall,
14 in the case of a breach of such information that is discov-
15 ered by the covered entity, notify each individual whose
16 unsecured protected health information has been, or is
17 reasonably believed by the covered entity to have been,
18 accessed, acquired, or disclosed as a result of such breach.

19 (b) NOTIFICATION OF COVERED ENTITY BY BUSI-
20 NESS ASSOCIATE.—A business associate of a covered enti-
21 ty that accesses, maintains, retains, modifies, records,
22 stores, destroys, or otherwise holds, uses, or discloses un-
23 secured protected health information shall, following the
24 discovery of a breach of such information, notify the cov-
25 ered entity of such breach. Such notice shall include the

1 identification of each individual whose unsecured protected
2 health information has been, or is reasonably believed by
3 the business associate to have been, accessed, acquired,
4 or disclosed during such breach.

5 (c) BREACHES TREATED AS DISCOVERED.—For pur-
6 poses of this section, a breach shall be treated as discov-
7 ered by a covered entity or by a business associate as of
8 the first day on which such breach is known to such entity
9 or associate, respectively, (including any person, other
10 than the individual committing the breach, that is an em-
11 ployee, officer, or other agent of such entity or associate,
12 respectively) or should reasonably have been known to
13 such entity or associate (or person) to have occurred.

14 (d) TIMELINESS OF NOTIFICATION.—

15 (1) IN GENERAL.—Subject to subsection (g), all
16 notifications required under this section shall be
17 made without unreasonable delay and in no case
18 later than 60 calendar days after the discovery of a
19 breach by the covered entity involved (or business
20 associate involved in the case of a notification re-
21 quired under subsection (b)).

22 (2) BURDEN OF PROOF.—The covered entity in-
23 volved (or business associate involved in the case of
24 a notification required under subsection (b)), shall
25 have the burden of demonstrating that all notifica-

tions were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) METHODS OF NOTICE.—

(1) INDIVIDUAL NOTICE.—Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for

which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) MEDIA NOTICE.—Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to

have been, accessed, acquired, or disclosed during such breach.

(3) NOTICE TO SECRETARY.—Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than such notice must be provided immediately. If the breach was with respect to less than 500 individuals, the covered entity may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE.—The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner

as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) DEFINITION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the term ''unsecured protected health information'' means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term ''unsecured protected health information'' shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards devel-

oping organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 13407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 13403. EDUCATION ON HEALTH INFORMATION PRIVACY.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

1 (b) EDUCATION INITIATIVE ON USES OF HEALTH IN-
2 FORMATION.—Not later than 12 months after the date of
3 the enactment of this Act, the Office for Civil Rights with-
4 in the Department of Health and Human Services shall
5 develop and maintain a multi-faceted national education
6 initiative to enhance public transparency regarding the
7 uses of protected health information, including programs
8 to educate individuals about the potential uses of their
9 protected health information, the effects of such uses, and
10 the rights of individuals with respect to such uses. Such
11 programs shall be conducted in a variety of languages and
12 present information in a clear and understandable man-
13 ner.

14 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**
15 **PENALTIES TO BUSINESS ASSOCIATES OF**
16 **COVERED ENTITIES.**

17 (a) APPLICATION OF CONTRACT REQUIREMENTS.—
18 In the case of a business associate of a covered entity that
19 obtains or creates protected health information pursuant
20 to a written contract (or other written arrangement) de-
21 scribed in section 164.502(e)(2) of title 45, Code of Fed-
22 eral Regulations, with such covered entity, the business
23 associate may use and disclose such protected health infor-
24 mation only if such use or disclosure, respectively, is in
25 compliance with each applicable requirement of section

164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF KNOWLEDGE ELEMENTS ASSOCIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND SALES OF HEALTH INFORMATION; ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES; ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.

(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLOSURES OF HEALTH INFORMATION.—In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE LIMITED DATA SET OR THE MINIMUM NECESSARY.—

(1) IN GENERAL.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), a covered entity shall be treated as
3 being in compliance with section 164.502(b)(1)
4 of title 45, Code of Federal Regulations, with
5 respect to the use, disclosure, or request of pro-
6 tected health information described in such sec-
7 tion, only if the covered entity limits such pro-
8 tected health information, to the extent prac-
9 ticable, to the limited data set (as defined in
10 section 164.514(e)(2) of such title) or, if needed
11 by such entity, to the minimum necessary to ac-
12 complish the intended purpose of such use, dis-
13 closure, or request, respectively.
14 (B) GUIDANCE.—Not later than 18
15 months after the date of the enactment of this
16 section, the Secretary shall issue guidance on
17 what constitutes ''minimum necessary'' for pur-
18 poses of subpart E of part 164 of title 45, Code
19 of Federal Regulation. In issuing such guidance
20 the Secretary shall take into consideration the
21 guidance under section 13424(c) and the infor-
22 mation necessary to improve patient outcomes
23 and to detect, prevent, and manage chronic dis-
24 ease.

(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—

1 "(1) IN GENERAL.—In applying section
2 164.528 of title 45, Code of Federal Regulations, in
3 the case that a covered entity uses or maintains an
4 electronic health record with respect to protected
5 health information—
6 "(A) the exception under paragraph
7 (a)(1)(i) of such section shall not apply to dis-
8 closures through an electronic health record
9 made by such entity of such information; and
10 "(B) an individual shall have a right to re-
11 ceive an accounting of disclosures described in
12 such paragraph of such information made by
13 such covered entity during only the three years
14 prior to the date on which the accounting is re-
15 quested.
16 "(2) REGULATIONS.—The Secretary shall pro-
17 mulgate regulations on what disclosures must be in-
18 cluded in an accounting referred to in paragraph
19 (1)(A) and what information must be collected about
20 each such disclosure not later than 18 months after
21 the date on which the Secretary adopts standards on
22 accounting for disclosure described in the section
23 3002(b)(2)(B)(iv) of the Public Health Service Act,
24 as added by section 13101. Such regulations shall
25 only require such information to be collected through

1 an electronic health record in a manner that takes
2 into account the interests of individuals in learning
3 when their protected health information was dis-
4 closed and to whom it was disclosed, and the useful-
5 ness of such information to the individual, and takes
6 into account the administrative and cost burden of
7 accounting for such disclosures.

8 "(3) CONSTRUCTION.—Nothing in this sub-
9 section shall be construed as—

10 "(A) requiring a covered entity to account
11 for disclosures of protected health information
12 that are not made by such covered entity; or

13 "(B) requiring a business associate of a
14 covered entity to account for disclosures of pro-
15 tected health information that are not made by
16 such business associate.

17 "(4) REASONABLE FEE.—A covered entity may
18 impose a reasonable fee on an individual for an ac-
19 counting performed under paragraph (1)(B). Any
20 such fee shall not be greater than the entity's labor
21 costs in responding to the request.

22 "(5) EFFECTIVE DATE.—

23 "(A) CURRENT USERS OF ELECTRONIC
24 RECORDS.—In the case of a covered entity inso-
25 far as it acquired an electronic health record as

of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

"(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

"(i) January 1, 2011; or

"(ii) the date that it acquires an electronic health record.

"(C) LATER DATE.—The Secretary may set an effective date that is later that the date specified under subparagraph (A) or (B) if the Secretary determines that such later date it necessary, but in no case may the date specified under—

"(i) subparagraph (A) be later than 2018; or

"(ii) subparagraph (B) be later than 2014.

1 (d) REVIEW OF HEALTH CARE OPERATIONS.—Not
2 later than 18 months after the date of the enactment of
3 this title, the Secretary shall review and evaluate the defi-
4 nition of health care operations under section 164.501 of
5 title 45, Code of Federal Regulations, and to the extent
6 appropriate, eliminate by regulation activities that can
7 reasonably and efficiently be conducted through the use
8 of information that is de-identified (in accordance with the
9 requirements of section 164.514(b) of such title) or that
10 should require a valid authorization for use or disclosure.
11 In promulgating such regulations, the Secretary shall not
12 require that data be de-identified or require valid author-
13 ization for use or disclosure for activities within a covered
14 entity described in paragraph (1) of the definition of
15 health care operations under such section 164.501. In pro-
16 mulgating such regulations, the Secretary may choose to
17 narrow or clarify activities that the Secretary chooses to
18 retain in the definition of health care operations and the
19 Secretary shall take into account the report under section
20 13424(d). In such regulations the Secretary shall specify
21 the date on which such regulations shall apply to disclo-
22 sures made by a covered entity, but in no case would such
23 date be sooner than the date that is 24 months after the
24 date of the enactment of this section. Nothing in this sub-

1 section may be construed to supersede any provision under
2 subsection (e) or section 13406(a).

3 (e) PROHIBITION ON SALE OF ELECTRONIC HEALTH
4 RECORDS OR PROTECTED HEALTH INFORMATION OB-
5 TAINED FROM ELECTRONIC HEALTH RECORDS.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), a covered entity or business associate
8 shall not directly or indirectly receive remuneration
9 in exchange for any protected health information of
10 an individual unless the covered entity obtained from
11 the individual, in accordance with section 164.508 of
12 title 45, Code of Federal Regulations, a valid au-
13 thorization that includes, in accordance with such
14 section, a specification of whether the protected
15 health information can be further exchanged for re-
16 muneration by the entity receiving protected health
17 information of that individual.

18 (2) EXCEPTIONS.—Paragraph (1) shall not
19 apply in the following cases:

20 (A) The purpose of the exchange is for re-
21 search or public health activities (as described
22 in sections 164.501, 164.512(i), and 164.512(b)
23 of title 45, Code of Federal Regulations).

24 (B) The purpose of the exchange is for the
25 treatment of the individual, subject to any regu-

1 lation that the Secretary may promulgate to
2 prevent protected health information from inap-
3 propriate access, use, or disclosure.
4 (C) The purpose of the exchange is the
5 health care operation specifically described in
6 subparagraph (iv) of paragraph (6) of the defi-
7 nition of healthcare operations in section
8 164.501 of title 45, Code of Federal Regula-
9 tions.
10 (D) The purpose of the exchange is for re-
11 muneration that is provided by a covered entity
12 to a business associate for activities involving
13 the exchange of protected health information
14 that the business associate undertakes on behalf
15 of and at the specific request of the covered en-
16 tity pursuant to a business associate agreement.
17 (E) The purpose of the exchange is to pro-
18 vide an individual with a copy of the individ-
19 ual's protected health information pursuant to
20 section 164.524 of title 45, Code of Federal
21 Regulations.
22 (F) The purpose of the exchange is other-
23 wise determined by the Secretary in regulations
24 to be similarly necessary and appropriate as the

1 exceptions provided in subparagraphs (A)
2 through (E).
3 (3) REGULATIONS.—Not later than 18 months
4 after the date of enactment of this title, the Sec-
5 retary shall promulgate regulations to carry out this
6 subsection. In promulgating such regulations, the
7 Secretary—
8 (A) shall evaluate the impact of restricting
9 the exception described in paragraph (2)(A) to
10 require that the price charged for the purposes
11 described in such paragraph reflects the costs
12 of the preparation and transmittal of the data
13 for such purpose, on research or public health
14 activities, including those conducted by or for
15 the use of the Food and Drug Administration;
16 and
17 (B) may further restrict the exception de-
18 scribed in paragraph (2)(A) to require that the
19 price charged for the purposes described in
20 such paragraph reflects the costs of the prepa-
21 ration and transmittal of the data for such pur-
22 pose, if the Secretary finds that such further
23 restriction will not impede such research or
24 public health activities.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(f) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART OF HEALTH CARE OPERATIONS.

(a) MARKETING.—

1 (1) IN GENERAL.—A communication by a cov-
2 ered entity or business associate that is about a
3 product or service and that encourages recipients of
4 the communication to purchase or use the product
5 or service shall not be considered a health care oper-
6 ation for purposes of subpart E of part 164 of title
7 45, Code of Federal Regulations, unless the commu-
8 nication is made as described in subparagraph (i),
9 (ii), or (iii) of paragraph (1) of the definition of
10 marketing in section 164.501 of such title.
11 (2) PAYMENT FOR CERTAIN COMMUNICA-
12 TIONS.—A communication by a covered entity or
13 business associate that is described in subparagraph
14 (i), (ii), or (iii) of paragraph (1) of the definition of
15 marketing in section 164.501 of title 45, Code of
16 Federal Regulations, shall not be considered a health
17 care operation for purposes of subpart E of part 164
18 of title 45, Code of Federal Regulations if the cov-
19 ered entity receives or has received direct or indirect
20 payment in exchange for making such communica-
21 tion, except where—
22 (A) such communication describes only a
23 health care item or service that has previously
24 been prescribed for or administered to the re-

1 cipient of the communication, or a family mem-
2 ber of such recipient;
3 (B) each of the following conditions
4 apply—
5 (i) the communication is made by the
6 covered entity; and
7 (ii) the covered entity making such
8 communication obtains from the recipient
9 of the communication, in accordance with
10 section 164.508 of title 45, Code of Fed-
11 eral Regulations, a valid authorization (as
12 described in paragraph (b) of such section)
13 with respect to such communication; or
14 (C) each of the following conditions
15 apply—
16 (i) the communication is made on be-
17 half of the covered entity;
18 (ii) the communication is consistent
19 with the written contract (or other written
20 arrangement described in section
21 164.502(e)(2) of such title) between such
22 business associate and covered entity; and
23 (iii) the business associate making
24 such communication, or the covered entity
25 on behalf of which the communication is

made, obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication.

(c) EFFECTIVE DATE.—This section shall apply to contracting occurring on or after the effective date specified under section 13423.

SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii) or (iii) of section 13424(b)(1)(A), following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an

1 unauthorized person as a result of such a breach of
2 security; and
3 (2) notify the Federal Trade Commission.
4 (b) NOTIFICATION BY THIRD PARTY SERVICE PRO-
5 VIDERS.—A third party service provider that provides
6 services to a vendor of personal health records or to an
7 entity described in clause (ii) or (iii) of section
8 13424(b)(1)(A) in connection with the offering or mainte-
9 nance of a personal health record or a related product or
10 service and that accesses, maintains, retains, modifies,
11 records, stores, destroys, or otherwise holds, uses, or dis-
12 closes unsecured PHR identifiable health information in
13 such a record as a result of such services shall, following
14 the discovery of a breach of security of such information,
15 notify such vendor or entity, respectively, of such breach.
16 Such notice shall include the identification of each indi-
17 vidual whose unsecured PHR identifiable health informa-
18 tion has been, or is reasonably believed to have been,
19 accessed, acquired, or disclosed during such breach.
20 (c) APPLICATION OF REQUIREMENTS FOR TIMELI-
21 NESS, METHOD, AND CONTENT OF NOTIFICATIONS.—
22 Subsections (c), (d), (e), and (f) of section 13402 shall
23 apply to a notification required under subsection (a) and
24 a vendor of personal health records, an entity described
25 in subsection (a) and a third party service provider de-

1 scribed in subsection (b), with respect to a breach of secu-
2 rity under subsection (a) of unsecured PHR identifiable
3 health information in such records maintained or offered
4 by such vendor, in a manner specified by the Federal
5 Trade Commission.

6 (d) NOTIFICATION OF THE SECRETARY.—Upon re-
7 ceipt of a notification of a breach of security under sub-
8 section (a)(2), the Federal Trade Commission shall notify
9 the Secretary of such breach.

10 (e) ENFORCEMENT.—A violation of subsection (a) or
11 (b) shall be treated as an unfair and deceptive act or prac-
12 tice in violation of a regulation under section 18(a)(1)(B)
13 of the Federal Trade Commission Act (15 U.S.C.
14 57*a*(a)(1)(B)) regarding unfair or deceptive acts or prac-
15 tices.

16 (f) DEFINITIONS.—For purposes of this section:

17 (1) BREACH OF SECURITY.—The term ''breach
18 of security'' means, with respect to unsecured PHR
19 identifiable health information of an individual in a
20 personal health record, acquisition of such informa-
21 tion without the authorization of the individual.

22 (2) PHR IDENTIFIABLE HEALTH INFORMA-
23 TION.—The term ''PHR identifiable health informa-
24 tion'' means individually identifiable health informa-
25 tion, as defined in section 1171(6) of the Social Se-

1 curity Act (42 U.S.C. 1320d(6)), and includes, with
2 respect to an individual, information—
3 (A) that is provided by or on behalf of the
4 individual; and
5 (B) that identifies the individual or with
6 respect to which there is a reasonable basis to
7 believe that the information can be used to
8 identify the individual.
9 (3) UNSECURED PHR IDENTIFIABLE HEALTH
10 INFORMATION.—
11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), the term ''unsecured PHR identifi-
13 able health information'' means PHR identifi-
14 able health information that is not protected
15 through the use of a technology or methodology
16 specified by the Secretary in the guidance
17 issued under section 13402(h)(2).
18 (B) EXCEPTION IN CASE TIMELY GUID-
19 ANCE NOT ISSUED.—In the case that the Sec-
20 retary does not issue guidance under section
21 13402(h)(2) by the date specified in such sec-
22 tion, for purposes of this section, the term ''un-
23 secured PHR identifiable health information''
24 shall mean PHR identifiable health information
25 that is not secured by a technology standard

that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Federal Trade Commission shall, in accordance with section 553 of title 5, United States Code, promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—The provisions of this section shall not apply to breaches of security occurring on or after the earlier of the following the dates:

(A) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Secretary.

(B) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Federal Trade Commission and has taken effect.

SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regula-

tions, as such provisions are in effect as of the date of enactment of this title.

SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: ''For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.''.

SEC. 13410. IMPROVED ENFORCEMENT.

(a) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(1) in subsection (b)(1), by striking ''the act constitutes an offense punishable under section 1177'' and inserting ''a penalty has been imposed under section 1177 with respect to such act''; and

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

''(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

"(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

"(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.".

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this sub-

1 title or section 1176 of the Social Security Act (42
2 U.S.C. 1320d–5) insofar as such section relates to
3 privacy or security shall be transferred to the Office
4 of Civil Rights of the Department of Health and
5 Human Services to be used for purposes of enforcing
6 the provisions of this subtitle and subparts C and E
7 of part 164 of title 45, Code of Federal Regulations,
8 as such provisions are in effect as of the date of en-
9 actment of this Act.

10 (2) GAO REPORT.—Not later than 18 months
11 after the date of the enactment of this title, the
12 Comptroller General shall submit to the Secretary a
13 report including recommendations for a methodology
14 under which an individual who is harmed by an act
15 that constitutes an offense referred to in paragraph
16 (1) may receive a percentage of any civil monetary
17 penalty or monetary settlement collected with re-
18 spect to such offense.

19 (3) ESTABLISHMENT OF METHODOLOGY TO
20 DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO
21 HARMED INDIVIDUALS.—Not later than 3 years
22 after the date of the enactment of this title, the Sec-
23 retary shall establish by regulation and based on the
24 recommendations submitted under paragraph (2), a
25 methodology under which an individual who is

harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) APPLICATION OF METHODOLOGY.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) TIERED INCREASE IN AMOUNT OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d–5(a)(1)) is amended by striking ''who violates a provision of this part a penalty of not more than'' and all that follows and inserting the following: ''who violates a provision of this part—

''(A) in the case of a violation of such provision in which it is established that the person did not know (and by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not

to exceed the amount described in paragraph (3)(D);

"(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

"(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

"(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

"(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and ex-

tent of the violation and the nature and extent of the harm resulting from such violation.''.

(2) TIERS OF PENALTIES DESCRIBED.—Section 1176(a) of such Act (42 U.S.C. 1320d–5(a)) is further amended by adding at the end the following new paragraph:

''(3) TIERS OF PENALTIES DESCRIBED.—For purposes of paragraph (1), with respect to a violation by a person of a provision of this part—

''(A) the amount described in this subparagraph is $100 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $25,000;

''(B) the amount described in this subparagraph is $1,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $100,000;

''(C) the amount described in this subparagraph is $10,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical require-

ment or prohibition during a calendar year may not exceed $250,000; and

"(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.".

(3) CONFORMING AMENDMENTS.—Section 1176(b) of such Act (42 U.S.C. 1320d–5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking "in subparagraph (B), a penalty may not be imposed under subsection (a) if" and all that follows through "the failure to comply is corrected" and inserting "in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected"; and

(ii) in subparagraph (B), by striking "(A)(ii)" and inserting "(A)" each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

"(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

"(A) to enjoin further such violation by the defendant; or

"(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

"(2) STATUTORY DAMAGES.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

"(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

"(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

"(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

"(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

"(6) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under paragraph (1) may be brought in the district

court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) maintains a physical place of business.

"(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

"(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).".

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking ''A penalty may not be imposed under subsection (a)'' and inserting ''No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)'';

(B) in paragraph (2)(A)—

(i) after ''subsection (a)(1)(C),'', by striking ''a penalty may not be imposed under subsection (a)'' and inserting ''no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)''; and

(ii) in clause (ii), by inserting ''or damages'' after ''the penalty'';

(C) in paragraph (2)(B)(i), by striking ''The period'' and inserting ''With respect to the imposition of a penalty by the Secretary under subsection (a), the period''; and

(D) in paragraph (3), by inserting ''and any damages under subsection (d)'' after ''any penalty under subsection (a)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Such section is further amended by adding at the end the following new subsection:

''(e) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office of Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.''.

SEC. 13411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.

PART II—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

SEC. 13421. RELATIONSHIP TO OTHER LAWS.

(a) APPLICATION OF HIPAA STATE PREEMPTION.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle. In carrying out the preceding sentence, the Secretary shall revise the definition of ''psychotherapy notes'' in section 164.501 of title 45, Code of Federal Regulations, to include test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that

are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation.

SEC. 13422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

SEC. 13423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

SEC. 13424. STUDIES, REPORTS, GUIDANCE.

(a) REPORT ON COMPLIANCE.—

(1) IN GENERAL.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subtitle as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as

1 such provisions are in effect as of the date of enact-
2 ment of this Act) relating to privacy and security of
3 health information that are received by the Secretary
4 during the year for which the report is being pre-
5 pared. Each such report shall include, with respect
6 to such complaints received during the year—
7 (A) the number of such complaints;
8 (B) the number of such complaints re-
9 solved informally, a summary of the types of
10 such complaints so resolved, and the number of
11 covered entities that received technical assist-
12 ance from the Secretary during such year in
13 order to achieve compliance with such provi-
14 sions and the types of such technical assistance
15 provided;
16 (C) the number of such complaints that
17 have resulted in the imposition of civil monetary
18 penalties or have been resolved through mone-
19 tary settlements, including the nature of the
20 complaints involved and the amount paid in
21 each penalty or settlement;
22 (D) the number of compliance reviews con-
23 ducted and the outcome of each such review;
24 (E) the number of subpoenas or inquiries
25 issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of

1 individually identifiable health information that
2 has been rendered unusable, unreadable, or in-
3 decipherable through technologies or methodolo-
4 gies recognized by appropriate professional or-
5 ganization or standard setting bodies to provide
6 effective security for the information) that
7 should be applied to—
8 (i) vendors of personal health records;
9 (ii) entities that offer products or
10 services through the website of a vendor of
11 personal health records;
12 (iii) entities that are not covered enti-
13 ties and that offer products or services
14 through the websites of covered entities
15 that offer individuals personal health
16 records;
17 (iv) entities that are not covered enti-
18 ties and that access information in a per-
19 sonal health record or send information to
20 a personal health record; and
21 (v) third party service providers used
22 by a vendor or entity described in clause
23 (i), (ii), (iii), or (iv) to assist in providing
24 personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

1 (d) GAO REPORT ON TREATMENT DISCLOSURES.—
2 Not later than one year after the date of the enactment
3 of this title, the Comptroller General of the United States
4 shall submit to the Committee on Health, Education,
5 Labor, and Pensions of the Senate and the Committee on
6 Ways and Means and the Committee on Energy and Com-
7 merce of the House of Representatives a report on the
8 best practices related to the disclosure among health care
9 providers of protected health information of an individual
10 for purposes of treatment of such individual. Such report
11 shall include an examination of the best practices imple-
12 mented by States and by other entities, such as health
13 information exchanges and regional health information or-
14 ganizations, an examination of the extent to which such
15 best practices are successful with respect to the quality
16 of the resulting health care provided to the individual and
17 with respect to the ability of the health care provider to
18 manage such best practices, and an examination of the
19 use of electronic informed consent for disclosing protected
20 health information for treatment, payment, and health
21 care operations.
22 (e) REPORT REQUIRED.—Not later than 1 year after
23 the date of enactment of this section, the Government Ac-
24 countability Office shall submit to Congress and the Sec-
25 retary of Health and Human Services a report on the im-

pact of any of the provisions of, or amendments made by, this division or division B that are related to the Health Insurance Portability and Accountability Act of 1996 and section 552a of title 5, United States Code, on health insurance premiums and overall health care costs.

TITLE XIV—STATE FISCAL STABILIZATION

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $39,000,000,000, which shall be administered by the Department of Education, and shall be available through September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 1401. ALLOCATIONS.

(a) OUTLYING AREAS.—The Secretary of Education shall first allocate one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may reserve up to $25,000,000 for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $7,500,000,000 for grants under sections 1406 and 1407.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not obligate within 1 year of receiving a grant, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 1402. STATE USES OF FUNDS.

EDUCATION FUND.—(a) IN GENERAL.—The Governor shall use the State's allocation under section 1401 for the support of elementary, secondary, and postsec-

1 ondary education and, as applicable, early childhood edu-
2 cation programs and services.

3 (b) RESTORING 2008 STATE SUPPORT FOR EDU-
4 CATION.—

5 (1) IN GENERAL.—The Governor shall first use the
6 funds described in subsection (a)—

7 (A) to provide the amount of funds,
8 through the State's principal elementary and
9 secondary funding formula, that is needed to
10 restore State support for elementary and sec-
11 ondary education to the fiscal year 2008 level;
12 and where applicable, to allow existing State
13 formula increases for fiscal years 2009, 2010,
14 and 2011 to be implemented and allow funding
15 for phasing in State equity and adequacy ad-
16 justments that were enacted prior to July 1,
17 2008; and

18 (B) to provide the amount of funds to pub-
19 lic institutions of higher education in the State
20 that is needed to restore State support for post-
21 secondary education to the fiscal year 2008
22 level.

23 (2) SHORTFALL.—If the Governor determines that
24 the amount of funds available under subsection (a) is in-
25 sufficient to restore State support for education to the lev-

1 els described in subparagraphs (A) and (B) of paragraph
2 (1), the Governor shall allocate those funds between those
3 clauses in proportion to the relative shortfall in State sup-
4 port for the education sectors described in those clauses.
5 (c) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPER-
6 ATED BY LOCAL EDUCATIONAL AGENCIES.—After car-
7 rying out subsection (b), the Governor shall use any funds
8 remaining under subsection (a) to provide local edu-
9 cational agencies in the State with subgrants based on
10 their relative shares of funding under part A of title I of
11 the Elementary and Secondary Education Act of 1965 (20
12 U.S.C. 6311 et seq.) for the most recent year for which
13 data are available.

14 **SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGEN-**
15 **CIES.**

16 (1) IN GENERAL.—A local educational agency that
17 receives funds under this title may use the funds for any
18 activity authorized by the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 6301 et seq.) (''ESEA''),
20 the Individuals with Disabilities Education Act (20 U.S.C.
21 1400 et seq.) (''IDEA''), or the Carl D. Perkins Career
22 and Technical Education Act of 2006 (20 U.S.C. 2301
23 et seq.) (''the Perkins Act'').

(b) PROHIBITION.—A local educational agency may not use funds received under this title for capital projects unless authorized by ESEA, IDEA, or the Perkins Act.

SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—An institution of higher education may not use funds received under this title for construction, renovation, or facility repair.

SEC. 1405. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 1401 shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) APPLICATION.—The Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation.

(c) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 1406 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d);

(3) describe the achievement and graduation rates of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in 1111(b)(2) of ESEA in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need schools and local educational agencies; and

(5) include a plan for evaluating its progress in closing achievement gaps.

(d) ASSURANCES.—An application under subsection (b) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for public institutions of higher education (not including support for capital projects or for research and development) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take action, including activities outlined in section 2113(c) of ESEA, to increase the number, and improve the distribution, of effective teachers and principals in high-poverty schools and local educational agencies throughout the State.

(3) IMPROVING COLLECTION AND USE OF DATA.—The State will establish a longitudinal data system that includes the elements described in sec-

1 tion 6401(e)(2)(D) of the America COMPETES Act
2 (20 U.S.C. 9871).
3 (4) STANDARDS AND ASSESSMENTS.—The
4 State—
5 (A) will enhance the quality of academic
6 assessments described in section 1111(b)(3) of
7 ESEA (20 U.S.C. 6311(b)(3)) through activi-
8 ties such as those described in section 6112(a)
9 of such Act (20 U.S.C. 7301a(a));
10 (B) will comply with the requirements of
11 paragraphs (3)(C)(ix) and (6) of section
12 1111(b) of ESEA (20 U.S.C. 6311(b)) and sec-
13 tion 612(a)(16) of IDEA (20 U.S.C.
14 1412(a)(16)) related to the inclusion of children
15 with disabilities and limited English proficient
16 students in State assessments, the development
17 of valid and reliable assessments for those stu-
18 dents, and the provision of accommodations
19 that enable their participation in State assess-
20 ments; and
21 (C) will take steps to improve State aca-
22 demic content standards and student academic
23 achievement standards consistent with
24 6401(e)(1)(A)(ii) of the America COMPETES
25 Act.

(5) will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) with respect to schools identified under such sections.

SEC. 1406. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—From the total amount reserved under section 1401(c) that is not used for section 1407, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 1405(d).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 1405 and such other criteria as the Secretary determines appropriate.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 1407. INNOVATION FUND.

(a) IN GENERAL.—

(1) ELIGIBLE ENTITY.—For the purposes of this section, the term ''eligible entity'' means—

(A) A local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies;

(ii) or a consortium of schools.

(2) PROGRAM ESTABLISHED.—From the total amount reserved under section 1401(c), the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) BASIS FOR AWARDS.—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such eligible entities to expand their work and serve as models for best practices;

(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the pri-

vate sector will provide matching funds in order to help bring results to scale.

SEC. 1408. STATE REPORTS.

A State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this title within the State;

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this title;

(5) the State's progress in reducing inequities in the distribution of teachers, in implementing a State student longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of avail-

ability of funds under this title, and a description of any actions taken by the State to limit those increases; and

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance.

SEC. 1409. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 1406 and 1407 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 1410. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of the State reports, that evaluates the information provided in the State reports under section 1408.

SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, unless such funds are used to provide special education and related services to children with disabilities, as authorized by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

SEC. 1412. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(4) any other term that is defined in section 9101 of ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

SEC. 1413. REGULATORY RELIEF.

(a) WAIVER AUTHORITY.—Subject to subsections (b) and (c), the Secretary of Education may, as applicable, waive or modify, in order to ease fiscal burdens, any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(b) DURATION.—A waiver under this section shall be for fiscal years 2009 and 2010.

(c) LIMITATIONS.—

(1) RELATION TO IDEA.—Nothing in this section shall be construed to permit the Secretary to waive or modify any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), except as described in a(1) and a(2).

(2) MAINTENANCE OF EFFORT.—If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal years 2009 and 2010, the level of effort required for fiscal year 2011 shall not be reduced because of the waiver or modification.

TITLE XV—RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD AND RECOVERY INDEPENDENT ADVISORY PANEL

SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) BOARD.—The term ''Board'' means the Recovery Accountability and Transparency Board established in section 1511.

(3) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Board.

(4) COVERED FUNDS.—The term ''covered funds'' means any funds that are expended or obligated—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(5) PANEL.—The term ''Panel'' means the Recovery Independent Advisory Panel established in section 1531.

Subtitle A—Recovery Accountability and Transparency Board

SEC. 1511. ESTABLISHMENT OF THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

SEC. 1512. COMPOSITION OF BOARD.

(a) CHAIRPERSON.—

(1) DESIGNATION OR APPOINTMENT.—The President shall—

(A) designate the Deputy Director for Management of the Office of Management and Budget to serve as Chairperson of the Board;

(B) designate another Federal officer who was appointed by the President to a position that required the advice and consent of the Senate, to serve as Chairperson of the Board; or

(C) appoint an individual as the Chairperson of the Board, by and with the advice and consent of the Senate.

(2) COMPENSATION.—

(A) DESIGNATION OF FEDERAL OFFICER.—If the President designates a Federal of-

ficer under paragraph (1)(A) or (B) to serve as Chairperson, that Federal officer may not receive additional compensation for services performed as Chairperson.

(B) APPOINTMENT OF NON-FEDERAL OFFICER.—If the President appoints an individual as Chairperson under paragraph (1)(C), that individual shall be compensated at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) MEMBERS.—The members of the Board shall include—

(1) the Inspectors General of the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and

(2) any other Inspector General as designated by the President from any agency that expends or obligates covered funds.

SEC. 1513. FUNCTIONS OF THE BOARD.

(a) FUNCTIONS.—

1 (1) IN GENERAL.—The Board shall coordinate
2 and conduct oversight of covered funds in order to
3 prevent fraud, waste, and abuse.
4 (2) SPECIFIC FUNCTIONS.—The functions of
5 the Board shall include—
6 (A) reviewing whether the reporting of con-
7 tracts and grants using covered funds meets ap-
8 plicable standards and specifies the purpose of
9 the contract or grant and measures of perform-
10 ance;
11 (B) reviewing whether competition require-
12 ments applicable to contracts and grants using
13 covered funds have been satisfied;
14 (C) auditing and investigating covered
15 funds to determine whether wasteful spending,
16 poor contract or grant management, or other
17 abuses are occurring;
18 (D) reviewing whether there are sufficient
19 qualified acquisition and grant personnel over-
20 seeing covered funds;
21 (E) reviewing whether personnel whose du-
22 ties involve acquisitions or grants made with
23 covered funds receive adequate training; and

(F) reviewing whether there are appropriate mechanisms for interagency collaboration relating to covered funds.

(b) REPORTS.—

(1) QUARTERLY REPORTS.—The Board shall submit quarterly reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, summarizing the findings of the Board and the findings of inspectors general of agencies. The Board may submit additional reports as appropriate.

(2) ANNUAL REPORTS.—The Board shall submit annual reports to the President and the Committees on Appropriations of the Senate and House of Representatives, consolidating applicable quarterly reports on the use of covered funds.

(3) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—All reports submitted under this subsection shall be made publicly available and posted on a website established by the Board.

(B) REDACTIONS.—Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not

subject to disclosure under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The Board shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) RESPONSIVE REPORTS.—Not later than 30 days after receipt of a recommendation under paragraph (1), an agency shall submit a report to the President, the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, and the Board on—

(A) whether the agency agrees or disagrees with the recommendations; and

(B) any actions the agency will take to implement the recommendations.

SEC. 1514. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board shall conduct, supervise, and coordinate audits and investigations by inspectors general of agencies relating to covered funds.

(b) AUDITS AND INVESTIGATIONS.—The Board may—

(1) conduct its own independent audits and investigations relating to covered funds; and

(2) collaborate on audits and investigations relating to covered funds with any inspector general of an agency.

(c) AUTHORITIES.—

(1) AUDITS AND INVESTIGATIONS.—In conducting audits and investigations, the Board shall have the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) STANDARDS AND GUIDELINES.—The Board shall carry out the powers under subsections (a) and (b) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) PUBLIC HEARINGS.—The Board may hold public hearings and Board personnel may conduct investigative depositions. The head of each agency shall make all officers and employees of that agency available to provide testimony to the Board and Board personnel. The Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees. Any such subpoenas may be enforced as provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under

this subtitle, including contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Board.

(f) TRANSFER OF FUNDS.—The Board may transfer funds appropriated to the Board for expenses to support administrative support services and audits or investigations of covered funds to any office of inspector general, the Office of Management and Budget, the General Services Administration, and the Panel.

SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AUTHORITIES.

(a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES.—Subject to paragraph (2), the Board may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(B) APPLICATION.—For purposes of exercising the authorities described under subparagraph (A), the term ''Chairperson of the Board'' shall be substituted for the term ''head of a temporary organization''.

(C) CONSULTATION.—In exercising the authorities described under subparagraph (A), the Chairperson shall consult with members of the Board.

(2) EMPLOYMENT AUTHORITIES.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under paragraph (1) of this subsection—

(A) paragraph (2) of subsection (b) of section 3161 of that title (relating to periods of appointments) shall not apply; and

(B) no period of appointment may exceed the date on which the Board terminates under section 1521.

(b) INFORMATION AND ASSISTANCE.—

(1) IN GENERAL.—Upon request of the Board for information or assistance from any agency or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Board, or an authorized designee.

(2) REPORT OF REFUSALS.—Whenever information or assistance requested by the Board is, in the judgment of the Board, unreasonably refused or

not provided, the Board shall report the circumstances to the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, without delay.

(c) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.

(a) INDEPENDENT AUTHORITY.—Nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds.

(b) REQUESTS BY BOARD.—If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, not later than 30 days after rejecting the request, submit a report to the Board, the head of the applicable agency, and the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives. The report shall state the reasons that the inspector general has rejected the request in whole or in part.

SEC. 1517. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditor generals.

SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the Board, an inspector general, the Comptroller General, a member of Congress, or a the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety; or

(4) a violation of law related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the appropriate inspector general. Unless the inspector general determines that the complaint is frivolous, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) EXTENSION.—If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between

the inspector general and the person submitting the complaint.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that

were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(2) CIVIL ACTION.—If the head of an agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(3) EVIDENCE.—An inspector general determination and an agency head order denying relief

1 under paragraph (2) shall be admissible in evidence
2 in any de novo action at law or equity brought in ac-
3 cordance with this subsection.

4 (4) JUDICIAL ENFORCEMENT OF ORDER.—
5 Whenever a person fails to comply with an order
6 issued under paragraph (1), the head of the agency
7 shall file an action for enforcement of such order in
8 the United States district court for a district in
9 which the reprisal was found to have occurred. In
10 any action brought under this paragraph, the court
11 may grant appropriate relief, including injunctive re-
12 lief and compensatory and exemplary damages.

13 (5) JUDICIAL REVIEW.—Any person adversely
14 affected or aggrieved by an order issued under para-
15 graph (1) may obtain review of the order's confor-
16 mance with this subsection, and any regulations issued
17 to carry out this section, in the United States court
18 of appeals for a circuit in which the reprisal is al-
19 leged in the order to have occurred. No petition
20 seeking such review may be filed more than 60 days
21 after issuance of the order by the head of the agen-
22 cy. Review shall conform to chapter 7 of title 5,
23 United States Code.

24 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion may be construed to authorize the discharge of, demo-

1 tion of, or discrimination against an employee for a disclo-
2 sure other than a disclosure protected by subsection (a)
3 or to modify or derogate from a right or remedy otherwise
4 available to the employee.

5 **SEC. 1519. BOARD WEBSITE.**

6 (a) ESTABLISHMENT.—The Board shall establish and
7 maintain a user-friendly, public-facing website to foster
8 greater accountability and transparency in the use of cov-
9 ered funds.

10 (b) PURPOSE.—The website established and main-
11 tained under subsection (a) shall be a portal or gateway
12 to key information relating to this Act and provide connec-
13 tions to other Government websites with related informa-
14 tion.

15 (c) CONTENT AND FUNCTION.—In establishing the
16 website established and maintained under subsection (a),
17 the Board shall ensure the following:

18 (1) The website shall provide materials explain-
19 ing what this Act means for citizens. The materials
20 shall be easy to understand and regularly updated.

21 (2) The website shall provide accountability in-
22 formation, including a database of findings from au-
23 dits, inspectors general, and the Government Ac-
24 countability Office.

(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds.

(4) The website shall provide detailed data on contracts awarded by the Government that expend covered funds, including information about the competitiveness of the contracting process, notification of solicitations for contracts to be awarded, and information about the process that was used for the award of contracts.

(5) The website shall include printable reports on covered funds obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts that expend covered funds.

(7) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security.

SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

SEC. 1521. TERMINATION OF THE BOARD.

The Board shall terminate on September 30, 2012.

Subtitle B—Recovery Independent Advisory Panel

SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established the Recovery Independent Advisory Panel.

(b) MEMBERSHIP.—The Panel shall be composed of 5 members who shall be appointed by the President.

(c) QUALIFICATIONS.—Members shall be appointed on the basis of expertise in economics, public finance, contracting, accounting, or any other relevant field.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

(e) MEETINGS.—The Panel shall meet at the call of the Chairperson of the Panel.

(f) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1532. DUTIES OF THE PANEL.

The Panel shall make recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds.

SEC. 1533. POWERS OF THE PANEL.

(a) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any agency such information as the Panel considers necessary to carry out this subtitle. Upon request of the Chairperson of the Panel, the head of such agency shall furnish such information to the Panel.

(c) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as agencies of the Federal Government.

(d) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

SEC. 1534. PANEL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel. All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its du-

ties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be

without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1535. TERMINATION OF THE PANEL.

The Panel shall terminate on September 30, 2012.

SEC. 1536. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

Subtitle C—Reports of the Council of Economic Advisers

SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of

Economic Advisers shall submit to the Committees on Appropriations of the Senate and House of Representatives quarterly reports based on the reports required under section 1551 that detail the impact of programs funded through covered funds on employment, estimated economic growth, and other key economic indicators.

(b) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted not later than 45 days after the end of the first full quarter following the date of enactment of this Act.

(2) LAST REPORT.—The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1521.

Subtitle D—Reports on Use of Funds

SEC. 1551. REPORTS ON USE OF FUNDS.

(a) SHORT TITLE.—This section may be cited as the ''Jobs Accountability Act''.

(b) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) RECIPIENT.—The term ''recipient''—

(A) means any entity that receives recovery funds (including recovery funds received through grant, loan, or contract) other than an individual; and

(B) includes a State that receives recovery funds.

(3) RECOVERY FUNDS.—The term ''recovery funds'' means any funds that are made available—

(A) from appropriations made under this Act; and

(B) under any other authorities provided under this Act.

(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from an agency shall submit a report to that agency that contains—

(1) the total amount of recovery funds received from that agency;

(2) the amount of recovery funds received that were expended or obligated to projects or activities; and

(3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

(A) the name of the project or activity;

(B) a description of the project or activity;

(C) an evaluation of the completion status of the project or activity; and

(D) an analysis of the number of jobs created and the number of jobs retained by the project or activity.

(d) AGENCY REPORTS.—Not later than 30 days after the end of each calendar quarter, each agency that made recovery funds available to any recipient shall make the information in reports submitted under subsection (c) publicly available by posting the information on a website.

(e) OTHER REPORTS.—The Congressional Budget Office and the Government Accountability Office shall comment on the information described in subsection (c)(3)(D) for any reports submitted under subsection (c). Such comments shall be due within 7 days after such reports are submitted.

TITLE XVI—GENERAL PROVISIONS—THIS ACT

EMERGENCY DESIGNATION

SEC. 1601. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

AVAILABILITY

SEC. 1602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

RELATIONSHIP TO OTHER APPROPRIATIONS

SEC. 1603. Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

BUY AMERICAN

SEC. 1604. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States if sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written jurisdiction as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

CERTIFICATION

SEC. 1605. With respect to funds in titles I though XVI of this Act made available to State, or local government agencies, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appro-

priate use of taxpayer dollars. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made.

ECONOMIC STABILIZATION CONTRACTING

SEC. 1606. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting ''and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term 'individual with disability' has the same meaning as the term 'handicapped individual' as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)),'' after ''(12 U.S.C. 1441a(r)(4)),''.

SEC. 1607. FINDINGS.—

(1) The National Environmental Policy Act protects public health, safety and environmental quality: by ensuring transparency, accountability and public involvement in federal actions and in the use of public funds;

(2) When President Nixon signed the National Environmental Policy Act into law on January 1, 1970, he said that the Act provided the ''direction'' for the country to ''regain a productive harmony between man and nature'';

(3) The National Environmental Policy Act helps to provide an orderly process for considering federal actions and funding decisions and prevents ligation and delay that would otherwise be inevitable and existed prior to the establishment of the National Environmental Policy Act.

(a) Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.

(b) The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation.

PROHIBITION ON NO-BID CONTRACTS AND EARMARKS

SEC. 1608. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property

1 and Administrative Services Act of 1949 (41 U.S.C. 253),
2 section 2304 of title 10, United States Code, and the Fed-
3 eral Acquisition Regulation.

4 (b) Notwithstanding any other provision of this Act,
5 none of the funds appropriated or otherwise made avail-
6 able by this Act may be awarded by grant or cooperative
7 agreement unless the process used to award such grant
8 or cooperative agreement uses competitive procedures to
9 select the grantee or award recipient.

10 SEC. 1609. LIMIT ON FUNDS.

11 None of the amounts appropriated or otherwise made
12 available by this Act may be used for any casino or other
13 gambling establishment, aquarium, zoo, golf course, swim-
14 ming pool, stadium, community park, museum, theater,
15 art center, and highway beautification project.

16 SEC. 1610. HIRING AMERICAN WORKERS IN COMPANIES
17 RECEIVING TARP FUNDING.

18 (a) SHORT TITLE.—This section may be cited as the
19 ''Employ American Workers Act''.

20 (b) PROHIBITION.—

21 (1) IN GENERAL.—Notwithstanding any other
22 provision of law, it shall be unlawful for any recipi-
23 ent of funding under title I of the Emergency Eco-
24 nomic Stabilization Act of 2008 (Public Law 110–
25 343) or section 13 of the Federal Reserve Act (12

U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)) unless the recipient is in compliance with the requirements for an H–1B dependent employer (as defined in section 212(n)(3) of such Act (8 U.S.C. 1182(n)(3))), except that the second sentence of section 212(n)(1)(E)(ii) of such Act shall not apply.

(2) DEFINED TERM.—In this subsection, the term ''hire'' means to permit a new employee to commence a period of employment.

(c) SUNSET PROVISION.—This section shall be effective during the 2-year period beginning on the date of the enactment of this Act.

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

TITLE I—TAX PROVISIONS

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the ''American Recovery and Reinvestment Tax Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is

1 expressed in terms of an amendment to, or repeal of, a
2 section or other provision, the reference shall be consid-
3 ered to be made to a section or other provision of the In-
4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
6 this title is as follows:

TITLE I—TAX PROVISIONS

Sec. 1000. Short title, etc.

Subtitle A—Tax Relief for Individuals and Families

PART I—GENERAL TAX RELIEF

Sec. 1001. Making work pay credit.
Sec. 1002. Temporary increase in earned income tax credit.
Sec. 1003. Temporary increase of refundable portion of child credit.
Sec. 1004. American opportunity tax credit.
Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010.
Sec. 1006. Credit for certain home purchases.
Sec. 1007. Suspension of tax on portion of unemployment compensation.
Sec. 1008. Above-the-line deduction for interest on indebtedness with respect to the purchase of certain motor vehicles.
Sec. 1009. Above-the-line deduction for State sales tax and excise tax on the purchase of certain motor vehicles.

PART II—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.
Sec. 1012. Extension of increased alternative minimum tax exemption amount.

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

Sec. 1101. Extension of credit for electricity produced from certain renewable resources.
Sec. 1102. Election of investment credit in lieu of production credit.
Sec. 1103. Repeal of certain limitations on credit for renewable energy property.

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds.
Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds.

PART III—ENERGY CONSERVATION INCENTIVES

Sec. 1121. Extension and modification of credit for nonbusiness energy property.
Sec. 1122. Modification of credit for residential energy efficient property.
Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property.

PART IV—ENERGY RESEARCH INCENTIVES

Sec. 1131. Increased research credit for energy research.

PART V—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

Sec. 1141. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

PART VI—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

Sec. 1151. Modification of credit for qualified plug-in electric motor vehicles.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

Sec. 1201. Special allowance for certain property acquired during 2009.
Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets.

PART II—5-YEAR CARRYBACK OF OPERATING LOSSES

Sec. 1211. 5-year carryback of operating losses.
Sec. 1212. Exception for TARP recipients.

PART III—INCENTIVES FOR NEW JOBS

Sec. 1221. Incentives to hire unemployed veterans and disconnected youth.

PART IV—CANCELLATION OF INDEBTEDNESS

Sec. 1231. Deferral and ratable inclusion of income arising from indebtedness discharged by the repurchase of a debt instrument.

PART V—QUALIFIED SMALL BUSINESS STOCK

Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

Sec. 1251. Increased exclusion amount for commuter transit benefits and transit passes.

PART VII—S CORPORATIONS

Sec. 1261. Temporary reduction in recognition period for built-in gains tax.

PART VIII—BROADBAND INCENTIVES

Sec. 1271. Broadband Internet access tax credit.

PART IX—Clarification of Regulations Related to Limitations on Certain Built-in Losses Following an Ownership Change

Sec. 1281. Clarification of regulations related to limitations on certain built-in losses following an ownership change.

Subtitle D—Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property.
Sec. 1302. Credit for investment in advanced energy facilities.

Subtitle E—Economic Recovery Tools

Sec. 1401. Recovery zone bonds.
Sec. 1402. Tribal economic development bonds.
Sec. 1403. Modifications to new markets tax credit.

Subtitle F—Infrastructure Financing Tools

PART I—Improved Marketability for Tax-Exempt Bonds

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions.
Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.
Sec. 1503. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.
Sec. 1504. Modification to high speed intercity rail facility bonds.

PART II—Delay in Application of Withholding Tax on Government Contractors

Sec. 1511. Delay in application of withholding tax on government contractors.

PART III—Tax Credit Bonds for Schools

Sec. 1521. Qualified school construction bonds.
Sec. 1522. Extension and expansion of qualified zone academy bonds.

PART IV—Build America Bonds

Sec. 1531. Build America bonds.

Subtitle G—Economic Recovery Payments to Certain Individuals

Sec. 1601. Economic recovery payment to recipients of Social Security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.

Subtitle H—Trade Adjustment Assistance

Sec. 1701. Temporary extension of Trade Adjustment Assistance program.

Subtitle I—Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

Sec. 1801. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000.

Subtitle J—Other Provisions

Sec. 1901. Application of certain labor standards to projects financed with certain tax-favored bonds.
Sec. 1902. Increase in public debt limit.
Sec. 1903. Election to accelerate the low-income housing tax credit.

Subtitle A—Tax Relief for Individuals and Families

PART I—GENERAL TAX RELIEF

SEC. 1001. MAKING WORK PAY CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

"SEC. 36A. MAKING WORK PAY CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

"(1) 6.2 percent of earned income of the taxpayer, or

"(2) $500 ($1,000 in the case of a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph and subsection (c)) for the taxable year shall be reduced (but not below zero) by

4 percent of so much of the taxpayer's modified adjusted gross income as exceeds $70,000 ($140,000 in the case of a joint return).

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) REDUCTION FOR CERTAIN OTHER PAYMENTS.—The credit allowed under subsection (a) for any taxable year shall be reduced by the amount of any payments received by the taxpayer during such taxable year under section 1601 of the American Recovery and Reinvestment Tax Act of 2009.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

"(A) any nonresident alien individual,

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

"(C) an estate or trust.

1 Such term shall not include any individual unless the
2 requirements of section 32(c)(1)(E) are met with re-
3 spect to such individual.

4 ''(2) EARNED INCOME.—The term 'earned in-
5 come' has the meaning given such term by section
6 32(c)(2), except that such term shall not include net
7 earnings from self-employment which are not taken
8 into account in computing taxable income. For pur-
9 poses of the preceding sentence, any amount ex-
10 cluded from gross income by reason of section 112
11 shall be treated as earned income which is taken
12 into account in computing taxable income for the
13 taxable year.

14 ''(e) TERMINATION.—This section shall not apply to
15 taxable years beginning after December 31, 2010.''.

16 (b) TREATMENT OF POSSESSIONS.—

17 (1) PAYMENTS TO POSSESSIONS.—

18 (A) MIRROR CODE POSSESSION.—The Sec-
19 retary of the Treasury shall pay to each posses-
20 sion of the United States with a mirror code
21 tax system amounts equal to the loss to that
22 possession by reason of the amendments made
23 by this section with respect to taxable years be-
24 ginning in 2009 and 2010. Such amounts shall
25 be determined by the Secretary of the Treasury

1 based on information provided by the govern-
2 ment of the respective possession.
3 (B) OTHER POSSESSIONS.—The Secretary
4 of the Treasury shall pay to each possession of
5 the United States which does not have a mirror
6 code tax system amounts estimated by the Sec-
7 retary of the Treasury as being equal to the ag-
8 gregate benefits that would have been provided
9 to residents of such possession by reason of the
10 amendments made by this section for taxable
11 years beginning in 2009 and 2010 if a mirror
12 code tax system had been in effect in such pos-
13 session. The preceding sentence shall not apply
14 with respect to any possession of the United
15 States unless such possession has a plan, which
16 has been approved by the Secretary of the
17 Treasury, under which such possession will
18 promptly distribute such payments to the resi-
19 dents of such possession.
20 (2) COORDINATION WITH CREDIT ALLOWED
21 AGAINST UNITED STATES INCOME TAXES.—No cred-
22 it shall be allowed against United States income
23 taxes for any taxable year under section 36A of the
24 Internal Revenue Code of 1986 (as added by this
25 section) to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United

States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this section).

(c) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) AUTHORITY RELATING TO CLERICAL ERRORS.—Section 6213(g)(2) is amended by striking ''and'' at the end of subparagraph (L)(ii), by striking the period at the end of subparagraph (M) and inserting '', and'', and by adding at the end the following new subparagraph:

"(N) an omission of the reduction required under section 36A(c) with respect to the credit allowed under section 36A or an omission of the correct TIN required under section 36A(d)(1).".

(e) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting "36A," after "36,".

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36A," after "36,".

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36 the following new item:

"Sec. 36A. Making work pay credit.".

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.

SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

"(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN.—In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

"(B) REDUCTION OF MARRIAGE PENALTY.—

"(i) IN GENERAL.—The dollar amount in effect under paragraph (2)(B) shall be $5,000.

"(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in 2010, the $5,000 amount in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

"(iii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).".

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

SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 24(d) is amended to read as follows:

"(4) SPECIAL RULE FOR 2009 AND 2010.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $8,100.".

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

SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

1 "(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the
2 case of any taxable year beginning in 2009 or 2010—
3 "(1) INCREASE IN CREDIT.—The Hope Scholar-
4 ship Credit shall be an amount equal to the sum
5 of—
6 "(A) 100 percent of so much of the quali-
7 fied tuition and related expenses paid by the
8 taxpayer during the taxable year (for education
9 furnished to the eligible student during any
10 academic period beginning in such taxable year)
11 as does not exceed $2,000, plus
12 "(B) 25 percent of such expenses so paid
13 as exceeds $2,000 but does not exceed $4,000.
14 "(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF
15 POST-SECONDARY EDUCATION.—Subparagraphs (A)
16 and (C) of subsection (b)(2) shall be applied by sub-
17 stituting '4' for '2'.
18 "(3) QUALIFIED TUITION AND RELATED EX-
19 PENSES TO INCLUDE REQUIRED COURSE MATE-
20 RIALS.—Subsection (f)(1)(A) shall be applied by
21 substituting 'tuition, fees, and course materials' for
22 'tuition and fees'.
23 "(4) INCREASE IN AGI LIMITS FOR HOPE
24 SCHOLARSHIP CREDIT.—In lieu of applying sub-
25 section (d) with respect to the Hope Scholarship

Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

"(ii) $80,000 ($160,000 in the case of a joint return), bears to

"(B) $10,000 ($20,000 in the case of a joint return).

"(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

1 Any reference in this section or section 24, 25, 26,
2 25B, 904, or 1400C to a credit allowable under this
3 subsection shall be treated as a reference to so much
4 of the credit allowable under subsection (a) as is at-
5 tributable to the Hope Scholarship Credit.

6 ''(6) PORTION OF CREDIT MADE REFUND-
7 ABLE.—30 percent of so much of the credit allowed
8 under subsection (a) as is attributable to the Hope
9 Scholarship Credit (determined after application of
10 paragraph (4) and without regard to this paragraph
11 and section 26(a)(2) or paragraph (5), as the case
12 may be) shall be treated as a credit allowable under
13 subpart C (and not allowed under subsection (a)).
14 The preceding sentence shall not apply to any tax-
15 payer for any taxable year if such taxpayer is a child
16 to whom subsection (g) of section 1 applies for such
17 taxable year.

18 ''(7) COORDINATION WITH MIDWESTERN DIS-
19 ASTER AREA BENEFITS.—In the case of a taxpayer
20 with respect to whom section 702(a)(1)(B) of the
21 Heartland Disaster Tax Relief Act of 2008 applies
22 for any taxable year, such taxpayer may elect to
23 waive the application of this subsection to such tax-
24 payer for such taxable year.''.

25 (b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) is amended by inserting "25A(i)," after "23,".

(2) Section 25(e)(1)(C)(ii) is amended by inserting "25A(i)," after "24,".

(3) Section 26(a)(1) is amended by inserting "25A(i)," after "24,".

(4) Section 25B(g)(2) is amended by inserting "25A(i)," after "23,".

(5) Section 904(i) is amended by inserting "25A(i)," after "24,".

(6) Section 1400C(d)(2) is amended by inserting "25A(i)," after "24,".

(7) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "25A," before "35".

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

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

(e) TREASURY STUDIES REGARDING EDUCATION INCENTIVES.—

(1) STUDY REGARDING COORDINATION WITH NON-TAX EDUCATIONAL INCENTIVES.—The Secretary of the Treasury, or the Secretary's delegate, shall study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965.

(2) STUDY REGARDING IMPOSITION OF COMMUNITY SERVICE REQUIREMENTS.—The Secretary of the Treasury, or the Secretary's delegate, shall study the feasibility of requiring students to perform community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT ALLOWED AS A QUALIFIED HIGHER EDUCATION EXPENSE FOR SECTION 529 ACCOUNTS IN 2009 AND 2010.

(a) IN GENERAL.—Section 529(e)(3)(A) is amended by striking ''and'' at the end of clause (i), by striking the

period at the end of clause (ii), and by adding at the end the following:

"(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2008.

SEC. 1006. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

"(a) ALLOWANCE OF CREDIT.—

1 "(1) IN GENERAL.—In the case of an individual
2 who is a purchaser of a principal residence during
3 the taxable year, there shall be allowed as a credit
4 against the tax imposed by this chapter an amount
5 equal to 10 percent of the purchase price of the resi-
6 dence.
7 "(2) DOLLAR LIMITATION.—The amount of the
8 credit allowed under paragraph (1) shall not exceed
9 $15,000.
10 "(3) ALLOCATION OF CREDIT AMOUNT.—At the
11 election of the taxpayer, the amount of the credit al-
12 lowed under paragraph (1) (after application of
13 paragraph (2)) may be equally divided among the 2
14 taxable years beginning with the taxable year in
15 which the purchase of the principal residence is
16 made.
17 "(b) LIMITATIONS.—
18 "(1) DATE OF PURCHASE.—The credit allowed
19 under subsection (a) shall be allowed only with re-
20 spect to purchases made—
21 "(A) after the date of the enactment of the
22 American Recovery and Reinvestment Tax Act
23 of 2009, and
24 "(B) on or before the date that is 1 year
25 after such date of enactment.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

"(3) ONE-TIME ONLY.—

"(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

"(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section

has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

"(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

"(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

"(e) SPECIAL RULES.—

"(1) JOINT PURCHASE.—

"(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

"(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

"(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

"(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

"(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—In the event that a taxpayer—

"(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

"(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

"(2) EXCEPTIONS.—

"(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

"(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

"(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

"(i) paragraph (1) shall not apply to such transfer, and

"(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner

as if such transferee were the transferor (and shall not apply to the transferor).

"(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

"(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

"(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

"(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence during the period described in subsection (b)(1), a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Credit for certain home purchases.".

(c) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 is amended by striking "July 1, 2009" and inserting "the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009".

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 is amended by striking "July 1, 2009" and inserting "the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act.

SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

''(c) SPECIAL RULE FOR 2009.—In the case of any taxable year beginning in 2009, gross income shall not include so much of the unemployment compensation received by an individual as does not exceed $2,400.''.

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

SEC. 1008. ABOVE-THE-LINE DEDUCTION FOR INTEREST ON INDEBTEDNESS WITH RESPECT TO THE PURCHASE OF CERTAIN MOTOR VEHICLES.

(a) IN GENERAL.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(G) any qualified motor vehicle interest (within the meaning of paragraph (5)).''.

(b) QUALIFIED MOTOR VEHICLE INTEREST.—Section 163(h) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) QUALIFIED MOTOR VEHICLE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified motor vehicle interest' means any interest which is paid or accrued during the taxable year on any indebtedness which—

"(i) is incurred after November 12, 2008, and before January 1, 2010, in acquiring any qualified motor vehicle of the taxpayer, and

"(ii) is secured by such qualified motor vehicle.

Such term also includes any indebtedness secured by such qualified motor vehicle resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(B) DOLLAR LIMITATION.—The aggregate amount of indebtedness treated as described in subparagraph (A) for any period shall not exceed $49,500 ($24,750 in the case of a separate return by a married individual).

"(C) INCOME LIMITATION.—The amount otherwise treated as interest under subparagraph (A) for any taxable year (after the application of subparagraph (B)) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so treated as—

"(i) the excess (if any) of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $125,000 ($250,000 in the case of a joint return), bears to

"(ii) $10,000.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(D) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means a passenger automobile (within the meaning of section 30B(h)(3)) or a light truck (within the meaning of such section)—

"(i) which is acquired for use by the taxpayer and not for resale after November 12, 2008, and before January 1, 2010,

"(ii) the original use of which commences with the taxpayer, and

"(iii) which has a gross vehicle weight rating of not more than 8,500 pounds.".

(c) DEDUCTION ALLOWED ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (21) the following new paragraph:

"(22) QUALIFIED MOTOR VEHICLE INTEREST.—The deduction allowed under section 163 by reason of subsection (h)(2)(G) thereof.".

(d) REPORTING OF QUALIFIED MOTOR VEHICLE INTEREST.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6050X. RETURNS RELATING TO QUALIFIED MOTOR VEHICLE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) QUALIFIED MOTOR VEHICLE INTEREST.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on any indebtedness secured by a qualified motor vehicle (as defined in section 163(h)(5)(D)),

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".

(2) AMENDMENTS RELATING TO PENALTIES.—

(A) Section 6721(e)(2)(A) of such Code is amended by striking "or 6050L" and inserting "6050L, or 6050X".

(B) Section 6722(c)(1)(A) of such Code is amended by striking "or 6050L(c)" and inserting "6050L(c), or 6050X(d)".

(C) Subparagraph (B) of section 6724(d)(1) of such Code is amended by redesignating clauses (xvi) through (xxii) as clauses (xvii) through (xxiii), respectively, and by inserting after clause (xii) the following new clause:

"(xvi) section 6050X (relating to returns relating to qualified motor vehicle interest received in trade or business from individuals),".

(D) Paragraph (2) of section 6724(d) of such Code is amended by striking the period at the end of subparagraph (DD) and inserting ", or" and by inserting after subparagraph (DD) the following new subparagraph:

"(EE) section 6050X(d) (relating to returns relating to qualified motor vehicle interest received in trade or business from individuals).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050W the following new item:

"Sec. 6050X. Returns relating to qualified motor vehicle interest received in trade or business from individuals.".

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

SEC. 1009. ABOVE-THE-LINE DEDUCTION FOR STATE SALES TAX AND EXCISE TAX ON THE PURCHASE OF CERTAIN MOTOR VEHICLES.

(a) IN GENERAL.—Subsection (a) of section 164 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (5) the following new paragraph:

"(6) Qualified motor vehicle taxes.".

(b) QUALIFIED MOTOR VEHICLE TAXES.—Subsection (b) of section 164 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) QUALIFIED MOTOR VEHICLE TAXES.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified motor vehicle taxes' means any State or local sales or excise tax imposed on the purchase of a qualified motor vehicle (as defined in section 163(h)(5)(D)).

"(B) DOLLAR LIMITATION.—The amount taken into account under subparagraph (A) for any taxable year shall not exceed $49,500 ($24,750 in the case of a separate return by a married individual).

"(C) INCOME LIMITATION.—The amount otherwise taken into account under subparagraph (A) (after the application of subparagraph (B)) for any taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so treated as—

"(i) the excess (if any) of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $125,000 ($250,000 in the case of a joint return), bears to

"(ii) $10,000.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(D) QUALIFIED MOTOR VEHICLE TAXES NOT INCLUDED IN COST OF ACQUIRED PROPERTY.—The last sentence of subsection (a) shall not apply to any qualified motor vehicle taxes.

"(E) COORDINATION WITH GENERAL SALES TAX.—This paragraph shall not apply in the case of a taxpayer who makes an election under paragraph (5) for the taxable year.".

(c) CONFORMING AMENDMENTS.—Paragraph (5) of section 163(h) of the Internal Revenue Code of 1986, as added by section 1, is amended—

(1) by adding at the end the following new subparagraph:

"(E) EXCLUSION.—If the indebtedness described in subparagraph (A) includes the amounts of any State or local sales or excise taxes paid or accrued by the taxpayer in connection with the acquisition of a qualified motor vehicle, the aggregate amount of such indebtedness taken into account under such subparagraph shall be reduced, but not below zero, by the amount of any such taxes for which a deduction is allowed under section 164(a) by reason of paragraph (6) thereof.", and

(2) by inserting ", after the application of subparagraph (E)," after "for any period" in subparagraph (B).

(d) DEDUCTION ALLOWED ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986, as

amended by section 1, is amended by inserting after paragraph (22) the following new paragraph:

"(23) QUALIFIED MOTOR VEHICLE TAXES.—The deduction allowed under section 164 by reason of subsection (a)(6) thereof.".

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

PART II—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

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

(1) by striking "or 2008" and inserting "2008, or 2009", and

(2) by striking "**2008**" in the heading thereof and inserting "**2009**".

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

SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

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

(1) by striking ''($69,950 in the case of taxable years beginning in 2008)'' in subparagraph (A) and inserting ''($70,950 in the case of taxable years beginning in 2009)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($46,700 in the case of taxable years beginning in 2009)''.

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

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking ''2010'' in paragraph (1) and inserting ''2013'',

(2) by striking ''2011'' each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting ''2014'', and

(3) by striking ''2012'' in paragraph (11)(B) and inserting ''2014''.

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 45(d) is amended by striking ''and before'' and all that follows and inserting '' and before October 3, 2008.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Subsection (a) of section 48 is amended by adding at the end the following new paragraph:

''(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—

"(A) IN GENERAL.—In the case of any qualified investment credit facility—

"(i) such facility shall be treated as energy property for purposes of this section, and

"(ii) the energy percentage with respect to such property shall be 30 percent.

"(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

"(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term 'qualified investment credit facility' means any of the following facilities if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility:

"(i) WIND FACILITIES.—Any facility described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, or 2012.

"(ii) OTHER FACILITIES.—Any facility described in paragraph (2), (3), (4), (6),

(7), (9), or (11) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

(a) REPEAL OF LIMITATION ON CREDIT FOR QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).

(b) REPEAL OF LIMITATION ON PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

(1) IN GENERAL.—Section 48(a)(4) is amended by adding at the end the following new subparagraph:

''(D) TERMINATION.—This paragraph shall not apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(1) is amended by striking "(8), and (9)" and inserting "and (8)".

(B) Section 25D(e) is amended by striking paragraph (9).

(C) Section 48A(b)(2) is amended by inserting "(without regard to subparagraph (D) thereof)" after "section 48(a)(4)".

(D) Section 48B(b)(2) is amended by inserting "(without regard to subparagraph (D) thereof)" after "section 48(a)(4)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL LIMITATION.—The national new clean renewable energy bond limitation shall be increased by $1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).".

SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Section 54D(d) is amended by striking "800,000,000" and inserting "$3,200,000,000".

(b) CLARIFICATION WITH RESPECT TO GREEN COMMUNITY PROGRAMS.—Clause (ii) of section 54D(f)(1)(A) is amended by inserting "(including the use of loans, grants, or other repayment mechanisms to implement such programs)" after "green community programs".

PART III—ENERGY CONSERVATION INCENTIVES

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

"(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

"(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.".

(b) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

"(B) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.".

(2) CENTRAL AIR CONDITIONERS.—Subparagraph (C) of section 25C(d)(3) is amended by striking "2006" and inserting "2009".

(3) WATER HEATERS.—Subparagraph (D) of section 25C(d)(3) is amended to read as follows:

"(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.82 or a thermal efficiency of at least 90 percent.".

(4) WOOD STOVES.—Subparagraph (E) of section 25C(d)(3) is amended by inserting ", as measured using a lower heating value" after "75 percent".

(c) MODIFICATIONS OF STANDARDS FOR OIL FURNACES AND HOT WATER BOILERS.—

(1) IN GENERAL.—Paragraph (4) of section 25C(d) is amended to read as follows:

"(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

"(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas fur-

nace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves

an annual fuel utilization efficiency rate of not less than 90.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

''(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or''.

(d) MODIFICATIONS OF STANDARDS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Subsection (c) of section 25C is amended by adding at the end the following new paragraph:

''(4) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Such term shall not include any component described in subparagraph (B) or (C) of paragraph (2) unless such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(2) ADDITIONAL QUALIFICATION FOR INSULATION.—Subparagraph (A) of section 25C(c)(2) is amended by inserting ''and meets the prescriptive criteria for such material or system established by

the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009'' after ''such dwelling unit''.

(e) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) EFFICIENCY STANDARDS.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) and subsections (c) and (d) shall apply to property placed in service after December 31, 2009.

SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) REMOVAL OF CREDIT LIMITATION FOR PROPERTY PLACED IN SERVICE.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended to read as follows:

"(1) MAXIMUM CREDIT FOR FUEL CELLS.—In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 25D(e) is amended—

(A) by striking all that precedes subparagraph (B) and inserting the following:

"(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

"(A) MAXIMUM EXPENDITURES FOR FUEL CELLS.—The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of

each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.'', and

(B) by striking subparagraph (C).

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

SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(e) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010.—In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011—

''(A) in the case of any such property which does not relate to hydrogen—

''(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

''(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

"(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000', and

"(B) in the case of any such property which relates to hydrogen, subsection (b)(1) shall be applied by substituting '$200,000' for '$30,000'.".

(b) ENSURING CONSUMER ACCESSIBILITY TO ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY IN THE CASE OF ELECTRICITY.—Section 179(d)(3) is amended by striking subparagraph (B) and inserting the following:

"(B) for the recharging of motor vehicles propelled by electricity, but only if—

"(i) the property complies with the Society of Automotive Engineers' connection standards,

"(ii) the property provides for non-restrictive access for charging and for payment interoperability with other systems, and

"(iii) the property—

"(I) is located on property owned by the taxpayer, or

"(II) is located on property owned by another person, is placed in service with the permission of such other person, and is fully maintained by the taxpayer.".

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

SEC. 1124. RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS.

(a) TEMPORARY 5-YEAR RECOVERY PERIOD.—

(1) IN GENERAL.—Subparagraph (B) of section 168(e)(3) is amended by striking "and" at the end of clause (vi), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clause:

"(viii) any qualified smart electric meter which is placed in service before January 1, 2011.".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 168(e)(3)(D) is amended by inserting "which is placed in service after December 31, 2010" after "electric meter".

(b) TECHNICAL AMENDMENTS.—Paragraphs (18)(A)(ii) and (19)(A)(ii) of section 168(i) are each amended by striking ''16 years'' and inserting ''10 years''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (b) shall take effect as if included in section 306 of the Energy Improvement and Extension Act of 2008.

PART IV—ENERGY RESEARCH INCENTIVES

SEC. 1131. INCREASED RESEARCH CREDIT FOR ENERGY RESEARCH.

(a) IN GENERAL.—Section 41 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ENERGY RESEARCH CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) IN GENERAL.—The credit determined under subsection (a)(1) shall be increased by 20 percent of the qualified energy research expenses for the taxable year.

"(2) QUALIFIED ENERGY RESEARCH EXPENSES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified energy research expenses' means so much of the taxpayer's qualified research expenses as are related to the fields of fuel cells and battery technology, renewable energy and renewable fuels, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

"(B) COORDINATION WITH QUALIFYING ADVANCED ENERGY PROJECT CREDIT.—Such term shall not include expenditures taken into account in determining the amount of the credit under section 48 or 48C.

"(3) COORDINATION WITH OTHER RESEARCH CREDITS.—

"(A) IN GENERAL.—The amount of qualified energy research expenses taken into account under subsection (a)(1)(A) shall not exceed the base amount.

"(B) ALTERNATIVE SIMPLIFIED CREDIT.—For purposes of subsection (c)(5), the amount of qualified energy research expenses taken into

account for the taxable year for which the credit is being determined shall not exceed—

"(i) in the case of subsection (c)(5)(A), 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined, and

"(ii) in the case of subsection (c)(5)(B)(ii), zero.

"(C) BASIC RESEARCH AND ENERGY RESEARCH CONSORTIUM PAYMENTS.—Any amount taken into account under paragraph (1) shall not be taken into account under paragraph (2) or (3) of subsection (a).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 41(i)(1)(B), as redesignated by subsection (a), is amended by inserting "(in the case of the increase in the credit determined under subsection (h), December 31, 2010)" after "December 31, 2009".

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

PART V—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

SEC. 1141. APPLICATION OF MONITORING REQUIREMENTS TO CARBON DIOXIDE USED AS A TERTIARY INJECTANT.

(a) IN GENERAL.—Section 45Q(a)(2) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) disposed of by the taxpayer in secure geological storage.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 45Q(d)(2) is amended—

(A) by striking ''subsection (a)(1)(B)'' and inserting ''paragraph (1)(B) or (2)(C) of subsection (a)'',

(B) by striking ''and unminable coal seems'' and inserting '', oil and gas reservoirs, and unminable coal seams'', and

(C) by inserting ''the Secretary of Energy, and the Secretary of the Interior,'' after ''Environmental Protection Agency''.

(2) Section 45Q(e) is amended by striking ''captured and disposed of or used as a tertiary

injectant'' and inserting ''taken into account in accordance with subsection (a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act.

PART VI—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

SEC. 1151. MODIFICATION OF CREDIT FOR QUALIFIED PLUG-IN ELECTRIC MOTOR VEHICLES.

(a) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT.—Section 30D(b)(2)(B) is amended by striking ''250,000'' and inserting ''500,000''.

(b) EXCLUSION OF NEIGHBORHOOD ELECTRIC VEHICLES FROM EXISTING CREDIT.—Section 30D(e)(1) is amended to read as follows:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means a motor vehicle (as defined in section 30(c)(2)), which is treated as a motor vehicle for purposes of title II of the Clean Air Act.''.

(c) CREDIT FOR CERTAIN OTHER VEHICLES.—Section 30D is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and

(2) by inserting after subsection (e) the following new subsection:

1 "(f) CREDIT FOR CERTAIN OTHER VEHICLES.—For
2 purposes of this section—
3 "(1) IN GENERAL.—In the case of a specified
4 vehicle, this section shall be applied with the fol-
5 lowing modifications:
6 "(A) For purposes of subsection (a)(1), in
7 lieu of the applicable amount determined under
8 subsection (a)(2), the applicable amount shall
9 be 10 percent of so much of the cost of the
10 specified vehicle as does not exceed $40,000.
11 "(B) Subsection (b) shall not apply and no
12 specified vehicle shall be taken into account
13 under subsection (b)(2).
14 "(C) In the case of a specified vehicle
15 which is a 2-or 3-wheeled motor vehicle, sub-
16 section (c)(1) shall be applied by substituting
17 '2.5 kilowatt hours' for '4 kilowatt hours'.
18 "(D) In the case of a specified vehicle
19 which is a low-speed motor vehicle, subsection
20 (c)(3) shall not apply.
21 "(2) SPECIFIED VEHICLE.—For purposes of
22 this subsection—
23 "(A) IN GENERAL.—The term 'specified
24 vehicle' means—

"(i) any 2- or 3- wheeled motor vehicle, or

"(ii) any low-speed motor vehicle,

which is placed in service after December 31, 2009, and before January 1, 2012.

"(B) 2- OR 3-WHEELED MOTOR VEHICLE.—The term '2- or 3-wheeled motor vehicle' means any vehicle—

"(i) which would be described in section 30(c)(2) except that it has 2 or 3 wheels,

"(ii) with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground,

"(iii) which has an electric motor that produces in excess of 5-brake horsepower,

"(iv) which draws propulsion from 1 or more traction batteries, and

"(v) which has been certified to the Department of Transportation pursuant to section 567 of title 49, Code of Federal Regulations, as conforming to all applicable Federal motor vehicle safety standards

in effect on the date of the manufacture of the vehicle.

"(C) LOW-SPEED MOTOR VEHICLE.—The term 'low-speed motor vehicle' means a motor vehicle (as defined in section 30(c)(2)) which—

"(i) is placed in service after December 31, 2009, and

"(ii) meets the requirements of section 571.500 of title 49, Code of Federal Regulations.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) OTHER MODIFICATIONS.—The amendments made by subsection (b) shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

SEC. 1152. CONVERSION KITS.

(a) IN GENERAL.—Section 30B (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) PLUG-IN CONVERSION CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is 10 percent of so much of the cost of the converting such vehicle as does not exceed $40,000.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—The term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D(c), determined without regard to paragraphs (4) and (6) thereof).

"(B) PLUG-IN TRACTION BATTERY MODULE.—The term 'plug-in traction battery module' means an electro-chemical energy storage device which—

"(i) which has a traction battery capacity of not less than 2.5 kilowatt hours,

"(ii) which is equipped with an electrical plug by means of which it can be energized and recharged when plugged into an external source of electric power,

"(iii) which consists of a standardized configuration and is mass produced,

"(iv) which has been tested and approved by the National Highway Transportation Safety Administration as compliant with applicable motor vehicle and motor vehicle equipment safety standards when installed by a mechanic with standardized training in protocols established by the battery manufacturer as part of a nationwide distribution program,

"(v) which complies with the requirements of section 32918 of title 49, United States Code, and

"(vi) which is certified by a battery manufacturer as meeting the requirements of clauses (i) through (v).

"(C) CREDIT ALLOWED TO LESSOR OF BATTERY MODULE.—In the case of a plug-in traction battery module which is leased to the taxpayer, the credit allowed under this subsection shall be allowed to the lessor of the plug-in traction battery module.

"(D) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under

this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

''(3) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2012.''.

(b) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the plug-in conversion credit determined under subsection (i).''.

(c) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) is amended by adding at the end the following: '', except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after

December 31, 2008, in taxable years beginning after such date.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) EXTENSION OF SPECIAL ALLOWANCE.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(A) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(B) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

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

(C) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(D) Subparagraph (C) of section 168(n)(2) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(E) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(3) TECHNICAL AMENDMENT.—Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and''.

(b) EXTENSION OF ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—Section 168(k)(4) (relating to election to accelerate the AMT and research credits in lieu of bonus depreciation) is amended—

(1) by striking ''2009'' and inserting ''2010''in subparagraph (D)(iii) (as redesignated by subsection (a)(3)), and

(2) by adding at the end the following new subparagraph:

''(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

''(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

''(I) the taxpayer may elect not to have this paragraph apply to extension property, but

''(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

1 "(ii) TAXPAYERS NOT PREVIOUSLY
2 ELECTING ACCELERATION.—In the case of
3 a taxpayer who did not make the election
4 under subparagraph (A) for its first tax-
5 able year ending after March 31, 2008—
6 "(I) the taxpayer may elect to
7 have this paragraph apply to its first
8 taxable year ending after December
9 31, 2008, and each subsequent tax-
10 able year, and
11 "(II) if the taxpayer makes the
12 election under subclause (I), this
13 paragraph shall only apply to eligible
14 qualified property which is extension
15 property.
16 "(iii) EXTENSION PROPERTY.—For
17 purposes of this subparagraph, the term
18 'extension property' means property which
19 is eligible qualified property solely by rea-
20 son of the extension of the application of
21 the special allowance under paragraph (1)
22 pursuant to the amendments made by sec-
23 tion 1201(a) of the American Recovery and
24 Reinvestment Tax Act of 2009 (and the
25 application of such extension to this para-

graph pursuant to the amendment made by section 1201(b)(1) of such Act).''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—The amendments made by subsection (a)(3) shall apply to taxable years ending after March 31, 2008.

SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

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

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

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

PART II—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

"(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

"(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

"(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

"(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

"(III) subparagraph (F) shall not apply.

"(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this

subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

"(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

"(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

"(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

"(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or

beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

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

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

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

the term 'applicable 2008 or 2009 loss from operations' means—

"(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

"(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

"(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

"(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.".

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

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

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

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

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may

(notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(k) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 1212. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to ac-

quire any equity interest with respect to the taxpayer pursuant to such Act,

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

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART III—INCENTIVES FOR NEW JOBS

SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

"(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

"(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) UNEMPLOYED VETERAN.—The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

(I) having been discharged or released from active duty in the Armed Forces during the period beginning on September 1, 2001, and ending on December 31, 2010, and

"(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

"(ii) DISCONNECTED YOUTH.—The term 'disconnected youth' means any individual who is certified by the designated local agency—

"(I) as having attained age 16 but not age 25 on the hiring date,

"(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

"(III) as not regularly employed during such 6-month period, and

"(IV) as not readily employable by reason of lacking a sufficient number of basic skills.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART IV—CANCELLATION OF INDEBTEDNESS

SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

"(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.—

"(1) IN GENERAL.—Notwithstanding section 61, income from the discharge of indebtedness in

connection with the repurchase of a debt instrument after December 31, 2008, and before January 1, 2011, shall be includible in gross income ratably over the 8-taxable-year period beginning with—

"(A) in the case of a repurchase occurring in 2009, the second taxable year following the taxable year in which the repurchase occurs, and

"(B) in the case of a repurchase occurring in 2010, the taxable year following the taxable year in which the repurchase occurs.

"(2) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

"(3) REPURCHASE.—For purposes of this subsection, the term 'repurchase' means, with respect to any debt instrument, a cash purchase of the debt instrument by—

"(A) the debtor which issued the debt instrument, or

"(B) any person related to such debtor.

For purposes of subparagraph (B), the determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

"(4) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate for purposes of applying this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008.

PART V—QUALIFIED SMALL BUSINESS STOCK

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1202(a) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011—

"(A) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

"(B) paragraph (2) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

SEC. 1251. INCREASED EXCLUSION AMOUNT FOR COMMUTER TRANSIT BENEFITS AND TRANSIT PASSES.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by adding at the end the following flush sentence:

''In the case of any month beginning on or after the date of the enactment of this sentence and before January 1, 2011, subparagraph (A) shall be applied as if the dollar amount therein were the same as the dollar amount under subparagraph (B) (as in effect for such month).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months beginning on or after the date of the enactment of this section.

PART VII—S CORPORATIONS

SEC. 1261. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

"(7) RECOGNITION PERIOD.—

"(A) IN GENERAL.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

"(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

"(i) subparagraph (A) shall be applied without regard to the phrase '10-year', and

"(ii) subparagraph (B) shall not apply.".

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

PART VIII—BROADBAND INCENTIVES

SEC. 1271. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48C the following new section:

"SEC. 48D. BROADBAND INTERNET ACCESS CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

"(1) the current generation broadband credit, plus

"(2) the next generation broadband credit.

"(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

"(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit

for any taxable year is equal to 10 percent (20 percent in the case of qualified subscribers which are unserved subscribers) of the qualified broadband expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified broadband expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

1 "(B) next generation broadband services
2 are provided through such equipment to quali-
3 fied subscribers.
4 "(2) LIMITATION.—
5 "(A) IN GENERAL.—Qualified broadband
6 expenditures shall be taken into account under
7 paragraph (1) only with respect to qualified
8 equipment—
9 "(i) the original use of which com-
10 mences with the taxpayer, and
11 "(ii) which is placed in service, after
12 December 31, 2008, and before January 1,
13 2011.
14 "(B) SALE-LEASEBACKS.—For purposes of
15 subparagraph (A), if property—
16 "(i) is originally placed in service
17 after December 31, 2008, by any person,
18 and
19 "(ii) sold and leased back by such per-
20 son within 3 months after the date such
21 property was originally placed in service,
22 such property shall be treated as originally
23 placed in service not earlier than the date on
24 which such property is used under the leaseback
25 referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES FOR CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(1) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas and the unserved areas which the equipment is capable of serving with current generation broadband services, and

"(2) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

"(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 5,000,000 bits per second to the subscriber and at least 1,000,000 bits per second from the subscriber (at least 3,000,000 bits per second to the subscriber and at least 768,000 bits per second from the subscriber in the case of service through radio transmission of energy).

"(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

"(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 100,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 20,000,000 bits per second from the subscriber (or its equivalent as so measured).

"(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

"(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

"(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

1 "(10) PACKET SWITCHING.—The term 'packet
2 switching' means controlling or routing the path of
3 a digitized transmission signal which is assembled
4 into packets or cells.
5 "(11) PROVIDER.—The term 'provider' means,
6 with respect to any qualified equipment any—
7 "(A) cable operator,
8 "(B) commercial mobile service carrier,
9 "(C) open video system operator,
10 "(D) satellite carrier,
11 "(E) telecommunications carrier, or
12 "(F) other wireless carrier,
13 providing current generation broadband services or
14 next generation broadband services to subscribers
15 through such qualified equipment.
16 "(12) PROVISION OF SERVICES.—A provider
17 shall be treated as providing services to 1 or more
18 subscribers if—
19 "(A) such a subscriber has been passed by
20 the provider's equipment and can be connected
21 to such equipment for a standard connection
22 fee,
23 "(B) the provider is physically able to de-
24 liver current generation broadband services or
25 next generation broadband services, as applica-

ble, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by 1 or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier or broadband-over-powerline operator,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or

leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal

to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

"(14) QUALIFIED BROADBAND EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified broadband expenditure' means any amount—

"(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

1 "(ii) incurred after December 31,
2 2008, and before January 1, 2011.
3 "(B) CERTAIN SATELLITE EXPENDITURES
4 EXCLUDED.—Such term shall not include any
5 expenditure with respect to the launching of
6 any satellite equipment.
7 "(C) LEASED EQUIPMENT.—Such term
8 shall include so much of the purchase price paid
9 by the lessor of equipment subject to a lease de-
10 scribed in subsection (c)(2)(B) as is attrib-
11 utable to expenditures incurred by the lessee
12 which would otherwise be described in subpara-
13 graph (A).
14 "(15) QUALIFIED SUBSCRIBER.—The term
15 'qualified subscriber' means—
16 "(A) with respect to the provision of cur-
17 rent generation broadband services—
18 "(i) any nonresidential subscriber
19 maintaining a permanent place of business
20 in a rural area, an underserved area, or an
21 unserved area, or
22 "(ii) any residential subscriber resid-
23 ing in a dwelling located in a rural area,
24 an underserved area, or an unserved area
25 which is not a saturated market, and

"(B) with respect to the provision of next generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area , or

"(ii) any residential subscriber.

"(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

"(17) RURAL AREA.—The term 'rural area' means any census tract which—

"(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

"(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

"(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

"(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

"(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

"(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include any commercial mobile service carrier.

"(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential

subscribers maintaining permanent places of business located in such area.

"(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

"(A) an empowerment zone or enterprise community designated under section 1391,

"(B) the District of Columbia Enterprise Zone established under section 1400,

"(C) a renewal community designated under section 1400E, or

"(D) a low-income community designated under section 45D.

"(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(26) UNSERVED AREA.—The term 'unserved area' means any census tract in which no current generation broadband services are provided, as certified by the State in which such tract is located not later than September 30, 2009.

"(27) UNSERVED SUBSCRIBER.—The term 'unserved subscriber' means any residential subscriber residing in a dwelling located in an unserved area or nonresidential subscriber maintaining a permanent place of business located in an unserved area.".

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following:

"(6) the broadband Internet access credit."

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end the following new clause:

"(v) from the sale of property subject to a lease described in section 48D(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified broadband expenditures which would be

determined under section 48D for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding after clause (v) the following new clause:

''(vi) the portion of the basis of any qualified equipment attributable to qualified broadband expenditures under section 48D.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48C the following:

''Sec. 48D. Broadband internet access credit''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17), (23), (24), and (26) of section

48D(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48D—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the

last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or rate-making procedures that would have the effect of eliminating or reducing any credit or portion thereof allowed under section 48D of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48D of the In-

1 ternal Revenue Code of 1986 (as added by this sec-
2 tion) to provide incentives for the purchase, installa-
3 tion, and connection of equipment and facilities of-
4 fering expanded broadband access to the Internet for
5 users in certain low income and rural areas of the
6 United States, as well as to residential users nation-
7 wide, in a manner that maintains competitive neu-
8 trality among the various classes of providers of
9 broadband services. Accordingly, the Secretary of
10 the Treasury shall prescribe such regulations as may
11 be necessary or appropriate to carry out the pur-
12 poses of section 48D of such Code, including—
13 (A) regulations to determine how and when
14 a taxpayer that incurs qualified broadband ex-
15 penditures satisfies the requirements of section
16 48D of such Code to provide broadband serv-
17 ices, and
18 (B) regulations describing the information,
19 records, and data taxpayers are required to pro-
20 vide the Secretary to substantiate compliance
21 with the requirements of section 48D of such
22 Code.
23 (g) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to expenditures incurred after De-
25 cember 31, 2008.

PART IX—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

SEC. 1281. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

(2) Internal Revenue Service Notice 2008–83 is inconsistent with the congressional intent in enacting such section 382(m).

(3) The legal authority to prescribe Internal Revenue Service Notice 2008–83 is doubtful.

(4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008–83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation

on built-in losses following an ownership change of a bank.

(b) DETERMINATION OF FORCE AND EFFECT OF INTERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING BANKS FROM LIMITATION ON CERTAIN BUILT–IN LOSSES FOLLOWING OWNERSHIP CHANGE.—

(1) IN GENERAL.—Internal Revenue Service Notice 2008–83—

(A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and

(B) shall have no force or effect with respect to any ownership change after such date.

(2) BINDING CONTRACTS.—Notwithstanding paragraph (1), Internal Revenue Service Notice 2008–83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009, if such change—

(A) is pursuant to a written binding contract entered into on or before such date, or

(B) is pursuant to a written agreement entered into on or before such date and such

agreement was described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required by reason of such ownership change.

Subtitle D—Manufacturing Recovery Provisions

SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS TO FACILITIES MANUFACTURING INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) is amended—

(1) by striking ''For purposes of this paragraph, the term'' and inserting ''For purposes of this paragraph—

''(i) IN GENERAL.—The term'', and

(2) by striking the last sentence and inserting the following new clauses:

''(ii) CERTAIN FACILITIES INCLUDED.—Such term includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

"(I) such facilities are located on the same site as the manufacturing facility, and

"(II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

"(iii) SPECIAL RULES FOR BONDS ISSUED IN 2009 AND 2010.—In the case of any issue made after the date of enactment of this clause and before January 1, 2011, clause (ii) shall not apply and the net proceeds from a bond shall be considered to be used to provide a manufacturing facility if such proceeds are used to provide—

"(I) a facility which is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or

"(II) a facility which is functionally related and subordinate to a manufacturing facility (determined without regard to this subclause) if such facility is located on the same site as the manufacturing facility.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED ENERGY FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4), and by adding at the end the following new paragraph:

''(5) the qualifying advanced energy project credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

1 "(1) IN GENERAL.—For purposes of subsection
2 (a), the qualified investment for any taxable year is
3 the basis of eligible property placed in service by the
4 taxpayer during such taxable year which is part of
5 a qualifying advanced energy project—
6 "(A)(i) the construction, reconstruction, or
7 erection of which is completed by the taxpayer
8 after October 31, 2008, or
9 "(ii) which is acquired by the taxpayer if
10 the original use of such eligible property com-
11 mences with the taxpayer after October 31,
12 2008, and
13 "(B) with respect to which depreciation (or
14 amortization in lieu of depreciation) is allow-
15 able.
16 "(2) CERTAIN QUALIFIED PROGRESS EXPENDI-
17 TURES RULES MADE APPLICABLE.—Rules similar to
18 the rules of subsections (c)(4) and (d) of section 46
19 (as in effect on the day before the enactment of the
20 Revenue Reconciliation Act of 1990) shall apply for
21 purposes of this section.
22 "(3) LIMITATION.—The amount which is treat-
23 ed for all taxable years with respect to any quali-
24 fying advanced energy project shall not exceed the

1 amount designated by the Secretary as eligible for
2 the credit under this section.
3 ''(c) DEFINITIONS.—
4 ''(1) QUALIFYING ADVANCED ENERGY
5 PROJECT.—
6 ''(A) IN GENERAL.—The term 'qualifying
7 advanced energy project' means a project—
8 ''(i) which re-equips, expands, or es-
9 tablishes a manufacturing facility for the
10 production of property which is—
11 ''(I) designed to be used to
12 produce energy from the sun, wind,
13 geothermal deposits (within the mean-
14 ing of section 613(e)(2)), or other re-
15 newable resources,
16 ''(II) designed to manufacture
17 fuel cells, microturbines, or an energy
18 storage system for use with electric or
19 hybrid-electric motor vehicles,
20 ''(III) designed to manufacture
21 electric grids to support the trans-
22 mission of intermittent sources of re-
23 newable energy, including storage of
24 such energy,

"(IV) designed to capture and sequester carbon dioxide emissions,

"(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies), or

"(VI) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary, and

"(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

"(B) EXCEPTION.—Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

"(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is part of a qualifying advanced energy project and is necessary

for the production of property described in paragraph (1)(A)(i).

"(d) QUALIFYING ADVANCED ENERGY PROJECT PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

"(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed $2,000,000,000.

"(2) CERTIFICATION.—

"(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

"(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification

shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

"(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

"(3) SELECTION CRITERIA.—In determining which qualifying advanced energy projects to certify under this section, the Secretary—

"(A) shall take into consideration only those projects where there is a reasonable expectation of commercial viability, and

"(B) shall take into consideration which projects—

"(i) will provide the greatest domestic job creation (both direct and indirect) during the credit period,

"(ii) will provide the greatest net impact in avoiding or reducing air pollutants

or anthropogenic emissions of greenhouse gases,

"(iii) have the greatest readiness for commercial employment, replication, and further commercial use in the United States,

"(iv) will provide the greatest benefit in terms of newness in the commercial market,

"(v) have the lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain), and

"(vi) have the shortest project time from certification to completion.

"(4) REVIEW AND REDISTRIBUTION.—

"(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

"(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

"(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

"(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

"(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

"(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

"(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified invest-

ment for which a credit is allowed under section 48, 48A, or 48B.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualifying advanced energy project under section 48C.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

''48C. Qualifying advanced energy project credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1303. INCENTIVES FOR MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

(a) DEDUCTION FOR MANUFACTURING FACILITIES.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179E the following new section:

"SEC. 179F. ELECTION TO EXPENSE MANUFACTURING FACILITIES PRODUCING PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES AND COMPONENTS.

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the applicable percentage of the cost of any qualified plug-in electric drive motor vehicle manufacturing facility property as an expense which is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified manufacturing facility property is placed in service.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

"(1) 100 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

"(2) 50 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

"(c) ELECTION.—

"(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

"(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

"(d) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified plug-in electric drive motor vehicle manufacturing facility property' means any qualified property—

"(A) the original use of which commences with the taxpayer,

"(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2015, and

"(C) no written binding contract for the construction of which was in effect on or before the date of the enactment of this section.

"(2) QUALIFIED PROPERTY.—

"(A) IN GENERAL.—The term 'qualified property' means any property which is a facility or a portion of a facility used for the production of—

"(i) any new qualified plug-in electric drive motor vehicle (as defined by section 30D(c)), or

"(ii) any eligible component.

"(B) ELIGIBLE COMPONENT.—The term 'eligible component' means any battery, any electric motor or generator, or any power control unit which is designed specifically for use with a new qualified plug-in electric drive motor vehicle (as so defined).

"(e) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subsection (a) shall be reduced by an amount equal to—

"(1) the total amount of such costs (determined before the application of this subsection), multiplied by

"(2) the percentage of property expected to be produced which is not qualified property.

"(f) ELECTION TO RECEIVE LOAN IN LIEU OF DEDUCTION.—

"(1) IN GENERAL.—If a taxpayer elects to have this subsection apply for any taxable year—

"(A) subsection (a) shall not apply to any qualified plug-in electric drive motor vehicle manufacturing facility property placed in service by the taxpayer,

"(B) such taxpayer shall receive a loan from the Secretary in an amount and under such terms as provided in section 1303(b) of the American Recovery and Reinvestment Tax Act of 2009, and

"(C) in the taxable year in which such qualified loan is repaid, each of the limitations described in paragraph (2) shall be increased by the qualified plug-in electric drive motor vehicle manufacturing facility amount which is—

"(i) determined under paragraph (3), and

"(ii) allocated to such limitation under paragraph (4).

"(2) LIMITATIONS TO BE INCREASED.—The limitations described in this paragraph are—

"(A) the limitation imposed by section 38(c), and

"(B) the limitation imposed by section 53(c).

"(3) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—For purposes of this paragraph—

"(A) IN GENERAL.—The qualified plug-in electric drive motor vehicle manufacturing facility amount is an amount equal to the applicable percentage of any qualified plug-in electric drive motor vehicle manufacturing facility which is placed in service during the taxable year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

"(i) 35 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service before January 1, 2012, and

"(ii) 17.5 percent, in the case of qualified plug-in electric drive motor vehicle manufacturing facility property which is placed in service after December 31, 2011, and before January 1, 2015.

"(C) SPECIAL RULE FOR DUAL USE PROPERTY.—In the case of any qualified plug-in electric drive motor vehicle manufacturing facility property which is used to produce both qualified property and other property which is not qualified property, the amount of costs taken into account under subparagraph (A) shall be reduced by an amount equal to—

"(i) the total amount of such costs (determined before the application of this subparagraph), multiplied by

"(ii) the percentage of property expected to be produced which is not qualified property.

"(4) ALLOCATION OF QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE MANUFACTURING FACILITY AMOUNT.—The taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the qualified plug-in electric drive motor vehicle manufacturing

1 facility amount for the taxable year which is to be
2 allocated to each of the limitations described in
3 paragraph (2) for such taxable year.
4 ''(5) ELECTION.—
5 ''(A) IN GENERAL.—An election under this
6 subsection for any taxable year shall be made
7 on the taxpayer's return of the tax imposed by
8 this chapter for the taxable year. Such election
9 shall be made in such manner as the Secretary
10 may by regulations prescribe.
11 ''(B) ELECTION IRREVOCABLE.—Any elec-
12 tion made under this subsection may not be re-
13 voked except with the consent of the Sec-
14 retary.''.
15 (b) LOAN PROGRAM.—
16 (1) IN GENERAL.—The Secretary of the Treas-
17 ury (or the Secretary's delegate) shall provide a loan
18 to any person who is allowed a deduction under sec-
19 tion 179F of the Internal Revenue Code and who
20 makes an election under section 179F(f) of such
21 Code in an amount equal to the qualified plug-in
22 electric drive motor vehicle manufacturing facility
23 amount (as defined in such section 179F(f)).
24 (2) TERM.—Such loan shall be in the form of
25 a senior note issued by the taxpayer to the Secretary

of the Treasury, secured by the qualified plug-in electric drive motor vehicle manufacturing facility property (as defined in section 179F of the Internal Revenue Code of 1986) of the taxpayer, and having a term of 20 years and interest payable at the applicable Federal rate (as determined under section 1274(d) of the Internal Revenue Code of 1986).

(3) APPROPRIATIONS.—There is hereby appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this subsection.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 179F. Election to expense manufacturing facilities producing plug-in electric drive motor vehicle and components.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Economic Recovery Tools

SEC. 1401. RECOVERY ZONE BONDS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

"PART III—RECOVERY ZONE BONDS

"Sec. 1400U–1. Allocation of recovery zone bonds.
"Sec. 1400U–2. Recovery zone economic development bonds.
"Sec. 1400U–3. Recovery zone facility bonds.

"SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.

"(a) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States—

"(A) by allocating 1 percent of each such limitation to each State, and

"(B) by allocating the remainder of each such limitation among the States in the proportion that each State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

"(2) 2008 STATE EMPLOYMENT DECLINE.—For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of—

"(A) the number of individuals employed in such State determined for December 2007, over

"(B) the number of individuals employed in such State determined for December 2008.

"(3) ALLOCATIONS BY STATES.—

"(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation

among the counties and large municipalities in such State in the proportion the each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State.

"(B) LARGE MUNICIPALITIES.—For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

"(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES.—For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

"(4) NATIONAL LIMITATIONS.—

"(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—There is a national recovery zone economic development bond limitation of $5,000,000,000.

"(B) RECOVERY ZONE FACILITY BONDS.—There is a national recovery zone facility bond limitation of $10,000,000,000.

"(b) RECOVERY ZONE.—For purposes of this part, the term 'recovery zone' means—

"(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress, and

"(2) any area for which a designation as an empowerment zone or renewal community is in effect.

"SEC. 1400U–2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

"(a) IN GENERAL.—In the case of a recovery zone economic development bond—

"(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

"(2) subsection (b) of such section shall be applied by substituting '40 percent' for '35 percent'.

"(b) RECOVERY ZONE ECONOMIC DEVELOPMENT BOND.—

"(1) IN GENERAL.—For purposes of this section, the term 'recovery zone economic development bond' means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

"(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for one or more qualified economic development purposes, and

"(B) the issuer designates such bond for purposes of this section.

"(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U–1.

"(c) QUALIFIED ECONOMIC DEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

"(1) capital expenditures paid or incurred with respect to property located in such zone,

"(2) expenditures for public infrastructure and construction of public facilities, and

"(3) expenditures for job training and educational programs.

"SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.

"(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any recovery zone facility bond.

"(b) RECOVERY ZONE FACILITY BOND.—

"(1) IN GENERAL.—For purposes of this section, the term 'recovery zone facility bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

"(B) such bond is issued before January 1, 2011, and

"(C) the issuer designates such bond for purposes of this section.

"(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

"(c) RECOVERY ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the recovery zone took effect,

"(B) the original use of which in the recovery zone commences with the taxpayer, and

"(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

"(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

"(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

"(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

"(d) NONAPPLICATION OF CERTAIN RULES.—Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

"PART III. RECOVERY ZONE BONDS.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end the following new subsection:

"(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

"(1) ALLOCATION OF LIMITATION.—

"(A) IN GENERAL.—The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

"(B) NATIONAL LIMITATION.—There is a national tribal economic development bond limitation of $2,000,000,000.

"(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of a tribal economic development bond—

"(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

"(B) the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and

"(C) section 146 shall not apply.

"(3) TRIBAL ECONOMIC DEVELOPMENT BOND.—

"(A) IN GENERAL.—For purposes of this section, the term 'tribal economic development bond' means any bond issued by an Indian tribal government—

"(i) the interest on which would be exempt from tax under section 103 if issued by a State or local government, and

"(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

"(B) EXCEPTIONS.—The term tribal economic development bond shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

"(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

"(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

"(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limita-

tion allocated to such government under paragraph (1).''.

(b) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the effects of the amendment made by subsection (a). Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the study conducted under this paragraph, including the Secretary's recommendations regarding such amendment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1403. MODIFICATIONS TO NEW MARKETS TAX CREDIT.

(a) INCREASE IN NATIONAL LIMITATION.—

(1) IN GENERAL.—Section 45D(f)(1) is amended—

(A) by striking ''and'' at the end of subparagraph (C),

(B) by striking '', 2007, 2008, and 2009.'' in subparagraph (D), and inserting ''and 2007,'', and

(C) by adding at the end the following new subparagraphs:

''(E) $5,000,000,000 for 2008, and

"(F) $5,000,000,000 for 2009.".

(2) SPECIAL RULE FOR ALLOCATION OF INCREASED 2008 LIMITATION.—The amount of the increase in the new markets tax credit limitation for calendar year 2008 by reason of the amendments made by subsection (a) shall be allocated in accordance with section 45D(f)(2) of the Internal Revenue Code of 1986 to qualified community development entities (as defined in section 45D(c) of such Code) which—

(A) submitted an allocation application with respect to calendar year 2008, and

(B)(i) did not receive an allocation for such calendar year, or

(ii) received an allocation for such calendar year in an amount less than the amount requested in the allocation application.

(b) ALTERNATIVE MINIMUM TAX RELIEF.—

(1) IN GENERAL.—Section 38(c)(4)(B) is amended by redesignating clauses (v) through (viii) as clauses (vi) through (ix), respectively, and by inserting after clause (iv) the following new clause:

"(v) the credit determined under section 45D to the extent that such credit is attributable to a qualified equity invest-

ment which is designated as such under section 45D(b)(1)(C) pursuant to an allocation of the new markets tax credit limitation for calendar year 2009,''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to credits determined under section 45D of the Internal Revenue Code of 1986 in taxable years ending after the date of the enactment of this Act, and to carrybacks of such credits.

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

''(A) IN GENERAL.—In applying paragraph (2)(A), there shall not be taken into account

tax-exempt obligations issued during 2009 or 2010.

"(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

"(C) REFUNDINGS.—For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).".

(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: "That portion of any obligation not taken into account under paragraph (2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010.—

"(i) INCREASE IN LIMITATION.—In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '$30,000,000' for '$10,000,000'.

"(ii) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

"(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS.—In the case of a qualified financing issue issued during 2009 or 2010—

"(I) subparagraph (F) shall not apply, and

"(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).

"(iv) QUALIFIED FINANCING ISSUE.—For purposes of this subparagraph, the term 'qualified financing issue' means any composite, pooled, or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to 1 or more ultimate borrowers each of whom is a qualified borrower.

"(v) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

"(vi) QUALIFIED BORROWER.—For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

"(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued

on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DURING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 142(i) is amended by striking ''operate at speeds in excess of'' and inserting ''be capable of attaining a maximum speed in excess of''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

PART III—TAX CREDIT BONDS FOR SCHOOLS

SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.

''(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school

construction bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under subsection (d) for such calendar year to such issuer.

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

"(1) $5,000,000,000 for 2009,

"(2) $5,000,000,000 for 2010, and

"(3) except as provided in subsection (e), zero after 2010.

"(d) LIMITATION ALLOCATED AMONG STATES.—

"(1) IN GENERAL.—The limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

"(2) MINIMUM ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the amount allocated to such State under this subsection for such year is not less than an amount equal to such State's adjusted minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

"(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is equal to the product of—

"(i) the quotient of—

"(I) the amount the State is eligible to receive under section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(d)) for the most recent fiscal year ending before such calendar year, divided by

"(II) the amount all States are eligible to receive under section 1124 of such Act (20 U.S.C. 6333) for such fiscal year, multiplied by

"(ii) 100.

"(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2009, and $200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

"(e) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(1) the amount allocated under subsection (d) to any State, exceeds

"(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended by striking "or" at the end of subparagraph (C), by

inserting "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) a qualified school construction bond,".

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).".

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 54F. Qualified school construction bonds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Section 54E(c)(1) is amended by striking "and 2009" and inserting "and $1,400,000,000 for 2009 and 2010".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART IV—BUILD AMERICA BONDS

SEC. 1531. BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 is amended by adding at the end the following new subpart:

"Subpart J—Build America Bonds

"Sec. 54AA. Build America bonds.

"SEC. 54AA. BUILD AMERICA BONDS.

"(a) IN GENERAL.—If a taxpayer holds a build America bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is 35 percent of the amount of interest payable by the issuer with respect to such date (40 percent in the case of an issuer described in section 148(f)(4)(D) (determined without regard to clauses (v), (vi), and (vii) thereof and by sub-

1 stituting '$30,000,000' for '$5,000,000' each place it ap-
2 pears therein).
3 "(c) LIMITATION BASED ON AMOUNT OF TAX.—
4 "(1) IN GENERAL.—The credit allowed under
5 subsection (a) for any taxable year shall not exceed
6 the excess of—
7 "(A) the sum of the regular tax liability
8 (as defined in section 26(b)) plus the tax im-
9 posed by section 55, over
10 "(B) the sum of the credits allowable
11 under this part (other than subpart C and this
12 subpart).
13 "(2) CARRYOVER OF UNUSED CREDIT.—If the
14 credit allowable under subsection (a) exceeds the
15 limitation imposed by paragraph (1) for such taxable
16 year, such excess shall be carried to the succeeding
17 taxable year and added to the credit allowable under
18 subsection (a) for such taxable year (determined be-
19 fore the application of paragraph (1) for such suc-
20 ceeding taxable year).
21 "(d) BUILD AMERICA BOND.—
22 "(1) IN GENERAL.—For purposes of this sec-
23 tion, the term 'build America bond' means any obli-
24 gation (other than a private activity bond) if—

"(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

"(B) such obligation is issued before January 1, 2011, and

"(C) the issuer makes an irrevocable election to have this section apply.

"(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

"(A) for purposes of section 149(b), a build America bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6431,

"(B) for purposes of section 148, the yield on a build America bond shall be determined without regard to the credit allowed under subsection (a), and

"(C) a bond shall not be treated as a build America bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

"(e) INTEREST PAYMENT DATE.—For purposes of this section, the term 'interest payment date' means any

1 date on which the holder of record of the build America
2 bond is entitled to a payment of interest under such bond.
3 "(f) SPECIAL RULES.—
4 "(1) INTEREST ON BUILD AMERICA BONDS IN-
5 CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME
6 TAX PURPOSES.—For purposes of this title, interest
7 on any build America bond shall be includible in
8 gross income.
9 "(2) APPLICATION OF CERTAIN RULES.—Rules
10 similar to the rules of subsections (f), (g), (h), and
11 (i) of section 54A shall apply for purposes of the
12 credit allowed under subsection (a).
13 "(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED
14 BEFORE 2011.—In the case of a qualified bond issued be-
15 fore January 1, 2011—
16 "(1) ISSUER ALLOWED REFUNDABLE CRED-
17 IT.—In lieu of any credit allowed under this section
18 with respect to such bond, the issuer of such bond
19 shall be allowed a credit as provided in section 6431.
20 "(2) QUALIFIED BOND.—For purposes of this
21 subsection, the term 'qualified bond' means any
22 build America bond issued as part of an issue if—
23 "(A) 100 percent of the available project
24 proceeds (as defined in section 54A) of such

issue are to be used for capital expenditures, and

"(B) the issuer makes an irrevocable election to have this subsection apply.

"(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6431.".

(b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE 2011.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

"SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

"(a) IN GENERAL.—In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

"(b) PAYMENT OF CREDIT.—The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date (40 percent in the case of an issuer described in section 148(f)(4)(D) (determined without regard to

clauses (v), (vi), and (vii) thereof and by substituting '$30,000,000' for '$5,000,000' each place it appears therein).

''(c) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

''(d) INTEREST PAYMENT DATE.—For purposes of this subsection, the term 'interest payment date' means each date on which interest is payable by the issuer under the terms of the bond.

''(e) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' has the meaning given such term in section 54AA(g).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or 6428'' and inserting ''6428, or 6431,''.

(2) Section 54A(c)(1)(B) is amended by striking ''subpart C'' and inserting ''subparts C and J''.

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking ''and I'' and inserting '', I, and J''.

(4) Section 6401(b)(1) is amended by striking ''and I'' and inserting ''I, and J''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Subpart J. Build America bonds.".

(6) The table of section for subchapter B of chapter 65 is amended by adding at the end the following new item:

"Sec. 6431. Credit for qualified bonds allowed to issuer.".

(d) TRANSITIONAL COORDINATION WITH STATE LAW.—Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any build America bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle G—Economic Recovery Payments to Certain Individuals

SEC. 1601. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS.

(a) AUTHORITY TO MAKE PAYMENTS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Subject to paragraph (5)(B), the Secretary of the Treasury shall make a $300 payment to each individual who, for any month during the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of this Act, is entitled to a benefit payment described in clause (i), (ii), or (iii) of subparagraph (B) or is eligible for a SSI cash benefit described in subparagraph (C).

(B) BENEFIT PAYMENT DESCRIBED.—For purposes of subparagraph (A):

(i) TITLE II BENEFIT.—A benefit payment described in this clause is a monthly insurance benefit payable (without regard to sections 202(j)(1) and 223(b) of the So-

1 cial Security Act (42 U.S.C. 402(j)(1),
2 423(b)) under—
3 (I) section 202(a) of such Act
4 (42 U.S.C. 402(a));
5 (II) section 202(b) of such Act
6 (42 U.S.C. 402(b));
7 (III) section 202(c) of such Act
8 (42 U.S.C. 402(c));
9 (IV) section 202(d)(1)(B)(ii) of
10 such Act (42 U.S.C.
11 402(d)(1)(B)(ii));
12 (V) section 202(e) of such Act
13 (42 U.S.C. 402(e));
14 (VI) section 202(f) of such Act
15 (42 U.S.C. 402(f));
16 (VII) section 202(g) of such Act
17 (42 U.S.C. 402(g));
18 (VIII) section 202(h) of such Act
19 (42 U.S.C. 402(h));
20 (IX) section 223(a) of such Act
21 (42 U.S.C. 423(a));
22 (X) section 227 of such Act (42
23 U.S.C. 427); or
24 (XI) section 228 of such Act (42
25 U.S.C. 428).

(ii) RAILROAD RETIREMENT BENEFIT.—A benefit payment described in this clause is a monthly annuity or pension payment payable (without regard to section 5(a)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(a)(ii)) under—

(I) section 2(a)(1) of such Act (45 U.S.C. 231a(a)(1));

(II) section 2(c) of such Act (45 U.S.C. 231a(c));

(III) section 2(d)(1)(i) of such Act (45 U.S.C. 231a(d)(1)(i));

(IV) section 2(d)(1)(ii) of such Act (45 U.S.C. 231a(d)(1)(ii));

(V) section 2(d)(1)(iii)(C) of such Act to an adult disabled child (45 U.S.C. 231a(d)(1)(iii)(C));

(VI) section 2(d)(1)(iv) of such Act (45 U.S.C. 231a(d)(1)(iv));

(VII) section 2(d)(1)(v) of such Act (45 U.S.C. 231a(d)(1)(v)); or

(VIII) section 7(b)(2) of such Act (45 U.S.C. 231f(b)(2)) with respect to any of the benefit payments described in clause (i) of this subparagraph.

(iii) VETERANS BENEFIT.—A benefit payment described in this clause is a compensation or pension payment payable under—

(I) section 1110, 1117, 1121, 1131, 1141, or 1151 of title 38, United States Code;

(II) section 1310, 1312, 1313, 1315, 1316, or 1318 of title 38, United States Code;

(III) section 1513, 1521, 1533, 1536, 1537, 1541, 1542, or 1562 of title 38, United States Code; or

(IV) section 1805, 1815, or 1821 of title 38, United States Code,

to a veteran, surviving spouse, child, or parent as described in paragraph (2), (3), (4)(A)(ii), or (5) of section 101, title 38, United States Code, who received that benefit during any month within the 3 month period ending with the month which ends prior to the month that includes the date of the enactment of this Act.

(C) SSI CASH BENEFIT DESCRIBED.—A SSI cash benefit described in this subparagraph

is a cash benefit payable under section 1611 (other than under subsection (e)(1)(B) of such section) or 1619(a) of the Social Security Act (42 U.S.C. 1382, 1382h).

(2) REQUIREMENT.—A payment shall be made under paragraph (1) only to individuals who reside in 1 of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, or the Northern Mariana Islands. For purposes of the preceding sentence, the determination of the individual's residence shall be based on the current address of record under a program specified in paragraph (1).

(3) NO DOUBLE PAYMENTS.—An individual shall be paid only 1 payment under this section, regardless of whether the individual is entitled to, or eligible for, more than 1 benefit or cash payment described in paragraph (1).

(4) LIMITATION.—A payment under this section shall not be made—

(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if, for the most recent month of such individual's entitlement in the 3-month period described in paragraph (1),

such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a-8a);

(B) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(iii) if, for the most recent month of such individual's entitlement in the 3 month period described in paragraph (1), such individual's benefit under such paragraph was not payable, or was reduced, by reason of section 1505, 5313, or 5313B of title 38, United States Code;

(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if, for such most recent month, such individual's benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a-8a); or

(D) in the case of any individual whose date of death occurs before the date on which the individual is certified under subsection (b) to receive a payment under this section.

(5) TIMING AND MANNER OF PAYMENTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall commence making payments under this section at the earliest practicable date but in no event later than 120 days after the date of enactment of this Act. The Secretary of the Treasury may make any payment electronically to an individual in such manner as if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of paragraph (1).

(B) DEADLINE.—No payments shall be made under this section after December 31, 2010, regardless of any determinations of entitlement to, or eligibility for, such payments made after such date.

(b) IDENTIFICATION OF RECIPIENTS.—The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of Veterans Affairs shall certify the individuals entitled to receive payments under this section and provide the Secretary of the Treasury with the information needed to disburse such payments. A certification of an individual shall be unaffected by any subsequent determination or redetermination of the individual's entitle-

1 ment to, or eligibility for, a benefit specified in subpara-
2 graph (B) or (C) of subsection (a)(1).

3 (c) TREATMENT OF PAYMENTS.—

4 (1) PAYMENT TO BE DISREGARDED FOR PUR-
5 POSES OF ALL FEDERAL AND FEDERALLY ASSISTED
6 PROGRAMS.—A payment under subsection (a) shall
7 not be regarded as income and shall not be regarded
8 as a resource for the month of receipt and the fol-
9 lowing 9 months, for purposes of determining the
10 eligibility of the recipient (or the recipient's spouse
11 or family) for benefits or assistance, or the amount
12 or extent of benefits or assistance, under any Fed-
13 eral program or under any State or local program fi-
14 nanced in whole or in part with Federal funds.

15 (2) PAYMENT NOT CONSIDERED INCOME FOR
16 PURPOSES OF TAXATION.—A payment under sub-
17 section (a) shall not be considered as gross income
18 for purposes of the Internal Revenue Code of 1986.

19 (3) PAYMENTS PROTECTED FROM ASSIGN-
20 MENT.—The provisions of sections 207 and
21 1631(d)(1) of the Social Security Act (42 U.S.C.
22 407, 1383(d)(1)), section 14(a) of the Railroad Re-
23 tirement Act of 1974 (45 U.S.C. 231m(a)), and sec-
24 tion 5301 of title 38, United States Code, shall
25 apply to any payment made under subsection (a) as

if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of subsection (a)(1).

(4) PAYMENTS SUBJECT TO OFFSET.—Notwithstanding paragraph (3), for purposes of section 3716 of title 31, United States Code, any payment made under this section shall not be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1) and all amounts paid shall be subject to offset to collect delinquent debts.

(d) PAYMENT TO REPRESENTATIVE PAYEES AND FIDUCIARIES.—

(1) IN GENERAL.—In any case in which an individual who is entitled to a payment under subsection (a) and whose benefit payment or cash benefit described in paragraph (1) of that subsection is paid to a representative payee or fiduciary, the payment under subsection (a) shall be made to the individual's representative payee or fiduciary and the entire payment shall be used only for the benefit of the individual who is entitled to the payment.

(2) APPLICABILITY.—

(A) PAYMENT ON THE BASIS OF A TITLE II OR SSI BENEFIT.—Section 1129(a)(3) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(i) or (1)(C) of subsection (a) in the same manner as such section applies to a payment under title II or XVI of such Act.

(B) PAYMENT ON THE BASIS OF A RAILROAD RETIREMENT BENEFIT.—Section 13 of the Railroad Retirement Act (45 U.S.C. 231l) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(ii) of subsection (a) in the same manner as such section applies to a payment under such Act.

(C) PAYMENT ON THE BASIS OF A VETERANS BENEFIT.—Sections 5502, 6106, and 6108 of title 38, United States Code, shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(iii) of subsection (a) in the same manner as those sections apply to a payment under that title.

(e) APPROPRIATION.—Out of any sums in the Treasury of the United States not otherwise appropriated, the following sums are appropriated for the period of fiscal years 2009 and 2010 to carry out this section:

(1) For the Secretary of the Treasury—

(A) such sums as may be necessary to make payments under this section; and

(B) $57,000,000 for administrative costs incurred in carrying out this section and section 36A of the Internal Revenue Code of 1986 (as added by this Act).

(2) For the Commissioner of Social Security, $90,000,000 for the Social Security Administration's Limitation on Administrative Expenses for costs incurred in carrying out this section.

(3) For the Railroad Retirement Board, $1,000,000 for administrative costs incurred in carrying out this section.

(4) For the Secretary of Veterans Affairs, $100,000 for the Information Systems Technology account and $7,100,000 for the General Operating Expenses account for administrative costs incurred in carrying out this section.

Subtitle H—Trade Adjustment Assistance

SEC. 1701. TEMPORARY EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) ASSISTANCE FOR WORKERS.—

(1) IN GENERAL.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2010''.

(2) ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE.—Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking ''5 years'' and inserting ''7 years''.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''2007, and $4,000,000 for the 3-month period beginning on October 1, 2007,'' and inserting ''December 31, 2010''.

(c) ASSISTANCE FOR FARMERS.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking ''through 2007'' and all that follows through the end period and inserting ''through December 31, 2010 to carry out the purposes of this chapter.''.

(d) EXTENSION OF TERMINATION DATES.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is

amended by striking ''December 31, 2007'' each place it appears and inserting ''December 31, 2010''.

(e) SENSE OF THE SENATE REGARDING ADJUSTMENT ASSISTANCE FOR COMMUNITIES.—It is the sense of the Senate that title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) should be amended to assist any community impacted by trade with economic adjustment through—

(1) the coordination of efforts by State and local governments and economic organizations;

(2) the coordination of Federal, State, and local resources;

(3) the creation of community-based development strategies; and

(4) the development and provision of training programs.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 2008.

Subtitle I—Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

SEC. 1801. PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may—

(1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or

(2) offset any past, current, or future distributions of antidumping or countervailing duties assessed with respect to imports from countries that are not parties to the North American Free Trade Agreement in an attempt to recoup any payments described in subsection (b).

(b) PAYMENTS DESCRIBED.—Payments described in this subsection are payments of antidumping or countervailing duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of

1 title VII of the Deficit Reduction Act of 2005 (Public Law
2 109–171; 120 Stat. 154))) that were—
3 (1) assessed and paid on imports of goods from
4 countries that are parties to the North American
5 Free Trade Agreement; and
6 (2) distributed on or after January 1, 2001,
7 and before January 1, 2006.
8 (c) PAYMENT OF FUNDS COLLECTED OR WITH-
9 HELD.—Not later than the date that is 60 days after the
10 date of the enactment of this Act, the Secretary of Home-
11 land Security shall—
12 (1) refund any repayments, or any other
13 recoupment, of payments described in subsection (b);
14 and
15 (2) fully distribute any antidumping or counter-
16 vailing duties that the U.S. Customs and Border
17 Protection is withholding as an offset as described in
18 subsection (a)(2).
19 (d) LIMITATION.—Nothing in this section shall be
20 construed to prevent the Secretary of Homeland Security,
21 or any other person, from requiring repayment of, or at-
22 tempting to otherwise recoup, any payments described in
23 subsection (b) as a result of—
24 (1) a finding of false statements or other mis-
25 conduct by a recipient of such a payment; or

(2) the reliquidation of an entry with respect to which such a payment was made.

Subtitle J—Other Provisions

SEC. 1901. APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS.

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

(5) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

SEC. 1902. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting ''$12,140,000,000,000''.

SEC. 1903. ELECTION TO ACCELERATE THE LOW-INCOME HOUSING TAX CREDIT.

(a) IN GENERAL.—At the election of the taxpayer, the credit determined under section 42 of the Internal Revenue Code of 1986 for the taxpayer's first three taxable years beginning after December 31, 2008, in which credits are allowable for any non-federally subsidized low-income housing project initially placed in service after such date—

(1) with respect to initial investments made pursuant to a binding agreement by such taxpayer after December 31, 2008, and before January 1, 2011, and

(2) only from allocations of a State housing credit ceiling before 2011,

shall be 200 percent of the amount which would (but for this subsection) be so allowable.

(b) ELIGIBILITY FOR ELECTION.—The election under subsection (a) shall take effect with respect to the first taxable year referred to in such subsection only when all rental requirements pursuant to section 42(g)(1) of the Internal Revenue Code of 1986 have been met with respect to such low-income housing project.

(c) REDUCTION IN AGGREGATE CREDIT TO REFLECT ACCELERATED CREDIT.—The aggregate credit allowable to any taxpayer under section 42 of the Internal Revenue Code of 1986 with respect to any investment for taxable years after the first three taxable years referred to in subsection (a) shall be reduced on a pro rata basis by the amount of the increased credit allowable by reason of subsection (a) with respect to such first three taxable years. The preceding sentence shall not be construed to affect whether any taxable year is part of the credit, compliance, or extended use periods under such section 42.

(d) ELECTION.—The election under subsection (a) shall be made at the time and in the manner prescribed by the Secretary of the Treasury or the Secretary's delegate, and, once made, shall be irrevocable. In the case of a partnership, such election shall be made by the partnership.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Assistance for Unemployed Workers and Struggling Families Act".

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

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

Sec. 2000. Short title; table of contents.

Subtitle A—Unemployment Insurance

Sec. 2001. Extension of emergency unemployment compensation program.
Sec. 2002. Increase in unemployment compensation benefits.
Sec. 2003. Unemployment compensation modernization.
Sec. 2004. Temporary assistance for States with advances.

Subtitle B—Assistance for Vulnerable Individuals

Sec. 2101. Emergency fund for TANF program.
Sec. 2102. Extension of TANF supplemental grants.
Sec. 2103. Clarification of authority of states to use tanf funds carried over from prior years to provide tanf benefits and services.
Sec. 2104. Temporary reinstatement of authority to provide Federal matching payments for State spending of child support incentive payments.

Subtitle A—Unemployment Insurance

SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment

Compensation Extension Act of 2008 (Public Law 110-449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

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

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

''(2) to the employment security administration account (as established by section 901 of the Social

Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

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

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) FEDERAL-STATE AGREEMENTS.—Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (hereinafter in this section referred to as the ''Secretary''). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) ADDITIONAL COMPENSATION.—Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this

1 section) otherwise entitled under the State law to re-
2 ceive regular compensation, as if such State law had
3 been modified in a manner such that the amount of
4 regular compensation (including dependents' allow-
5 ances) payable for any week shall be equal to the
6 amount determined under the State law (before the
7 application of this paragraph) plus an additional
8 $25.

9 (2) ALLOWABLE METHODS OF PAYMENT.—Any
10 additional compensation provided for in accordance
11 with paragraph (1) shall be payable either—

12 (A) as an amount which is paid at the
13 same time and in the same manner as any reg-
14 ular compensation otherwise payable for the
15 week involved; or

16 (B) at the option of the State, by pay-
17 ments which are made separately from, but on
18 the same weekly basis as, any regular com-
19 pensation otherwise payable.

20 (c) NONREDUCTION RULE.—An agreement under
21 this section shall not apply (or shall cease to apply) with
22 respect to a State upon a determination by the Secretary
23 that the method governing the computation of regular
24 compensation under the State law of that State has been
25 modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

(d) PAYMENTS TO STATES.—

(1) IN GENERAL.—

(A) FULL REIMBURSEMENT.—There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of additional compensation (as described in subsection (b)(1)) paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) TERMS OF PAYMENTS.—Sums payable to any State by reason of such State's having

an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010.—In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION.—Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

(f) FRAUD AND OVERPAYMENTS.—The provisions of section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2356) shall apply

with respect to additional compensation (as described in subsection (b)(1)) to the same extent and in the same manner as in the case of emergency unemployment compensation.

(g) APPLICATION TO OTHER UNEMPLOYMENT BENEFITS.—

(1) IN GENERAL.—Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (i)(3) to the same extent and in the same manner as if those benefits were regular compensation.

(2) ELIGIBILITY AND TERMINATION RULES.—Additional compensation (as described in subsection (b)(1))—

(A) shall not be payable, pursuant to this subsection, with respect to any unemployment benefits described in subsection (i)(3) for any week beginning on or after the date specified in subsection (e)(1)(B), except in the case of an individual who was eligible to receive additional compensation (as so described) in connection with any regular compensation or any unemployment benefits described in subsection (i)(3)

for any period of unemployment ending before such date; and

(B) shall in no event be payable for any week beginning after the date specified in subsection (e)(3).

(h) DISREGARD OF ADDITIONAL COMPENSATION FOR PURPOSES OF MEDICAID AND SCHIP.—A State that enters into an agreement under this section shall disregard the monthly equivalent of $25 per week for any individual who receives additional compensation under subsection (b)(1) in considering the amount of income of the individual for any purposes under the Medicaid program under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act.

(i) DEFINITIONS.—For purposes of this section—

(1) the terms ''compensation'', ''regular compensation'', ''benefit year'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note);

(2) the term ''emergency unemployment compensation'' means emergency unemployment compensation under title IV of the Supplemental Appro-

priations Act, 2008 (Public Law 110–252; 122 Stat. 2353); and

(3) any reference to unemployment benefits described in this paragraph shall be considered to refer to—

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970); and

(B) unemployment compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary.

SEC. 2003. UNEMPLOYMENT COMPENSATION MODERNIZATION.

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

"Special Transfers for Modernization

"(f)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter 'incentive payments') to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unem-

ployment account, in accordance with succeeding provisions of this subsection.

"(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying $7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

"(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State—

"(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

"(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

"(2) The State law of a State meets the requirements of this paragraph if such State law—

"(A) uses a base period that includes the most recently completed calendar quarter before the start

of the benefit year for purposes of determining eligibility for unemployment compensation; or

"(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

"(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

"(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time (and not full-time) work, except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work.

"(B) An individual shall not be disqualified from regular unemployment compensation for sepa-

rating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term 'compelling family reason' means the following:

"(i) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).

"(ii) The illness or disability of a member of the individual's immediate family (as defined by the Secretary of Labor).

"(iii) The need for the individual to accompany such individual's spouse—

"(I) to a place from which it is impractical for such individual to commute; and

"(II) due to a change in location of the spouse's employment.

"(C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State

unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such programs shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

''(D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has

any dependents (as defined by State law), in an amount equal to at least $15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than $50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less).

''(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after the date of the enactment of this subsection prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

''(B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions

which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.

''(ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

''(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

''(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

''(iii) No application under subparagraph (A) may be considered if submitted before the date of the enactment

of this subsection or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2010. In the case of a State in which the first day of the first regularly scheduled session of the State legislature beginning after the date of enactment of this subsection begins after December 31, 2010, the preceding sentence shall be applied by substituting 'October 1, 2011' for 'October 1, 2010'.

''(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

''(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

1 "(6) Out of any money in the Federal unemployment
2 account not otherwise appropriated, the Secretary of the
3 Treasury shall reserve $7,000,000,000 for incentive pay-
4 ments under this subsection. Any amount so reserved shall
5 not be taken into account for purposes of any determina-
6 tion under section 902, 910, or 1203 of the amount in
7 the Federal unemployment account as of any given time.
8 Any amount so reserved for which the Secretary of the
9 Treasury has not received a certification under paragraph
10 (4)(B) by the deadline described in paragraph (4)(C)(iii)
11 shall, upon the close of fiscal year 2011, become unre-
12 stricted as to use as part of the Federal unemployment
13 account.

14 "(7) For purposes of this subsection, the terms 'ben-
15 efit year', 'base period', and 'week' have the respective
16 meanings given such terms under section 205 of the Fed-
17 eral-State Extended Unemployment Compensation Act of
18 1970 (26 U.S.C. 3304 note).

19 "Special Transfer in Fiscal Year 2009 for Administration

20 "(g)(1) In addition to any other amounts, the Sec-
21 retary of the Treasury shall transfer from the employment
22 security administration account to the account of each
23 State in the Unemployment Trust Fund, within 30 days
24 after the date of the enactment of this subsection, the

amount determined with respect to such State under paragraph (2).

"(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

"(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

"(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

"(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

"(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

"(D) staff-assisted reemployment services for unemployment compensation claimants.".

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

SEC. 2004. TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.

Section 1202(b) of the Social Security Act (42 U.S.C. 1322(b)) is amended by adding at the end the following new paragraph:

"(10)(A) With respect to the period beginning on the date of enactment of this paragraph and ending on December 31, 2010—

"(i) any interest payment otherwise due from a State under this subsection during such period shall be deemed to have been made by the State; and

"(ii) no interest shall accrue on any advance or advances made under section 1201 to a State during such period.

"(B) The provisions of subparagraph (A) shall have no effect on the requirement for interest payments under this subsection after the period described in such subparagraph or on the accrual of interest under this subsection after such period.".

Subtitle B—Assistance for Vulnerable Individuals

SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.

(a) TEMPORARY FUND.—

(1) IN GENERAL.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end the following:

''(c) EMERGENCY FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund which shall be known as the 'Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs' (in this subsection referred to as the 'Emergency Fund').

''(2) DEPOSITS INTO FUND.—

''(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2009, $3,000,000,000 for payment to the Emergency Fund.

''(B) AVAILABILITY AND USE OF FUNDS.—The amounts appropriated to the Emergency Fund under subparagraph (A) shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal

years 2009 and 2010 in accordance with the requirements of paragraph (3).

"(C) LIMITATION.—In no case may the Secretary make a grant from the Emergency Fund for a fiscal year after fiscal year 2010.

"(3) GRANTS.—

"(A) GRANT RELATED TO CASELOAD INCREASES.—

"(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

"(I) requests a grant under this subparagraph for the quarter; and

"(II) meets the requirement of clause (ii) for the quarter.

"(ii) CASELOAD INCREASE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the average monthly assistance caseload of the State for the quarter exceeds the average monthly assistance caseload of the State for the corresponding quarter in the emergency fund base year of the State.

"(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be 80 percent of the amount (if any) by which the total expenditures of the State for basic assistance (as defined by the Secretary) in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total expenditures of the State for such assistance for the corresponding quarter in the emergency fund base year of the State.

"(B) GRANT RELATED TO INCREASED EXPENDITURES FOR NON-RECURRENT SHORT TERM BENEFITS.—

"(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

"(I) requests a grant under this subparagraph for the quarter; and

"(II) meets the requirement of clause (ii) for the quarter.

"(ii) NON-RECURRENT SHORT TERM EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for non-recurrent short term benefits in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State for non-recurrent short term benefits in the corresponding quarter in the emergency fund base year of the State.

"(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

"(C) GRANT RELATED TO INCREASED EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—

"(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

"(I) requests a grant under this subparagraph for the quarter; and

"(II) meets the requirement of clause (ii) for the quarter.

"(ii) SUBSIDIZED EMPLOYMENT EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for subsidized employment in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total of such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

"(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

"(4) AUTHORITY TO MAKE NECESSARY ADJUSTMENTS TO DATA AND COLLECT NEEDED DATA.—In determining the size of the caseload of a State and the expenditures of a State for basic assistance, non-

1 recurrent short-term benefits, and subsidized em-
2 ployment, during any period for which the State re-
3 quests funds under this subsection, and during the
4 emergency fund base year of the State, the Sec-
5 retary may make appropriate adjustments to the
6 data to ensure that the data reflect expenditures
7 under the State program funded under this part and
8 qualified State expenditures. The Secretary may de-
9 velop a mechanism for collecting expenditure data,
10 including procedures which allow States to make
11 reasonable estimates, and may set deadlines for
12 making revisions to the data.

13 ''(5) LIMITATION.—The total amount payable
14 to a single State under subsection (b) and this sub-
15 section for a fiscal year shall not exceed 25 percent
16 of the State family assistance grant.

17 ''(6) LIMITATIONS ON USE OF FUNDS.—A State
18 to which an amount is paid under this subsection
19 may use the amount only as authorized by section
20 404.

21 ''(7) TIMING OF IMPLEMENTATION.—The Sec-
22 retary shall implement this subsection as quickly as
23 reasonably possible, pursuant to appropriate guid-
24 ance to States.

25 ''(8) DEFINITIONS.—In this subsection:

"(A) AVERAGE MONTHLY ASSISTANCE CASELOAD DEFINED.—The term 'average monthly assistance caseload' means, with respect to a State and a quarter, the number of families receiving assistance during the quarter under the State program funded under this part or as qualified State expenditures, subject to adjustment under paragraph (4).

"(B) EMERGENCY FUND BASE YEAR.—

"(i) IN GENERAL.—The term 'emergency fund base year' means, with respect to a State and a category described in clause (ii), whichever of fiscal year 2007 or 2008 is the fiscal year in which the amount described by the category with respect to the State is the lesser.

"(ii) CATEGORIES DESCRIBED.—The categories described in this clause are the following:

"(I) The average monthly assistance caseload of the State.

"(II) The total expenditures of the State for non-recurrent short term benefits, whether under the State pro-

gram funded under this part or as qualified State expenditures.

"(III) The total expenditures of the State for subsidized employment, whether under the State program funded under this part or as qualified State expenditures.

"(C) QUALIFIED STATE EXPENDITURES.—The term 'qualified State expenditures' has the meaning given the term in section 409(a)(7).".

(2) REPEAL.—Effective October 1, 2010, subsection (c) of section 403 of the Social Security Act (42 U.S.C. 603) (as added by paragraph (1)) is repealed.

(b) TEMPORARY MODIFICATION OF CASELOAD REDUCTION CREDIT.—Section 407(b)(3)(A)(i) of such Act (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting "(or if the immediately preceding fiscal year is fiscal year 2008, 2009, or 2010, then, at State option, during the emergency fund base year of the State with respect to the average monthly assistance caseload of the State (within the meaning of section 403(c)(8)(B), except that, if a State elects such option for fiscal year 2008, the emergency fund base year of the State with respect to such caseload shall be fiscal year 2007))" before "under the State".

(c) DISREGARD FROM LIMITATION ON TOTAL PAYMENTS TO TERRITORIES.—Section 1108(a)(2) of the Social Security Act (42 U.S.C. 1308(a)(2)) is amended by inserting "403(c)(3)," after "403(a)(5),".

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

SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.

(a) EXTENSION THROUGH FISCAL YEAR 2010.—Section 7101(a) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 135), as amended by section 301(a) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking "fiscal year 2009" and inserting "fiscal year 2010".

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended to read as follows:

> "(ii) subparagraph (G) shall be applied as if 'fiscal year 2010' were substituted for 'fiscal year 2001'; and".

SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS TO PROVIDE TANF BENEFITS AND SERVICES.

Section 404(e) of the Social Security Act (42 U.S.C. 604(e)) is amended to read as follows:

''(e) AUTHORITY TO CARRY OVER CERTAIN AMOUNTS FOR BENEFITS OR SERVICES OR FOR FUTURE CONTINGENCIES.—A State or tribe may use a grant made to the State or tribe under this part for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part.''.

SEC. 2104. TEMPORARY REINSTATEMENT OF AUTHORITY TO PROVIDE FEDERAL MATCHING PAYMENTS FOR STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

During the period that begins on October 1, 2008, and ends on December 31, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied without regard to the amendment made by section 7309(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 147).

TITLE III—HEALTH INSURANCE ASSISTANCE

SEC. 3000. TABLE OF CONTENTS OF TITLE.

The table of contents for this title is as follows:

TITLE III—HEALTH INSURANCE ASSISTANCE

Sec. 3000. Table of contents of title.

Subtitle A—Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

Sec. 3001. Premium assistance for COBRA benefits.

Subtitle B—Transitional Medical Assistance (TMA)

Sec. 3101. Extension of transitional medical assistance (TMA).

Subtitle C—Extension of the Qualified Individual (QI) Program

Sec. 3201. Extension of the qualifying individual (QI) program.

Subtitle D—Other Provisions

Sec. 3301. Premiums and cost sharing protections under Medicaid, eligibility determinations under Medicaid and CHIP, and protection of certain Indian property from Medicaid estate recovery.
Sec. 3302. Rules applicable under Medicaid and CHIP to managed care entities with respect to Indian enrollees and Indian health care providers and Indian managed care entities.
Sec. 3303. Consultation on Medicaid, CHIP, and other health care programs funded under the Social Security Act involving Indian Health Programs and Urban Indian Organizations.
Sec. 3304. Application of prompt pay requirements to nursing facilities.
Sec. 3305. Period of application; sunset.

Subtitle A—Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) TABLE OF CONTENTS OF SUBTITLE.—The table of contents of this subtitle is as follows:

Sec. 3001. Premium assistance for COBRA benefits.

1 (b) PREMIUM ASSISTANCE FOR COBRA CONTINU-
2 ATION COVERAGE FOR UNEMPLOYED WORKERS AND
3 THEIR FAMILIES.—
4 (1) PROVISION OF PREMIUM ASSISTANCE.—
5 (A) REDUCTION OF PREMIUMS PAY-
6 ABLE.—In the case of any premium for a
7 month of coverage beginning after the date of
8 the enactment of the Act for COBRA continu-
9 ation coverage with respect to any assistance el-
10 igible individual, such individual shall be treated
11 for purposes of any COBRA continuation provi-
12 sion as having paid the amount of such pre-
13 mium if such individual pays 50 percent of the
14 amount of such premium (as determined with-
15 out regard to this subsection).
16 (B) PLAN ENROLLMENT OPTION.—
17 (i) IN GENERAL.—Notwithstanding
18 the COBRA continuation provisions, an as-
19 sistance eligible individual may, not later
20 than 90 days after the date of notice of the
21 plan enrollment option described in this
22 subparagraph, elect to enroll in coverage
23 under a plan offered by the employer in-
24 volved, or the employee organization in-
25 volved (including, for this purpose, a joint

board of trustees of a multiemployer trust affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

1 (III) the different coverage in
2 which the individual elects to enroll is
3 coverage that is also offered to the ac-
4 tive employees of the employer at the
5 time at which such election is made;
6 and
7 (IV) the different coverage is
8 not—
9 (aa) coverage that provides
10 only dental, vision, counseling, or
11 referral services (or a combina-
12 tion of such services);
13 (bb) a health flexible spend-
14 ing account or health reimburse-
15 ment arrangement; or
16 (cc) coverage that provides
17 coverage for services or treat-
18 ments furnished in an on-site
19 medical facility maintained by
20 the employer and that consists
21 primarily of first-aid services,
22 prevention and wellness care, or
23 similar care (or a combination of
24 such care).

1 (C) PREMIUM REIMBURSEMENT.—For pro-
2 visions providing the balance of such premium,
3 see section 6432 of the Internal Revenue Code
4 of 1986, as added by paragraph (12).
5 (2) LIMITATION OF PERIOD OF PREMIUM AS-
6 SISTANCE.—
7 (A) IN GENERAL.—Paragraph (1)(A) shall
8 not apply with respect to any assistance eligible
9 individual for months of coverage beginning on
10 or after the earlier of—
11 (i) the first date that such individual
12 is eligible for coverage under any other
13 group health plan (other than coverage
14 consisting of only dental, vision, coun-
15 seling, or referral services (or a combina-
16 tion thereof), coverage under a health re-
17 imbursement arrangement or a health
18 flexible spending arrangement, or coverage
19 of treatment that is furnished in an on-site
20 medical facility maintained by the em-
21 ployer and that consists primarily of first-
22 aid services, prevention and wellness care,
23 or similar care (or a combination thereof))
24 or is eligible for benefits under title XVIII
25 of the Social Security Act; or

(ii) the earliest of—

(I) the date which is 12 months after the first day of first month that paragraph (1)(A) applies with respect to such individual,

(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph

(A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ''assistance eligible individual'' means any qualified beneficiary if—

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—Notwithstanding section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States

Code, in the case of an individual who is a qualified beneficiary described in paragraph (3)(A) as of the date of the enactment of this Act and has not made the election referred to in paragraph (3)(B) as of such date, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the 60-day period commencing with the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

(i) shall commence on the date of the enactment of this Act, and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

(i) beginning on the date of the qualifying event, and

(ii) ending with the day before the date of the enactment of this Act,

shall be disregarded for purposes of determining the 63-day periods referred to in section 701)(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan by reason of such individual's ineligibility for COBRA continuation coverage, the Secretary of Labor (or the Secretary of Health and Human services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in con-

1 sultation with the Secretary of the Treasury, shall
2 provide for expedited review of such denial. An indi-
3 vidual shall be entitled to such review upon applica-
4 tion to such Secretary in such form and manner as
5 shall be provided by such Secretary. Such Secretary
6 shall make a determination regarding such individ-
7 ual's eligibility within 10 business days after receipt
8 of such individual's application for review under this
9 paragraph.

10 (6) DISREGARD OF SUBSIDIES FOR PURPOSES
11 OF FEDERAL AND STATE PROGRAMS.—Notwith-
12 standing any other provision of law, any premium
13 reduction with respect to an assistance eligible indi-
14 vidual under this subsection shall not be considered
15 income or resources in determining eligibility for, or
16 the amount of assistance or benefits provided under,
17 any other public benefit provided under Federal law
18 or the law of any State or political subdivision there-
19 of.

20 (7) NOTICES TO INDIVIDUALS.—

21 (A) GENERAL NOTICE.—

22 (i) IN GENERAL.—In the case of no-
23 tices provided under section 606(4) of the
24 Employee Retirement Income Security Act
25 of 1974 (29 U.S.C. 1166(4)), section

1 4980B(f)(6)(D) of the Internal Revenue
2 Code of 1986, section 2206(4) of the Pub-
3 lic Health Service Act (42 U.S.C. 300bb-
4 6(4)), or section 8905a(f)(2)(A) of title 5,
5 United States Code, with respect to indi-
6 viduals who, during the period described in
7 paragraph (3)(A), become entitled to elect
8 COBRA continuation coverage, such no-
9 tices shall include an additional notifica-
10 tion to the recipient of—
11 (I) the availability of premium
12 reduction with respect to such cov-
13 erage under this subsection; and
14 (II) the option to enroll in dif-
15 ferent coverage if an employer that
16 permits assistance eligible individuals
17 to elect enrollment in different cov-
18 erage (as described in paragraph
19 (1)(B)).
20 (ii) ALTERNATIVE NOTICE.—In the
21 case of COBRA continuation coverage to
22 which the notice provision under such sec-
23 tions does not apply, the Secretary of
24 Labor, in consultation with the Secretary
25 of the Treasury and the Secretary of

1 Health and Human Services, shall, in co-
2 ordination with administrators of the
3 group health plans (or other entities) that
4 provide or administer the COBRA continu-
5 ation coverage involved, provide rules re-
6 quiring the provision of such notice.
7 (iii) FORM.—The requirement of the
8 additional notification under this subpara-
9 graph may be met by amendment of exist-
10 ing notice forms or by inclusion of a sepa-
11 rate document with the notice otherwise
12 required.
13 (B) SPECIFIC REQUIREMENTS.—Each ad-
14 ditional notification under subparagraph (A)
15 shall include—
16 (i) the forms necessary for estab-
17 lishing eligibility for premium reduction
18 under this subsection,
19 (ii) the name, address, and telephone
20 number necessary to contact the plan ad-
21 ministrator and any other person main-
22 taining relevant information in connection
23 with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided for failure to so notify the plan,

(v) a description, displayed in a prominent manner, of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium; and

(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B).

(C) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of an individual described in paragraph (3)(A) who has elected COBRA continuation coverage as of the date of

enactment of this Act or an individual described in paragraph (4)(A), the administrator of the group health plan (or other person) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A).

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph.

(8) SAFEGUARDS.—The Secretary of the Treasury shall provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this subsection.

(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall

target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on website of the Departments of Labor, Treasury, and Health and Human Services.

(10) DEFINITIONS.—For purposes of this subsection—

(A) ADMINISTRATOR.—The term ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974

(B) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it

relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage. Such term does not include coverage under a health flexible spending arrangement.

(C) COBRA CONTINUATION PROVISION.—The term ''COBRA continuation provision'' means the provisions of law described in subparagraph (B).

(D) COVERED EMPLOYEE.—The term ''covered employee'' has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974.

(E) QUALIFIED BENEFICIARY.—The term ''qualified beneficiary'' has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Amer-

1 ican Samoa, and the Commonwealth of the
2 Northern Mariana Islands.
3 (11) REPORTS.—
4 (A) INTERIM REPORT.—The Secretary of
5 the Treasury shall submit an interim report to
6 the Committee on Education and Labor, the
7 Committee on Ways and Means, and the Com-
8 mittee on Energy and Commerce of the House
9 of Representatives and the Committee on
10 Health, Education, Labor, and Pensions and
11 the Committee on Finance of the Senate re-
12 garding the premium reduction provided under
13 this subsection that includes—
14 (i) the number of individuals provided
15 such assistance as of the date of the re-
16 port; and
17 (ii) the total amount of expenditures
18 incurred (with administrative expenditures
19 noted separately) in connection with such
20 assistance as of the date of the report.
21 (B) FINAL REPORT.—As soon as prac-
22 ticable after the last period of COBRA continu-
23 ation coverage for which premium reduction is
24 provided under this section, the Secretary of the
25 Treasury shall submit a final report to each

Committee referred to in subparagraph (A) that includes—

(i) the number of individuals provided premium reduction under this section;

(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

(12) COBRA PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6432. COBRA PREMIUM ASSISTANCE.

"(a) IN GENERAL.—The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed for the amount of premiums not paid by plan beneficiaries by reason of section 3001(b) of the American Recovery and Reinvestment Act of 2009. Such amount shall be treated as a credit against the requirement of such person to make deposits of payroll taxes and the liability of such person for payroll taxes. To the extent that such

1 amount exceeds the amount of such taxes, the Secretary
2 shall pay to such person the amount of such excess. No
3 payment may be made under this subsection to a person
4 with respect to any assistance eligible individual until after
5 such person has received the reduced premium from such
6 individual required under section 3001(a)(1)(A) of such
7 Act.

8 ''(b) PAYROLL TAXES.—For purposes of this section,
9 the term 'payroll taxes' means—

10 ''(1) amounts required to be deducted and with-
11 held for the payroll period under section 3401 (relat-
12 ing to wage withholding),

13 ''(2) amounts required to be deducted for the
14 payroll period under section 3102 (relating to FICA
15 employee taxes), and

16 ''(3) amounts of the taxes imposed for the pay-
17 roll period under section 3111 (relating to FICA em-
18 ployer taxes).

19 ''(c) TREATMENT OF CREDIT.—Except as otherwise
20 provided by the Secretary, the credit described in sub-
21 section (a) shall be applied as though the employer had
22 paid to the Secretary, on the day that the qualified bene-
23 ficiary's premium payment is received, an amount equal
24 to such credit.

1 "(d) TREATMENT OF PAYMENT.—For purposes of
2 section 1324(b)(2) of title 31, United States Code, any
3 payment under this subsection shall be treated in the same
4 manner as a refund of the credit under section 35.
5 "(e) REPORTING.—
6 "(1) IN GENERAL.—Each person entitled to re-
7 imbursement under subsection (a) for any period
8 shall submit such reports as the Secretary may re-
9 quire, including—
10 "(A) an attestation of involuntary termi-
11 nation of employment for each covered em-
12 ployee on the basis of whose termination entitle-
13 ment to reimbursement is claimed under sub-
14 section (a), and
15 "(B) a report of the amount of payroll
16 taxes offset under subsection (a) for the report-
17 ing period and the estimated offsets of such
18 taxes for the subsequent reporting period in
19 connection with reimbursements under sub-
20 section (a).
21 "(2) TIMING OF REPORTS RELATING TO
22 AMOUNT OF PAYROLL TAXES.—Reports required
23 under paragraph (1)(B) shall be submitted at the
24 same time as deposits of taxes imposed by chapters

21, 22, and 24 or at such time as is specified by the Secretary.

"(f) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including the requirement to report information or the establishment of other methods for verifying the correct amounts of payments and credits under this section, and the application of this section to group health plans which are multiemployer plans.".

(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS.—In determining any amount transferred or appropriated to any fund under the Social Security Act, section 6432 of the Internal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 6432. COBRA premium assistance.".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(E) SPECIAL RULE.—

(i) IN GENERAL.—In the case of an assistance eligible individual who pays the full premium amount required for COBRA continuation coverage for any month during the 60-day period beginning on the first day of the first month after the date of enactment of this Act, the person to whom such payment is made shall—

(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (b)(1)(A); or

(II) provide credit to the individual for such amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

(ii) REIMBURSING EMPLOYER.—A person to which clause (i) applies shall be reimbursed as provided for in section 6432 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

(iii) PAYMENT OR CREDITS.—Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of the credit outstanding shall be made to the individual within 60 days of such day.

(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

1 **"SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH**
2 **PLAN OF CESSATION OF ELIGIBILITY FOR**
3 **COBRA PREMIUM ASSISTANCE.**

4 "(a) IN GENERAL.—Any person required to notify a
5 group health plan under section 3001(a)(2)(C) of the
6 American Recovery and Reinvestment Act of 2009 who
7 fails to make such a notification at such time and in such
8 manner as the Secretary of Labor may require shall pay
9 a penalty of 110 percent of the premium reduction pro-
10 vided under such section after termination of eligibility
11 under such subsection.

12 "(b) REASONABLE CAUSE EXCEPTION.—No penalty
13 shall be imposed under subsection (a) with respect to any
14 failure if it is shown that such failure is due to reasonable
15 cause and not to willful neglect.".

16 (B) CLERICAL AMENDMENT.—The table of
17 sections of part I of subchapter B of chapter 68
18 of such Code is amended by adding at the end
19 the following new item:

"Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.".

20 (C) EFFECTIVE DATE.—The amendments
21 made by this paragraph shall apply to failures
22 occurring after the date of the enactment of
23 this Act.

24 (14) COORDINATION WITH HCTC.—

1 (A) IN GENERAL.—Subsection (g) of sec-
2 tion 35 of the Internal Revenue Code of 1986
3 is amended by redesignating paragraph (9) as
4 paragraph (10) and inserting after paragraph
5 (8) the following new paragraph:
6 ''(9) COBRA PREMIUM ASSISTANCE.—In the
7 case of an assistance eligible individual who receives
8 premium reduction for COBRA continuation cov-
9 erage under section 3001(a) of the American Recov-
10 ery and Reinvestment Act of 2009 for any month
11 during the taxable year, such individual shall not be
12 treated as an eligible individual, a certified indi-
13 vidual, or a qualifying family member for purposes
14 of this section or section 7527 with respect to such
15 month.''.
16 (B) EFFECTIVE DATE.—The amendment
17 made by subparagraph (A) shall apply to tax-
18 able years ending after the date of the enact-
19 ment of this Act.
20 (15) EXCLUSION OF COBRA PREMIUM ASSIST-
21 ANCE FROM GROSS INCOME.—
22 (A) IN GENERAL.—Part III of subchapter
23 B of chapter 1 of the Internal Revenue Code of
24 1986 is amended by inserting after section
25 139B the following new section:

"SEC. 139C. COBRA PREMIUM ASSISTANCE.

"In the case of an assistance eligible individual (as defined in section 3001 of the American Recovery and Reinvestment Act of 2009), gross income does not include any premium reduction provided under subsection (a) of such section.".

(B) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

"Sec. 139C. COBRA premium assistance.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Transitional Medical Assistance (TMA)

SEC. 3101. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

(a) 18-MONTH EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking "September 30, 2003" and inserting "December 31, 2010".

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on July 1, 2009.
3 (b) STATE OPTION OF INITIAL 12-MONTH ELIGI-
4 BILITY.—Section 1925 of the Social Security Act (42
5 U.S.C. 1396r–6) is amended—
6 (1) in subsection (a)(1), by inserting ''but sub-
7 ject to paragraph (5)'' after ''Notwithstanding any
8 other provision of this title'';
9 (2) by adding at the end of subsection (a) the
10 following:
11 ''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY
12 PERIOD.—A State may elect to treat any reference
13 in this subsection to a 6-month period (or 6 months)
14 as a reference to a 12-month period (or 12 months).
15 In the case of such an election, subsection (b) shall
16 not apply.''; and
17 (3) in subsection (b)(1), by inserting ''but sub-
18 ject to subsection (a)(5)'' after ''Notwithstanding
19 any other provision of this title''.
20 (c) REMOVAL OF REQUIREMENT FOR PREVIOUS RE-
21 CEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of
22 such Act (42 U.S.C. 1396r–6(a)(1)), as amended by sub-
23 section (b)(1), is further amended—
24 (1) by inserting ''subparagraph (B) and'' before
25 ''paragraph (5)'';

(2) by redesignating the matter after "REQUIREMENT.—" as a subparagraph (A) with the heading "IN GENERAL.—" and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

"(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.".

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

"(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

"(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format

specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

"(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.".

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on July 1, 2009.

Subtitle C—Extension of the Qualified Individual (QI) Program

SEC. 3201. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is

amended by striking ''December 2009'' and inserting ''December 2010''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (K);

(B) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(M) for the period that begins on January 1, 2010, and ends on September 30, 2010, the total allocation amount is $412,500,000; and

''(N) for the period that begins on October 1, 2010, and ends on December 31, 2010, the total allocation amount is $150,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (L)'' and inserting ''(L), or (N)''.

Subtitle D—Other Provisions

SEC. 3301. PREMIUMS AND COST SHARING PROTECTIONS UNDER MEDICAID, ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND CHIP, AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.

(a) PREMIUMS AND COST SHARING PROTECTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''and (i)'' and inserting '', (i), and (j)''; and

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

''(j) NO PREMIUMS OR COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN HEALTH PROGRAMS OR THROUGH REFERRAL UNDER CONTRACT HEALTH SERVICES.—

''(1) NO COST SHARING FOR ITEMS OR SERVICES FURNISHED TO INDIANS THROUGH INDIAN HEALTH PROGRAMS.—

''(A) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall

be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made under this title.

"(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under contract health services for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to

1 an individual receiving medical assistance under this
2 title who is an Indian.''.
3 (2) CONFORMING AMENDMENT.—Section
4 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3))
5 is amended—
6 (A) in subparagraph (A), by adding at the
7 end the following new clause:
8 ''(vi) An Indian who is furnished an
9 item or service directly by the Indian
10 Health Service, an Indian Tribe, Tribal
11 Organization or Urban Indian Organiza-
12 tion or through referral under contract
13 health services.''; and
14 (B) in subparagraph (B), by adding at the
15 end the following new clause:
16 ''(ix) Items and services furnished to
17 an Indian directly by the Indian Health
18 Service, an Indian Tribe, Tribal Organiza-
19 tion or Urban Indian Organization or
20 through referral under contract health
21 services.''.
22 (b) TREATMENT OF CERTAIN PROPERTY FROM RE-
23 SOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

1 (1) MEDICAID.—Section 1902 of the Social Se-
2 curity Act (42 U.S.C. 1396a) is amended by adding
3 at the end the following new subsection:
4 "(dd) Notwithstanding any other requirement of this
5 title or any other provision of Federal or State law, a State
6 shall disregard the following property from resources for
7 purposes of determining the eligibility of an individual who
8 is an Indian for medical assistance under this title:
9 "(1) Property, including real property and im-
10 provements, that is held in trust, subject to Federal
11 restrictions, or otherwise under the supervision of
12 the Secretary of the Interior, located on a reserva-
13 tion, including any federally recognized Indian
14 Tribe's reservation, pueblo, or colony, including
15 former reservations in Oklahoma, Alaska Native re-
16 gions established by the Alaska Native Claims Set-
17 tlement Act, and Indian allotments on or near a res-
18 ervation as designated and approved by the Bureau
19 of Indian Affairs of the Department of the Interior.
20 "(2) For any federally recognized Tribe not de-
21 scribed in paragraph (1), property located within the
22 most recent boundaries of a prior Federal reserva-
23 tion.
24 "(3) Ownership interests in rents, leases, royal-
25 ties, or usage rights related to natural resources (in-

cluding extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

"(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.".

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E), as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

"(B) Section 1902(dd) (relating to disregard of certain property for purposes of making eligibility determinations).".

(c) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Section 1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.".

SEC. 3302. RULES APPLICABLE UNDER MEDICAID AND CHIP TO MANAGED CARE ENTITIES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS AND INDIAN MANAGED CARE ENTITIES.

(a) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES WITH RESPECT TO INDIAN ENROLLEES, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

"(1) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH CARE PROVIDER AS PRIMARY CARE PROVIDER.—In the case of a non-Indian Medicaid managed care entity that—

"(A) has an Indian enrolled with the entity; and

"(B) has an Indian health care provider that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Indian health care provider and the Indian health care provider has the capacity to provide primary care services to such Indian, the contract with the entity under section 1903(m) or under section 1905(t)(3) shall require, as a condition of receiving payment under such contract, that the Indian shall be allowed to choose such Indian health care provider as the Indian's primary care provider under the entity.

"(2) ASSURANCE OF PAYMENT TO INDIAN HEALTH CARE PROVIDERS FOR PROVISION OF COVERED SERVICES.—Each contract with a managed

1 care entity under section 1903(m) or under section
2 1905(t)(3) shall require any such entity, as a condi-
3 tion of receiving payment under such contract, to
4 satisfy the following requirements:

5 "(A) DEMONSTRATION OF ACCESS TO IN-
6 DIAN HEALTH CARE PROVIDERS AND APPLICA-
7 TION OF ALTERNATIVE PAYMENT ARRANGE-
8 MENTS.—Subject to subparagraph (C), to—

9 "(i) demonstrate that the number of
10 Indian health care providers that are par-
11 ticipating providers with respect to such
12 entity are sufficient to ensure timely access
13 to covered Medicaid managed care services
14 for those Indian enrollees who are eligible
15 to receive services from such providers; and

16 "(ii) agree to pay Indian health care
17 providers, whether such providers are par-
18 ticipating or nonparticipating providers
19 with respect to the entity, for covered Med-
20 icaid managed care services provided to
21 those Indian enrollees who are eligible to
22 receive services from such providers at a
23 rate equal to the rate negotiated between
24 such entity and the provider involved or, if
25 such a rate has not been negotiated, at a

rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a participating provider which is not an Indian health care provider.

"(B) PROMPT PAYMENT.—To agree to make prompt payment (consistent with rule for prompt payment of providers under section 1932(f)) to Indian health care providers that are participating providers with respect to such entity or, in the case of an entity to which subparagraph (A)(ii) or (C) applies, that the entity is required to pay in accordance with that subparagraph.

"(C) APPLICATION OF SPECIAL PAYMENT REQUIREMENTS FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—

"(i) FEDERALLY-QUALIFIED HEALTH CENTERS.—

"(I) MANAGED CARE ENTITY PAYMENT REQUIREMENT.—To agree to pay any Indian health care provider that is a federally-qualified health

1 center under this title but not a par-
2 ticipating provider with respect to the
3 entity, for the provision of covered
4 Medicaid managed care services by
5 such provider to an Indian enrollee of
6 the entity at a rate equal to the
7 amount of payment that the entity
8 would pay a federally-qualified health
9 center that is a participating provider
10 with respect to the entity but is not
11 an Indian health care provider for
12 such services.

13 "(II) CONTINUED APPLICATION
14 OF STATE REQUIREMENT TO MAKE
15 SUPPLEMENTAL PAYMENT.—Nothing
16 in subclause (I) or subparagraph (A)
17 or (B) shall be construed as waiving
18 the application of section 1902(bb)(5)
19 regarding the State plan requirement
20 to make any supplemental payment
21 due under such section to a federally-
22 qualified health center for services
23 furnished by such center to an en-
24 rollee of a managed care entity (re-
25 gardless of whether the federally-

1 qualified health center is or is not a
2 participating provider with the entity).
3 "(ii) PAYMENT RATE FOR SERVICES
4 PROVIDED BY CERTAIN INDIAN HEALTH
5 CARE PROVIDERS.—If the amount paid by
6 a managed care entity to an Indian health
7 care provider that is not a federally-quali-
8 fied health center for services provided by
9 the provider to an Indian enrollee with the
10 managed care entity is less than the rate
11 that applies to the provision of such serv-
12 ices by the provider under the State plan,
13 the plan shall provide for payment to the
14 Indian health care provider, whether the
15 provider is a participating or nonparticipating provider with respect to the entity,
16
17 of the difference between such applicable
18 rate and the amount paid by the managed
19 care entity to the provider for such serv-
20 ices.
21 "(D) CONSTRUCTION.—Nothing in this
22 paragraph shall be construed as waiving the ap-
23 plication of section 1902(a)(30)(A) (relating to
24 application of standards to assure that pay-

1 ments are consistent with efficiency, economy,
2 and quality of care).
3 "(3) SPECIAL RULE FOR ENROLLMENT FOR IN-
4 DIAN MANAGED CARE ENTITIES.—Regarding the ap-
5 plication of a Medicaid managed care program to In-
6 dian Medicaid managed care entities, an Indian
7 Medicaid managed care entity may restrict enroll-
8 ment under such program to Indians and to mem-
9 bers of specific Tribes in the same manner as Indian
10 Health Programs may restrict the delivery of serv-
11 ices to such Indians and tribal members.
12 "(4) DEFINITIONS.—For purposes of this sub-
13 section:
14 "(A) INDIAN HEALTH CARE PROVIDER.—
15 The term 'Indian health care provider' means
16 an Indian Health Program or an Urban Indian
17 Organization.
18 "(B) INDIAN MEDICAID MANAGED CARE
19 ENTITY.—The term 'Indian Medicaid managed
20 care entity' means a managed care entity that
21 is controlled (within the meaning of the last
22 sentence of section 1903(m)(1)(C)) by the In-
23 dian Health Service, a Tribe, Tribal Organiza-
24 tion, or Urban Indian Organization, or a con-
25 sortium, which may be composed of 1 or more

Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

"(C) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian Medicaid managed care entity' means a managed care entity that is not an Indian Medicaid managed care entity.

"(D) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered Medicaid managed care services' means, with respect to an individual enrolled with a managed care entity, items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

"(E) MEDICAID MANAGED CARE PROGRAM.—The term 'Medicaid managed care program' means a program under sections 1903(m), 1905(t), and 1932 and includes a managed care program operating under a waiver under section 1915(b) or 1115 or otherwise.".

(b) APPLICATION TO CHIP.—Subject to section __013(d), section 2107(e)(1) of such Act (42 U.S.C.

1397gg(1)) is amended by adding at the end the following new subparagraph:

"(E) Subsections (a)(2)(C) and (h) of section 1932.".

SEC. 3303. CONSULTATION ON MEDICAID, CHIP, AND OTHER HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.

(a) CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG).—The Secretary of Health and Human Services shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group (TTAG), which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary of Health and Human Services shall include in such Group a representative of a national urban Indian health organization and a representative of the Indian Health Service. The inclusion of a representative of a national urban Indian health organization in such Group shall not affect the nonapplication of the Federal Advisory Committee Act (5 U.S.C. App.) to such Group.

(b) SOLICITATION OF ADVICE UNDER MEDICAID AND CHIP.—

1 (1) MEDICAID STATE PLAN AMENDMENT.—
2 Subject to subsection (d), section 1902(a) of the So-
3 cial Security Act (42 U.S.C. 1396a(a)) is amend-
4 ed—
5 (A) in paragraph (70), by striking ''and''
6 at the end;
7 (B) in paragraph (71), by striking the pe-
8 riod at the end and inserting ''; and''; and
9 (C) by inserting after paragraph (71), the
10 following new paragraph:
11 ''(72) in the case of any State in which 1 or
12 more Indian Health Programs or Urban Indian Or-
13 ganizations furnishes health care services, provide
14 for a process under which the State seeks advice on
15 a regular, ongoing basis from designees of such In-
16 dian Health Programs and Urban Indian Organiza-
17 tions on matters relating to the application of this
18 title that are likely to have a direct effect on such
19 Indian Health Programs and Urban Indian Organi-
20 zations and that—
21 ''(A) shall include solicitation of advice
22 prior to submission of any plan amendments,
23 waiver requests, and proposals for demonstra-
24 tion projects likely to have a direct effect on In-

1 dians, Indian Health Programs, or Urban In-
2 dian Organizations; and
3 "(B) may include appointment of an advi-
4 sory committee and of a designee of such In-
5 dian Health Programs and Urban Indian Orga-
6 nizations to the medical care advisory com-
7 mittee advising the State on its State plan
8 under this title.".
9 (2) APPLICATION TO CHIP.—Subject to sub-
10 section (d), section 2107(e)(1) of such Act (42
11 U.S.C. 1397gg(e)(1)), as amended by section
12 3302(b)(2), is amended—
13 (A) by redesignating subparagraphs (B)
14 through (E) as subparagraphs (C) through (F),
15 respectively; and
16 (B) by inserting after subparagraph (A),
17 the following new subparagraph:
18 "(B) Section 1902(a)(72) (relating to re-
19 quiring certain States to seek advice from des-
20 ignees of Indian Health Programs and Urban
21 Indian Organizations).".
22 (c) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by this section shall be construed as
24 superseding existing advisory committees, working groups,
25 guidance, or other advisory procedures established by the

1 Secretary of Health and Human Services or by any State
2 with respect to the provision of health care to Indians.
3 (d) CONTINGENCY RULE.—If the Children's Health
4 Insurance Program Reauthorization Act of 2009 (in this
5 subsection referred to as "CHIPRA") has been enacted
6 as of the date of enactment of this Act, the following shall
7 apply:
8 (1) Subparagraph (I) of section 2107(e) of the
9 Social Security Act (as redesignated by CHIPRA) is
10 redesignated as subparagraph (K) and the subpara-
11 graph (E) added to section 2107(e) of the Social Se-
12 curity Act by section 3302(b) is redesignated as sub-
13 paragraph (J).
14 (2) Subparagraphs (D) through (H) of section
15 2107(e) of the Social Security Act (as added and re-
16 designated by CHIPRA) are redesignated as sub-
17 paragraphs (E) through (I), respectively and the
18 subparagraph (B) of section 2107(e) of the Social
19 Security Act added by subsection (b)(2) of this sec-
20 tion is redesignated as subparagraph (D) and
21 amended by striking "1902(a)(72)" and inserting
22 "1902(a)(73)".
23 (3) Section 1902(a) of the Social Security Act
24 (as amended by CHIPRA) is amended by striking
25 "and" at the end of paragraph (71), by striking the

period at the end of the paragraph (72) added by CHIPRA and inserting ''; and'' and by redesignated the paragraph (72) added to such section by subsection (b)(1) of this section as paragraph (73).

SEC. 3304. APPLICATION OF PROMPT PAY REQUIREMENTS TO NURSING FACILITIES.

Section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) is amended by inserting '', or by nursing facilities,'' after ''health facilities''

SEC. 3305. PERIOD OF APPLICATION; SUNSET.

This subtitle and the amendments made by this subtitle shall be in effect only during the period that begins on April 1, 2009, and ends on December 31, 2010. On and after January 1, 2011, the Social Security Act shall be applied as if this subtitle and the amendments made by this subtitle had not been enacted.

TITLE IV—HEALTH INFORMATION TECHNOLOGY

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the ''Medicare and Medicaid Health Information Technology for Economic and Clinical Health Act'' or the ''M-HITECH Act''.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents for this title is as follows:

TITLE IV—HEALTH INFORMATION TECHNOLOGY

Sec. 4001. Short title; table of contents of title.

Subtitle A—Medicare Program

Sec. 4201. Incentives for eligible professionals.
Sec. 4202. Incentives for hospitals.
Sec. 4203. Premium hold harmless and implementation funding.
Sec. 4204. Non-application of phased-out indirect medical education (IME) adjustment factor for fiscal year 2009.
Sec. 4205. Study on application of EHR payment incentives for providers not receiving other incentive payments.
Sec. 4206. Study on availability of open source health information technology systems.

Subtitle B—Medicaid Funding

Sec. 4211. Medicaid provider EHR adoption and operation payments; implementation funding.

Subtitle A—Medicare Program

SEC. 4201. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) INCENTIVE PAYMENTS.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

"(o) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—

"(i) IN GENERAL.—Subject to clause (ii) and the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for

the reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)), from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

"(ii) NO INCENTIVE PAYMENTS WITH RESPECT TO YEARS AFTER 2015.—No incentive payments may be made under this subsection with respect to a year after 2015.

"(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS.—

"(i) IN GENERAL.—In no case shall the amount of the incentive payment provided under this paragraph for an eligible

1 professional for a payment year exceed the
2 applicable amount specified under this sub-
3 paragraph with respect to such eligible
4 professional and such year.

5 "(ii) AMOUNT.—Subject to clauses
6 (iii) through (v), the applicable amount
7 specified in this subparagraph for an eligi-
8 ble professional is as follows:

9 "(I) For the first payment year
10 for such professional, $15,000 (or, if
11 the first payment year for such eligi-
12 ble professional is 2011 or 2012,
13 $18,000).

14 "(II) For the second payment
15 year for such professional, $12,000.

16 "(III) For the third payment
17 year for such professional, $8,000.

18 "(IV) For the fourth payment
19 year for such professional, $4,000.

20 "(V) For the fifth payment year
21 for such professional, $2,000.

22 "(VI) For any succeeding pay-
23 ment year for such professional, $0.

24 "(iii) PHASE DOWN FOR ELIGIBLE
25 PROFESSIONALS FIRST ADOPTING EHR IN

2014.—If the first payment year for an eligible professional is 2014, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013.

"(iv) INCREASE FOR CERTAIN RURAL ELIGIBLE PROFESSIONALS.—In the case of an eligible professional who predominantly furnishes services under this part in a rural area that is designated by the Secretary (under section 332(a)(1)(A) of the Public Health Service Act) as a health professional shortage area, the amount that would otherwise apply for a payment year for such professional under subclauses (I) through (V) of clause (ii) shall be increased by 25 percent. In implementing the preceding sentence, the Secretary may, as determined appropriate, apply provisions of subsections (m) and (u) of section 1833 in a similar manner as such provisions apply under such subsection.

1 "(v) NO INCENTIVE PAYMENT IF
2 FIRST ADOPTING AFTER 2014.—If the first
3 payment year for an eligible professional is
4 after 2014 then the applicable amount
5 specified in this subparagraph for such
6 professional for such year and any subse-
7 quent year shall be $0.
8 "(C) NON-APPLICATION TO HOSPITAL-
9 BASED ELIGIBLE PROFESSIONALS.—
10 "(i) IN GENERAL.—No incentive pay-
11 ment may be made under this paragraph
12 in the case of a hospital-based eligible pro-
13 fessional.
14 "(ii) HOSPITAL-BASED ELIGIBLE PRO-
15 FESSIONAL.—For purposes of clause (i),
16 the term 'hospital-based eligible profes-
17 sional' means, with respect to covered pro-
18 fessional services furnished by an eligible
19 professional during the reporting period for
20 a payment year, an eligible professional,
21 such as a pathologist, anesthesiologist, or
22 emergency physician, who furnishes sub-
23 stantially all of such services in a hospital
24 setting (whether inpatient or outpatient)
25 and through the use of the facilities and

1 equipment, including qualified electronic
2 health records, of the hospital.
3 "(D) PAYMENT.—
4 "(i) FORM OF PAYMENT.—The pay-
5 ment under this paragraph may be in the
6 form of a single consolidated payment or
7 in the form of such periodic installments
8 as the Secretary may specify.
9 "(ii) COORDINATION OF APPLICATION
10 OF LIMITATION FOR PROFESSIONALS IN
11 DIFFERENT PRACTICES.—In the case of an
12 eligible professional furnishing covered pro-
13 fessional services in more than one practice
14 (as specified by the Secretary), the Sec-
15 retary shall establish rules to coordinate
16 the incentive payments, including the ap-
17 plication of the limitation on amounts of
18 such incentive payments under this para-
19 graph, among such practices.
20 "(iii) COORDINATION WITH MED-
21 ICAID.—The Secretary shall seek, to the
22 maximum extent practicable, to avoid du-
23 plicative requirements from Federal and
24 State Governments to demonstrate mean-
25 ingful use of certified EHR technology

1 under this title and title XIX. In doing so,
2 the Secretary may deem satisfaction of
3 State requirements for such meaningful
4 use for a payment year under title XIX to
5 be sufficient to qualify as meaningful use
6 under this subsection and subsection (a)(7)
7 and vice versa. The Secretary may also ad-
8 just the reporting periods under such title
9 and such subsections in order to carry out
10 this clause.
11 ''(E) PAYMENT YEAR DEFINED.—
12 ''(i) IN GENERAL.—For purposes of
13 this subsection, the term 'payment year'
14 means a year beginning with 2011.
15 ''(ii) FIRST, SECOND, ETC. PAYMENT
16 YEAR.—The term 'first payment year'
17 means, with respect to covered professional
18 services furnished by an eligible profes-
19 sional, the first year for which an incentive
20 payment is made for such services under
21 this subsection. The terms 'second pay-
22 ment year', 'third payment year', 'fourth
23 payment year', and 'fifth payment year'
24 mean, with respect to covered professional
25 services furnished by such eligible profes-

1 sional, each successive year immediately
2 following the first payment year for such
3 professional.
4 ''(2) MEANINGFUL EHR USER.—
5 ''(A) IN GENERAL.—For purposes of para-
6 graph (1), an eligible professional shall be
7 treated as a meaningful EHR user for a report-
8 ing period for a payment year (or, for purposes
9 of subsection (a)(7), for a reporting period
10 under such subsection for a year) if each of the
11 following requirements is met:
12 ''(i) MEANINGFUL USE OF CERTIFIED
13 EHR TECHNOLOGY.—The eligible profes-
14 sional demonstrates to the satisfaction of
15 the Secretary, in accordance with subpara-
16 graph (C)(i), that during such period the
17 professional is using certified EHR tech-
18 nology in a meaningful manner, which
19 shall include the use of electronic pre-
20 scribing as determined to be appropriate
21 by the Secretary.
22 ''(ii) INFORMATION EXCHANGE.—The
23 eligible professional demonstrates to the
24 satisfaction of the Secretary, in accordance
25 with subparagraph (C)(i), that during such

1 period such certified EHR technology is
2 connected in a manner that provides, in
3 accordance with law and standards appli-
4 cable to the exchange of information, for
5 the electronic exchange of health informa-
6 tion to improve the quality of health care,
7 such as promoting care coordination.

8 ''(iii) REPORTING ON MEASURES
9 USING EHR.—Subject to subparagraph
10 (B)(ii) and using such certified EHR tech-
11 nology, the eligible professional submits in-
12 formation for such period, in a form and
13 manner specified by the Secretary, on such
14 clinical quality measures and such other
15 measures as selected by the Secretary
16 under subparagraph (B)(i).

17 The Secretary may provide for the use of alter-
18 native means for meeting the requirements of
19 clauses (i), (ii), and (iii) in the case of an eligi-
20 ble professional furnishing covered professional
21 services in a group practice (as defined by the
22 Secretary). The Secretary shall seek to improve
23 the use of electronic health records and health
24 care quality over time by requiring more strin-

1 gent measures of meaningful use selected under
2 this paragraph.
3 "(B) REPORTING ON MEASURES.—
4 "(i) SELECTION.—The Secretary shall
5 select measures for purposes of subpara-
6 graph (A)(iii) but only consistent with the
7 following:
8 "(I) The Secretary shall provide
9 preference to clinical quality measures
10 that have been endorsed by the entity
11 with a contract with the Secretary
12 under section 1890(a).
13 "(II) Prior to any measure being
14 selected under this subparagraph, the
15 Secretary shall publish in the Federal
16 Register such measure and provide for
17 a period of public comment on such
18 measure.
19 "(ii) LIMITATION.—The Secretary
20 may not require the electronic reporting of
21 information on clinical quality measures
22 under subparagraph (A)(iii) unless the
23 Secretary has the capacity to accept the in-
24 formation electronically, which may be on
25 a pilot basis.

1 "(iii) COORDINATION OF REPORTING
2 OF INFORMATION.—In selecting such
3 measures, and in establishing the form and
4 manner for reporting measures under sub-
5 paragraph (A)(iii), the Secretary shall seek
6 to avoid redundant or duplicative reporting
7 otherwise required, including reporting
8 under subsection (k)(2)(C).
9 "(C) DEMONSTRATION OF MEANINGFUL
10 USE OF CERTIFIED EHR TECHNOLOGY AND IN-
11 FORMATION EXCHANGE.—
12 "(i) IN GENERAL.—A professional
13 may satisfy the demonstration requirement
14 of clauses (i) and (ii) of subparagraph (A)
15 through means specified by the Secretary,
16 which may include—
17 "(I) an attestation;
18 "(II) the submission of claims
19 with appropriate coding (such as a
20 code indicating that a patient encoun-
21 ter was documented using certified
22 EHR technology);
23 "(III) a survey response;
24 "(IV) reporting under subpara-
25 graph (A)(iii); and

"(V) other means specified by the Secretary.

"(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

"(3) APPLICATION.—

"(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

"(B) COORDINATION WITH OTHER PAYMENTS.—The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

"(C) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review

1 under section 1869, section 1878, or otherwise
2 of the determination of any incentive payment
3 under this subsection and the payment adjust-
4 ment under subsection (a)(7), including the de-
5 termination of a meaningful EHR user under
6 paragraph (2), a limitation under paragraph
7 (1)(B), and the exception under subsection
8 (a)(7)(B).
9 "(D) POSTING ON WEBSITE.—The Sec-
10 retary shall post on the Internet website of the
11 Centers for Medicare & Medicaid Services, in an
12 easily understandable format, a list of the
13 names, business addresses, and business phone
14 numbers of the eligible professionals who are
15 meaningful EHR users and, as determined ap-
16 propriate by the Secretary, of group practices
17 receiving incentive payments under paragraph
18 (1).
19 "(4) CERTIFIED EHR TECHNOLOGY DEFINED.—
20 For purposes of this section, the term 'certified
21 EHR technology' means a qualified electronic health
22 record (as defined in 3000(13) of the Public Health
23 Service Act) that is certified pursuant to section
24 3001(c)(5) of such Act as meeting standards adopt-
25 ed under section 3004 of such Act that are applica-

1 ble to the type of record involved (as determined by
2 the Secretary, such as an ambulatory electronic
3 health record for office-based physicians or an inpa-
4 tient hospital electronic health record for hospitals).
5 "(5) DEFINITIONS.—For purposes of this sub-
6 section:
7 "(A) COVERED PROFESSIONAL SERV-
8 ICES.—The term 'covered professional services'
9 has the meaning given such term in subsection
10 (k)(3).
11 "(B) ELIGIBLE PROFESSIONAL.—The term
12 'eligible professional' means a physician, as de-
13 fined in section 1861(r).
14 "(C) REPORTING PERIOD.—The term 're-
15 porting period' means any period (or periods),
16 with respect to a payment year, as specified by
17 the Secretary.".
18 (b) INCENTIVE PAYMENT ADJUSTMENT.—Section
19 1848(a) of the Social Security Act (42 U.S.C. 1395w–
20 4(a)) is amended by adding at the end the following new
21 paragraph:
22 "(7) INCENTIVES FOR MEANINGFUL USE OF
23 CERTIFIED EHR TECHNOLOGY.—
24 "(A) ADJUSTMENT.—

1 "(i) IN GENERAL.—Subject to sub-
2 paragraphs (B) and (D), with respect to
3 covered professional services furnished by
4 an eligible professional during 2015 or any
5 subsequent payment year, if the eligible
6 professional is not a meaningful EHR user
7 (as determined under subsection (o)(2)) for
8 a reporting period for the year, the fee
9 schedule amount for such services fur-
10 nished by such professional during the year
11 (including the fee schedule amount for pur-
12 poses of determining a payment based on
13 such amount) shall be equal to the applica-
14 ble percent of the fee schedule amount that
15 would otherwise apply to such services
16 under this subsection (determined after ap-
17 plication of paragraph (3) but without re-
18 gard to this paragraph).
19 "(ii) APPLICABLE PERCENT.—Subject
20 to clause (iii), for purposes of clause (i),
21 the term 'applicable percent' means—
22 "(I) for 2015, 99 percent (or, in
23 the case of an eligible professional
24 who was subject to the application of

the payment adjustment under section 1848(a)(5) for 2014, 98 percent);

"(II) for 2016, 98 percent; and

"(III) for 2017 and each subsequent year, 97 percent.

"(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2018 AND SUBSEQUENT YEARS.—For 2018 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

"(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such

as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

"(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

"(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

"(E) DEFINITIONS.—For purposes of this paragraph:

"(i) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

"(ii) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

"(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.".

(c) APPLICATION TO CERTAIN MA-AFFILIATED ELIGIBLE PROFESSIONALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

"(l) APPLICATION OF ELIGIBLE PROFESSIONAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) IN GENERAL.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

"(2) ELIGIBLE PROFESSIONAL DESCRIBED.—With respect to a qualifying MA organization, an eligible professional described in this paragraph is an

1 eligible professional (as defined for purposes of sec-
2 tion 1848(o)) who—
3 "(A)(i) is employed by the organization; or
4 "(ii)(I) is employed by, or is a partner of,
5 an entity that through contract with the organi-
6 zation furnishes at least 80 percent of the enti-
7 ty's patient care services to enrollees of such or-
8 ganization; and
9 "(II) furnishes at least 75 percent of the
10 professional services of the eligible professional
11 to enrollees of the organization; and
12 "(B) furnishes, on average, at least 20
13 hours per week of patient care services.
14 "(3) ELIGIBLE PROFESSIONAL INCENTIVE PAY-
15 MENTS.—
16 "(A) IN GENERAL.—In applying section
17 1848(o) under paragraph (1), instead of the ad-
18 ditional payment amount under section
19 1848(o)(1)(A) and subject to subparagraph
20 (B), the Secretary may substitute an amount
21 determined by the Secretary to the extent fea-
22 sible and practical to be similar to the esti-
23 mated amount in the aggregate that would be
24 payable if payment for services furnished by

1 such professionals was payable under part B in-
2 stead of this part.
3 "(B) AVOIDING DUPLICATION OF PAY-
4 MENTS.—
5 "(i) IN GENERAL.—If an eligible pro-
6 fessional described in paragraph (2) is eli-
7 gible for the maximum incentive payment
8 under section 1848(o)(1)(A) for the same
9 payment period, the payment incentive
10 shall be made only under such section and
11 not under this subsection.
12 "(ii) METHODS.—In the case of an el-
13 igible professional described in paragraph
14 (2) who is eligible for an incentive payment
15 under section 1848(o)(1)(A) but is not de-
16 scribed in clause (i) for the same payment
17 period, the Secretary shall develop a proc-
18 ess—
19 "(I) to ensure that duplicate pay-
20 ments are not made with respect to
21 an eligible professional both under
22 this subsection and under section
23 1848(o)(1)(A); and

"(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

"(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS.—In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

"(D) CAP FOR ECONOMIES OF SCALE.—In no case may an incentive payment be made under this subsection, including under subparagraph (A), to a qualifying MA organization with respect to more than 5,000 eligible professionals of the organization.

"(4) PAYMENT ADJUSTMENT.—

"(A) IN GENERAL.—In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph

(D), the payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

"(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

"(i) a percentage equal to 100 percent reduced by the applicable percent (under section 1848(a)(7)(A)(ii)) for the year; and

"(ii) a percentage equal to the Secretary's estimate of the proportion for the year, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

"(C) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible professionals of the organization are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of all eligible

1 professionals of the organization that are not
2 meaningful EHR users for such year. If the
3 number of eligible professionals of the organiza-
4 tion that are not meaningful EHR users for
5 such year exceeds 5,000, such number shall be
6 reduced to 5,000 for purposes of determining
7 the proportion under the preceding sentence.

8 "(5) QUALIFYING MA ORGANIZATION DE-
9 FINED.—In this subsection and subsection (m), the
10 term 'qualifying MA organization' means a Medicare
11 Advantage organization that is organized as a health
12 maintenance organization (as defined in section
13 2791(b)(3) of the Public Health Service Act).

14 "(6) MEANINGFUL EHR USER ATTESTATION.—
15 For purposes of this subsection and subsection (m),
16 a qualifying MA organization shall submit an attes-
17 tation, in a form and manner specified by the Sec-
18 retary which may include the submission of such at-
19 testation as part of submission of the initial bid
20 under section 1854(a)(1)(A)(iv), identifying—

21 "(A) whether each eligible professional de-
22 scribed in paragraph (2), with respect to such
23 organization is a meaningful EHR user (as de-
24 fined in section 1848(o)(2)) for a year specified
25 by the Secretary; and

"(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.

"(7) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of—

"(A) each qualifying MA organization receiving an incentive payment under this subsection for eligible professionals of the organization; and

"(B) the eligible professionals of such organization for which such incentive payment is based.".

(d) CONFORMING AMENDMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking "and (i)" and inserting "(i), and (l)";

(2) in subsection (c)—

(A) in paragraph (1)(D)(i), by striking "section 1886(h)" and inserting "sections 1848(o) and 1886(h)"; and

(B) in paragraph (6)(A), by inserting after "under part B," the following: "excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,"; and

(3) in subsection (f), by inserting "and for payments under subsection (l)" after "with the organization".

(e) CONFORMING AMENDMENTS TO E-PRESCRIBING.—

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(5)(A)) is amended—

(A) in clause (i), by striking "or any subsequent year" and inserting ", 2013, or 2014"; and

(B) in clause (ii), by striking "and each subsequent year".

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w–4(m)(2)) is amended—

(A) in subparagraph (A), by striking "For 2009" and inserting "Subject to subparagraph (D), for 2009"; and

1 (B) by adding at the end the following new
2 subparagraph:
3 "(D) LIMITATION WITH RESPECT TO EHR
4 INCENTIVE PAYMENTS.—The provisions of this
5 paragraph shall not apply to an eligible profes-
6 sional (or, in the case of a group practice under
7 paragraph (3)(C), to the group practice) if, for
8 the reporting period the eligible professional (or
9 group practice) receives an incentive payment
10 under subsection (o)(1)(A) with respect to a
11 certified EHR technology (as defined in sub-
12 section (o)(4)) that has the capability of elec-
13 tronic prescribing.".
14 (f) PROVIDING ASSISTANCE TO ELIGIBLE PROFES-
15 SIONALS AND CERTAIN HOSPITALS.—
16 (1) IN GENERAL.—The Secretary of Health and
17 Human Services shall provide assistance to eligible
18 professionals (as defined in section 1848(o)(5), as
19 added by subsection (a)), Medicaid providers (as de-
20 fined in section 1903(t)(2) of such Act, as added by
21 section 4211(a)), and eligible hospitals (as defined in
22 section 1886(n)(6)(A) of such Act, as added by sec-
23 tion 4202(a)) located in rural or other medically un-
24 derserved areas to successfully choose, implement,
25 and use certified EHR technology (as defined in sec-

1 tion 1848(o)(4) of the Social Security Act, as added
2 by section 4201(a)).
3 (2) USE OF ENTITIES WITH EXPERTISE.—To
4 the extent practicable, the Secretary shall provide
5 such assistance through entities that have expertise
6 in the choice, implementation, and use of such cer-
7 tified EHR technology.

8 **SEC. 4202. INCENTIVES FOR HOSPITALS.**

9 (a) INCENTIVE PAYMENT.—Section 1886 of the So-
10 cial Security Act (42 U.S.C. 1395ww) is amended by add-
11 ing at the end the following new subsection:
12 ''(n) INCENTIVES FOR ADOPTION AND MEANINGFUL
13 USE OF CERTIFIED EHR TECHNOLOGY.—
14 ''(1) IN GENERAL.—Subject to the succeeding
15 provisions of this subsection, with respect to inpa-
16 tient hospital services furnished by an eligible hos-
17 pital during a payment year (as defined in para-
18 graph (2)(G)), if the eligible hospital is a meaningful
19 EHR user (as determined under paragraph (3)) for
20 the reporting period with respect to such year, in ad-
21 dition to the amount otherwise paid under this sec-
22 tion, there also shall be paid to the eligible hospital,
23 from the Federal Hospital Insurance Trust Fund es-
24 tablished under section 1817, an amount equal to

1 the applicable amount specified in paragraph (2)(A)
2 for the hospital for such payment year.
3 "(2) PAYMENT AMOUNT.—
4 "(A) IN GENERAL.—Subject to the suc-
5 ceeding subparagraphs of this paragraph, the
6 applicable amount specified in this subpara-
7 graph for an eligible hospital for a payment
8 year is equal to the product of the following:
9 "(i) INITIAL AMOUNT.—The sum of—
10 "(I) the base amount specified in
11 subparagraph (B); plus
12 "(II) the discharge related
13 amount specified in subparagraph (C)
14 for a 12-month period selected by the
15 Secretary with respect to such pay-
16 ment year.
17 "(ii) MEDICARE SHARE.—The Medi-
18 care share as specified in subparagraph
19 (D) for the hospital for a period selected
20 by the Secretary with respect to such pay-
21 ment year.
22 "(iii) TRANSITION FACTOR.—The
23 transition factor specified in subparagraph
24 (E) for the hospital for the payment year.

1 "(B) BASE AMOUNT.—The base amount
2 specified in this subparagraph is $2,000,000.
3 "(C) DISCHARGE RELATED AMOUNT.—The
4 discharge related amount specified in this sub-
5 paragraph for a 12-month period selected by
6 the Secretary shall be determined as the sum of
7 the amount, based upon total discharges (re-
8 gardless of any source of payment) for the pe-
9 riod, for each discharge up to the 23,000th dis-
10 charge as follows:
11 "(i) For the 1,150th through the
12 9,200nd discharge, $200.
13 "(ii) For the 9,201st through the
14 13,800th discharge, 50 percent of the
15 amount specified in clause (i).
16 "(iii) For the 13,801st through the
17 23,000th discharge, 30 percent of the
18 amount specified in clause (i).
19 "(D) MEDICARE SHARE.—The Medicare
20 share specified under this subparagraph for a
21 hospital for a period selected by the Secretary
22 for a payment year is equal to the fraction—
23 "(i) the numerator of which is the
24 sum (for such period and with respect to
25 the hospital) of—

1 "(I) the number of inpatient-bed-
2 days (as established by the Secretary)
3 which are attributable to individuals
4 with respect to whom payment may be
5 made under part A; and
6 "(II) the number of inpatient-
7 bed-days (as so established) which are
8 attributable to individuals who are en-
9 rolled with a Medicare Advantage or-
10 ganization under part C; and
11 "(ii) the denominator of which is the
12 product of—
13 "(I) the total number of inpa-
14 tient-bed-days with respect to the hos-
15 pital during such period; and
16 "(II) the total amount of the hos-
17 pital's charges during such period, not
18 including any charges that are attrib-
19 utable to charity care (as such term is
20 used for purposes of hospital cost re-
21 porting under this title), divided by
22 the total amount of the hospital's
23 charges during such period.
24 Insofar as the Secretary determines that data
25 are not available on charity care necessary to

calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

"(E) TRANSITION FACTOR SPECIFIED.—

"(i) IN GENERAL.—Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

"(I) For the first payment year for such hospital, 1.

"(II) For the second payment year for such hospital, ¾.

"(III) For the third payment year for such hospital, ½.

"(IV) For the fourth payment year for such hospital, ¼.

"(V) For any succeeding payment year for such hospital, 0.

"(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

"(F) FORM OF PAYMENT.—The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

"(G) PAYMENT YEAR DEFINED.—

1 "(i) IN GENERAL.—For purposes of
2 this subsection, the term 'payment year'
3 means a fiscal year beginning with fiscal
4 year 2011.
5 "(ii) FIRST, SECOND, ETC. PAYMENT
6 YEAR.—The term 'first payment year'
7 means, with respect to inpatient hospital
8 services furnished by an eligible hospital,
9 the first fiscal year for which an incentive
10 payment is made for such services under
11 this subsection. The terms 'second pay-
12 ment year', 'third payment year', and
13 'fourth payment year' mean, with respect
14 to an eligible hospital, each successive year
15 immediately following the first payment
16 year for that hospital.
17 "'"(H) LIMITATION FOR CRITICAL ACCESS
18 HOSPITALS.—In no case shall the total amount
19 of payments made under this subsection to a
20 critical access hospital for all payment years ex-
21 ceed $1,500,000.
22 "(3) MEANINGFUL EHR USER.—
23 "(A) IN GENERAL.—For purposes of para-
24 graph (1), an eligible hospital shall be treated
25 as a meaningful EHR user for a reporting pe-

1 riod for a payment year (or, for purposes of
2 subsection (b)(3)(B)(ix), for a reporting period
3 under such subsection for a fiscal year) if each
4 of the following requirements are met:
5 "(i) MEANINGFUL USE OF CERTIFIED
6 EHR TECHNOLOGY.—The eligible hospital
7 demonstrates to the satisfaction of the Sec-
8 retary, in accordance with subparagraph
9 (C)(i), that during such period the hospital
10 is using certified EHR technology in a
11 meaningful manner.
12 "(ii) INFORMATION EXCHANGE.—The
13 eligible hospital demonstrates to the satis-
14 faction of the Secretary, in accordance
15 with subparagraph (C)(i), that during such
16 period such certified EHR technology is
17 connected in a manner that provides, in
18 accordance with law and standards appli-
19 cable to the exchange of information, for
20 the electronic exchange of health informa-
21 tion to improve the quality of health care,
22 such as promoting care coordination.
23 "(iii) REPORTING ON MEASURES
24 USING EHR.—Subject to subparagraph
25 (B)(ii) and using such certified EHR tech-

1 nology, the eligible hospital submits infor-
2 mation for such period, in a form and
3 manner specified by the Secretary, on such
4 clinical quality measures and such other
5 measures as selected by the Secretary
6 under subparagraph (B)(i).
7 The Secretary shall seek to improve the use of
8 electronic health records and health care quality
9 over time by requiring more stringent measures
10 of meaningful use selected under this para-
11 graph.
12 ''(B) REPORTING ON MEASURES.—
13 ''(i) SELECTION.—The Secretary shall
14 select measures for purposes of subpara-
15 graph (A)(iii) but only consistent with the
16 following:
17 ''(I) The Secretary shall provide
18 preference to clinical quality measures
19 that have been selected for purposes
20 of applying subsection (b)(3)(B)(viii)
21 or that have been endorsed by the en-
22 tity with a contract with the Secretary
23 under section 1890(a).
24 ''(II) Prior to any measure (other
25 than a clinical quality measure that

has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

''(ii) LIMITATIONS.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

''(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

"(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

"(i) IN GENERAL.—A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

"(I) an attestation;

"(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

"(III) a survey response;

"(IV) reporting under subparagraph (A)(iii); and

"(V) other means specified by the Secretary.

"(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are

1 necessary for purposes of subparagraph
2 (A).
3 "(4) APPLICATION.—
4 "(A) LIMITATIONS ON REVIEW.—There
5 shall be no administrative or judicial review
6 under section 1869, section 1878, or otherwise
7 of the determination of any incentive payment
8 under this subsection and the payment adjust-
9 ment under subsection (b)(3)(B)(ix), including
10 the determination of a meaningful EHR user
11 under paragraph (3), determination of meas-
12 ures applicable to services furnished by eligible
13 hospitals under this subsection, and the excep-
14 tion under subsection (b)(3)(B)(ix)(II).
15 "(B) POSTING ON WEBSITE.—The Sec-
16 retary shall post on the Internet website of the
17 Centers for Medicare & Medicaid Services, in an
18 easily understandable format, a list of the
19 names of the eligible hospitals that are mean-
20 ingful EHR users under this subsection or sub-
21 section (b)(3)(B)(ix) and other relevant data as
22 determined appropriate by the Secretary. The
23 Secretary shall ensure that a hospital has the
24 opportunity to review the other relevant data

that are to be made public with respect to the hospital prior to such data being made public.

"(5) CERTIFIED EHR TECHNOLOGY DEFINED.—The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

"(6) DEFINITIONS.—For purposes of this subsection:

"(A) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means—

"(i) a subsection (d) hospital; and

"(ii) a critical access hospital (as defined in section 1861(mm)(1)).

"(B) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.".

(b) INCENTIVE MARKET BASKET ADJUSTMENT.—

(1) IN GENERAL.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(A) in clause (viii)(I), by inserting "(or, beginning with fiscal year 2016, by one-quarter)" after "2.0 percentage points"; and

(B) by adding at the end the following new clause:

1 "(ix)(I) For purposes of clause (i) for fiscal year
2 2015 and each subsequent fiscal year, in the case of an
3 eligible hospital (as defined in subsection (n)(6)(A)) that
4 is not a meaningful EHR user (as defined in subsection
5 (n)(3)) for the reporting period for such fiscal year, three-
6 quarters of the applicable percentage increase otherwise
7 applicable under clause (i) for such fiscal year shall be
8 reduced by 33⅓ percent for fiscal year 2015, 66⅔ per-
9 cent for fiscal year 2016, and 100 percent for fiscal year
10 2017 and each subsequent fiscal year. Such reduction
11 shall apply only with respect to the fiscal year involved
12 and the Secretary shall not take into account such reduc-
13 tion in computing the applicable percentage increase under
14 clause (i) for a subsequent fiscal year.

15 "(II) The Secretary may, on a case-by-case basis, ex-
16 empt a subsection (d) hospital from the application of sub-
17 clause (I) with respect to a fiscal year if the Secretary
18 determines, subject to annual renewal, that requiring such
19 hospital to be a meaningful EHR user during such fiscal
20 year would result in a significant hardship, such as in the
21 case of a hospital in a rural area without sufficient Inter-
22 net access. In no case may a hospital be granted an ex-
23 emption under this subclause for more than 5 years.

24 "(III) For fiscal year 2015 and each subsequent fis-
25 cal year, a State in which hospitals are paid for services

1 under section 1814(b)(3) shall adjust the payments to
2 each subsection (d) hospital in the State that is not a
3 meaningful EHR user (as defined in subsection (n)(3))
4 in a manner that is designed to result in an aggregate
5 reduction in payments to hospitals in the State that is
6 equivalent to the aggregate reduction that would have oc-
7 curred if payments had been reduced to each subsection
8 (d) hospital in the State in a manner comparable to the
9 reduction under the previous provisions of this clause. The
10 State shall report to the Secretary the methodology it will
11 use to make the payment adjustment under the previous
12 sentence.

13 ''(IV) For purposes of this clause, the term 'reporting
14 period' means, with respect to a fiscal year, any period
15 (or periods), with respect to the fiscal year, as specified
16 by the Secretary.''.

17 (2) CRITICAL ACCESS HOSPITALS.—Section
18 1814(l) of the Social Security Act (42 U.S.C.
19 1395f(l)) is amended—

20 (A) in subparagraph (1), by striking
21 ''paragraph (2)'' and inserting ''paragraphs (2)
22 and (3)''; and

23 (B) by adding at the end the following new
24 paragraph:

1 "(3)(A) Subject to subparagraph (B), for fiscal year
2 2015 and each subsequent fiscal year, in the case of a
3 critical access hospital that is not a meaningful EHR user
4 (as defined in section 1886(n)(3)) for the reporting period
5 for such fiscal year, paragraph (1) shall be applied by sub-
6 stituting the applicable percent under subparagraph (C)
7 for the percent described in such paragraph (1).

8 "(B) The Secretary may, on a case-by-case basis, ex-
9 empt a critical access hospital from the application of sub-
10 paragraph (A) with respect to a fiscal year if the Secretary
11 determines, subject to annual renewal, that requiring such
12 hospital to be a meaningful EHR user during such fiscal
13 year would result in a significant hardship, such as in the
14 case of a hospital in a rural area without sufficient Inter-
15 net access. In no case may a hospital be granted an ex-
16 emption under this subparagraph for more than 5 years.

17 "(C) The percent described in this subparagraph is—

18 "(i) for fiscal year 2015, 100.66 percent;

19 "(ii) for fiscal year 2016, 100.33 percent; and

20 "(iii) for fiscal year 2017 and each subsequent
21 fiscal year, 100 percent.".

22 (c) APPLICATION TO CERTAIN MA-AFFILIATED ELI-
23 GIBLE HOSPITALS.—Section 1853 of the Social Security
24 Act (42 U.S.C. 1395w-23), as amended by section

1 4201(c), is further amended by adding at the end the fol-
2 lowing new subsection:

3 "(m) APPLICATION OF ELIGIBLE HOSPITAL INCEN-
4 TIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION
5 AND MEANINGFUL USE OF CERTIFIED EHR TECH-
6 NOLOGY.—

7 "(1) APPLICATION.—Subject to paragraphs (3)
8 and (4), in the case of a qualifying MA organization,
9 the provisions of sections 1814(l)(3), 1886(n), and
10 1886(b)(3)(B)(ix) shall apply with respect to eligible
11 hospitals described in paragraph (2) of the organiza-
12 tion which the organization attests under subsection
13 (l)(6) to be meaningful EHR users in a similar man-
14 ner as they apply to eligible hospitals under such
15 sections. Incentive payments under paragraph (3)
16 shall be made to and payment adjustments under
17 paragraph (4) shall apply to such qualifying organi-
18 zations.

19 "(2) ELIGIBLE HOSPITAL DESCRIBED.—With
20 respect to a qualifying MA organization, an eligible
21 hospital described in this paragraph is an eligible
22 hospital (as defined in section 1886(n)(6)(A)) that is
23 under common corporate governance with such orga-
24 nization and serves individuals enrolled under an
25 MA plan offered by such organization.

1 "(3) ELIGIBLE HOSPITAL INCENTIVE PAY-
2 MENTS.—
3 "(A) IN GENERAL.—In applying section
4 1886(n)(2) under paragraph (1), instead of the
5 additional payment amount under section
6 1886(n)(2), there shall be substituted an
7 amount determined by the Secretary to be simi-
8 lar to the estimated amount in the aggregate
9 that would be payable if payment for services
10 furnished by such hospitals was payable under
11 part A instead of this part. In implementing the
12 previous sentence, the Secretary—
13 "(i) shall, insofar as data to deter-
14 mine the discharge related amount under
15 section 1886(n)(2)(C) for an eligible hos-
16 pital are not available to the Secretary, use
17 such alternative data and methodology to
18 estimate such discharge related amount as
19 the Secretary determines appropriate; and
20 "(ii) shall, insofar as data to deter-
21 mine the medicare share described in sec-
22 tion 1886(n)(2)(D) for an eligible hospital
23 are not available to the Secretary, use such
24 alternative data and methodology to esti-
25 mate such share, which data and method-

1 ology may include use of the inpatient bed
2 days (or discharges) with respect to an eli-
3 gible hospital during the appropriate pe-
4 riod which are attributable to both individ-
5 uals for whom payment may be made
6 under part A or individuals enrolled in an
7 MA plan under a Medicare Advantage or-
8 ganization under this part as a proportion
9 of the total number of patient-bed-days (or
10 discharges) with respect to such hospital
11 during such period.
12 ''(B) AVOIDING DUPLICATION OF PAY-
13 MENTS.—
14 ''(i) IN GENERAL.—In the case of a
15 hospital that for a payment year is an eli-
16 gible hospital described in paragraph (2)
17 and for which at least one-third of their
18 discharges (or bed-days) of Medicare pa-
19 tients for the year are covered under part
20 A, payment for the payment year shall be
21 made only under section 1886(n) and not
22 under this subsection.
23 ''(ii) METHODS.—In the case of a
24 hospital that is an eligible hospital de-
25 scribed in paragraph (2) and also is eligi-

1 ble for an incentive payment under section
2 1886(n) but is not described in clause (i)
3 for the same payment period, the Secretary
4 shall develop a process—
5 "(I) to ensure that duplicate pay-
6 ments are not made with respect to
7 an eligible hospital both under this
8 subsection and under section 1886(n);
9 and
10 "(II) to collect data from Medi-
11 care Advantage organizations to en-
12 sure against such duplicate payments.
13 "(4) PAYMENT ADJUSTMENT.—
14 "(A) Subject to paragraph (3), in the case
15 of a qualifying MA organization (as defined in
16 section 1853(l)(5)), if, according to the attesta-
17 tion of the organization submitted under sub-
18 section (l)(6) for an applicable period, one or
19 more eligible hospitals (as defined in section
20 1886(n)(6)(A)) that are under common cor-
21 porate governance with such organization and
22 that serve individuals enrolled under a plan of-
23 fered by such organization are not meaningful
24 EHR users (as defined in section 1886(n)(3))
25 with respect to a period, the payment amount

payable under this section for such organization for such period shall be the percent specified in subparagraph (B) for such period of the payment amount otherwise provided under this section for such period.

"(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

"(i) the number of the percentage point reduction effected under section 1886(b)(3)(B)(ix)(I) for the period; and

"(ii) the Medicare hospital expenditure proportion specified in subparagraph (C) for the year.

"(C) MEDICARE HOSPITAL EXPENDITURE PROPORTION.—The Medicare hospital expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for inpatient hospital services.

"(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA orga-

1 nization attests that not all eligible hospitals
2 are meaningful EHR users with respect to an
3 applicable period, the Secretary shall apply the
4 payment adjustment under this paragraph
5 based on a methodology specified by the Sec-
6 retary, taking into account the proportion of
7 such eligible hospitals, or discharges from such
8 hospitals, that are not meaningful EHR users
9 for such period.

10 ''(5) POSTING ON WEBSITE.—The Secretary
11 shall post on the Internet website of the Centers for
12 Medicare & Medicaid Services, in an easily under-
13 standable format—

14 ''(A) a list of the names, business address-
15 es, and business phone numbers of each quali-
16 fying MA organization receiving an incentive
17 payment under this subsection for eligible hos-
18 pitals described in paragraph (2); and

19 ''(B) a list of the names of the eligible hos-
20 pitals for which such incentive payment is
21 based.''.

22 (d) CONFORMING AMENDMENTS.—

23 (1) Section 1814(b) of the Social Security Act
24 (42 U.S.C. 1395f(b)) is amended—

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting ", subject to section 1886(d)(3)(B)(ix)(III)," after "then"; and

(B) by adding at the end the following: "For purposes of applying paragraph (3), there shall be taken into account incentive payments, and payment adjustments under subsection (b)(3)(B)(ix) or (n) of section 1886.".

(2) Section 1851(i)(1) of the Social Security Act (42 U.S.C. 1395w–21(i)(1)) is amended by striking "and 1886(h)(3)(D)" and inserting "1886(h)(3)(D), and 1853(m)".

(3) Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4311(d)(1), is amended—

(A) in subsection (c)—

(i) in paragraph (1)(D)(i), by striking "1848(o)" and inserting ", 1848(o), and 1886(n)"; and

(ii) in paragraph (6)(A), by inserting "and subsections (b)(3)(B)(ix) and (n) of section 1886" after "section 1848"; and

(B) in subsection (f), by inserting "and subsection (m)" after "under subsection (l)".

SEC. 4203. PREMIUM HOLD HARMLESS AND IMPLEMENTATION FUNDING.

(a) PREMIUM HOLD HARMLESS.—

(1) IN GENERAL.—Section 1839(a)(1) of the Social Security Act (42 U.S.C. 1395r(a)(1)) is amended by adding at the end the following: "In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).".

(2) PAYMENT.—Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended—

(A) in paragraph (2), by striking the period at the end and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(3) a Government contribution equal to the amount of payment incentives payable under sections 1848(o) and 1853(l)(3).".

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $100,000,000 for each of fiscal years 2009 through 2015 and $45,000,000 for each succeeding fiscal

year through fiscal year 2018, which shall be available for purposes of carrying out the provisions of (and amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4204. NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.

(a) IN GENERAL.—Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or after October 1, 2008, as if such paragraph had never been in effect.

(b) NO EFFECT ON SUBSEQUENT YEARS.—Nothing in subsection (a) shall be construed as having any effect on the application of paragraph (d) of section 412.322 of title 42, Code of Federal Regulations.

SEC. 4205. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment

1 incentives (such as under title XVIII or XIX of the
2 Social Security Act) and other funding for purposes
3 of implementing and using certified EHR technology
4 (as defined in section 1848(o)(4) of the Social Secu-
5 rity Act, as added by section 4311(a)) should be
6 made available to health care providers who are re-
7 ceiving minimal or no payment incentives or other
8 funding under this Act, under title XVIII or XIX of
9 such Act, or otherwise, for such purposes.
10 (2) DETAILS OF STUDY.—Such study shall in-
11 clude an examination of—
12 (A) the adoption rates of certified EHR
13 technology (as so defined) by such health care
14 providers;
15 (B) the clinical utility of such technology
16 by such health care providers;
17 (C) whether the services furnished by such
18 health care providers are appropriate for or
19 would benefit from the use of such technology;
20 (D) the extent to which such health care
21 providers work in settings that might otherwise
22 receive an incentive payment or other funding
23 under this Act, title XVIII or XIX of the Social
24 Security Act, or otherwise;

(E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(F) any other issues the Secretary deems to be appropriate.

(b) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).

SEC. 4206. STUDY ON AVAILABILITY OF OPEN SOURCE HEALTH INFORMATION TECHNOLOGY SYSTEMS.

(a) IN GENERAL.—

(1) STUDY.—The Secretary of Health and Human Services shall, in consultation with the Under Secretary for Health of the Veterans Health Administration, the Director of the Indian Health Service, the Secretary of Defense, the Director of the Agency for Healthcare Research and Quality, the Administrator of the Health Resources and Services Administration, and the Chairman of the Federal Communications Commission, conduct a study on—

1 (A) the current availability of open source
2 health information technology systems to Fed-
3 eral safety net providers (including small, rural
4 providers);
5 (B) the total cost of ownership of such sys-
6 tems in comparison to the cost of proprietary
7 commercial products available;
8 (C) the ability of such systems to respond
9 to the needs of, and be applied to, various pop-
10 ulations (including children and disabled indi-
11 viduals); and
12 (D) the capacity of such systems to facili-
13 tate interoperability.
14 (2) CONSIDERATIONS.—In conducting the study
15 under paragraph (1), the Secretary of Health and
16 Human Services shall take into account the cir-
17 cumstances of smaller health care providers, health
18 care providers located in rural or other medically un-
19 derserved areas, and safety net providers that deliver
20 a significant level of health care to uninsured indi-
21 viduals, Medicaid beneficiaries, SCHIP beneficiaries,
22 and other vulnerable individuals.
23 (b) REPORT.—Not later than October 1, 2010, the
24 Secretary of Health and Human Services shall submit to
25 Congress a report on the findings and the conclusions of

1 the study conducted under subsection (a), together with
2 recommendations for such legislation and administrative
3 action as the Secretary determines appropriate.

4 Subtitle B—Medicaid Funding

5 SEC. 4211. MEDICAID PROVIDER EHR ADOPTION AND OPER-
6 ATION PAYMENTS; IMPLEMENTATION FUND-
7 ING.

8 (a) IN GENERAL.—Section 1903 of the Social Secu-
9 rity Act (42 U.S.C. 1396b) is amended—
10 (1) in subsection (a)(3)—
11 (A) by striking ''and'' at the end of sub-
12 paragraph (D);
13 (B) by striking ''plus'' at the end of sub-
14 paragraph (E) and inserting ''and''; and
15 (C) by adding at the end the following new
16 subparagraph:
17 ''(F)(i) 100 percent of so much of the
18 sums expended during such quarter as are at-
19 tributable to payments for certified EHR tech-
20 nology (and support services including mainte-
21 nance and training that is for, or is necessary
22 for the adoption and operation of, such tech-
23 nology) by Medicaid providers described in sub-
24 section (t)(1); and

1 "(ii) 90 percent of so much of the sums ex-
2 pended during such quarter as are attributable
3 to payments for reasonable administrative ex-
4 penses related to the administration of pay-
5 ments described in clause (i) if the State meets
6 the condition described in subsection (t)(9);
7 plus"; and
8 (2) by inserting after subsection (s) the fol-
9 lowing new subsection:
10 "(t)(1)(A) For purposes of subsection (a)(3)(F), the
11 payments for certified EHR technology (and support serv-
12 ices including maintenance that is for, or is necessary for
13 the operation of, such technology) by Medicaid providers
14 described in this paragraph are payments made by the
15 State in accordance with this subsection of the applicable
16 percent of the net allowable costs of Medicaid providers
17 (as defined in paragraph (2)) for such technology (and
18 support services).
19 "(B) For purposes of subparagraph (A), the term
20 'applicable percent' means—
21 "(i) in the case of a Medicaid provider de-
22 scribed in paragraph (2)(A), 85 percent;
23 "(ii) in the case of a Medicaid provider de-
24 scribed in clause (i) or (ii) of paragraph (2)(B), 100
25 percent; and

1 "(iii) in the case of a Medicaid provider de-
2 scribed in clause (iii) of paragraph (2)(B), a percent
3 specified by the Secretary, but not less than 85 per-
4 cent.
5 "(2) In this subsection and subsection (a)(3)(F), the
6 term 'Medicaid provider' means—
7 "(A) an eligible professional (as defined in
8 paragraph (3)(B)) who is not hospital-based and has
9 at least 30 percent of the professional's patient vol-
10 ume (as estimated in accordance with standards es-
11 tablished by the Secretary) attributable to individ-
12 uals who are receiving medical assistance under this
13 title; and
14 "(B)(i) a children's hospital, (ii) an acute-care
15 hospital that is not described in clause (i) and that
16 has at least 10 percent of the hospital's patient vol-
17 ume (as estimated in accordance with standards es-
18 tablished by the Secretary) attributable to individ-
19 uals who are receiving medical assistance under this
20 title, or (iii) a Federally-qualified health center or
21 rural health clinic that has at least 30 percent of the
22 center's or clinic's patient volume (as estimated in
23 accordance with standards established by the Sec-
24 retary) attributable to individuals who are receiving
25 medical assistance under this title.

1 An eligible professional shall not qualify as a Medicaid
2 provider under this subsection unless the professional has
3 waived, in a manner specified by the Secretary, any right
4 to payment under section 1848(o) with respect to the
5 adoption or support of certified EHR technology by the
6 eligible professional. In applying clauses (ii) and (iii) of
7 subparagraph (B), the standards established by the Sec-
8 retary for patient volume shall include individuals enrolled
9 in a Medicaid managed care plan (under section 1903(m)
10 or section 1932).

11 ''(3) In this subsection and subsection (a)(3)(F):

12 ''(A) The term 'certified EHR technology'
13 means a qualified electronic health record (as de-
14 fined in 3000(13) of the Public Health Service Act)
15 that is certified pursuant to section 3001(c)(5) of
16 such Act as meeting standards adopted under sec-
17 tion 3004 of such Act that are applicable to the type
18 of record involved (as determined by the Secretary,
19 such as an ambulatory electronic health record for
20 office-based physicians or an inpatient hospital elec-
21 tronic health record for hospitals).

22 ''(B) The term 'eligible professional' means a
23 physician as defined in paragraphs (1) and (2) of
24 section 1861(r), and includes a nurse mid-wife and
25 a nurse practitioner.

1 "(C) The term 'hospital-based' means, with re-
2 spect to an eligible professional, a professional (such
3 as a pathologist, anesthesiologist, or emergency phy-
4 sician) who furnishes substantially all of the individ-
5 ual's professional services in a hospital setting
6 (whether inpatient or outpatient) and through the
7 use of the facilities and equipment, including quali-
8 fied electronic health records, of the hospital.
9 "(4)(A) The term 'allowable costs' means, with re-
10 spect to certified EHR technology of a Medicaid provider,
11 costs of such technology (and support services including
12 maintenance and training that is for, or is necessary for
13 the adoption and operation of, such technology) as deter-
14 mined by the Secretary to be reasonable.
15 "(B) The term 'net allowable costs' means allowable
16 costs reduced by any payment that is made to the Med-
17 icaid provider involved from any other source that is di-
18 rectly attributable to payment for certified EHR tech-
19 nology or services described in subparagraph (A).
20 "(C) In no case shall—
21 "(i) the aggregate allowable costs under this
22 subsection (covering one or more years) with respect
23 to a Medicaid provider described in paragraph
24 (2)(A) for purchase and initial implementation of
25 certified EHR technology (and services described in

1 subparagraph (A)) exceed $25,000 or include costs
2 over a period of longer than 5 years;
3 ''(ii) for costs not described in clause (i) relat-
4 ing to the operation, maintenance, or use of certified
5 EHR technology, the annual allowable costs under
6 this subsection with respect to such a Medicaid pro-
7 vider for costs not described in clause (i) for any
8 year exceed $10,000;
9 ''(iii) payment described in paragraph (1) for
10 costs described in clause (ii) be made with respect
11 to such a Medicaid provider over a period of more
12 than 5 years;
13 ''(iv) the aggregate allowable costs under this
14 subsection with respect to such a Medicaid provider
15 for all costs exceed $75,000; or
16 ''(v) the allowable costs, whether for purchase
17 and initial implementation, maintenance, or other-
18 wise, for a Medicaid provider described in paragraph
19 (2)(B)(iii) exceed such aggregate or annual limita-
20 tion as the Secretary shall establish, based on an
21 amount determined by the Secretary as being ade-
22 quate to adopt and maintain certified EHR tech-
23 nology, consistent with paragraph (6).

1 "(5) Payments described in paragraph (1) are not in
2 accordance with this subsection unless the following re-
3 quirements are met:
4 "(A) The State provides assurances satisfactory
5 to the Secretary that amounts received under sub-
6 section (a)(3)(F) with respect to costs of a Medicaid
7 provider are paid directly to such provider without
8 any deduction or rebate.
9 "(B) Such Medicaid provider is responsible for
10 payment of the costs described in such paragraph
11 that are not provided under this title.
12 "(C) With respect to payments to such Med-
13 icaid provider for costs other than costs related to
14 the initial adoption of certified EHR technology, the
15 Medicaid provider demonstrates meaningful use of
16 certified EHR technology through a means that is
17 approved by the State and acceptable to the Sec-
18 retary, and that may be based upon the methodolo-
19 gies applied under section 1848(o) or 1886(n). In
20 establishing such means, which may include the re-
21 porting of clinical quality measures to the State, the
22 State shall ensure that populations with unique
23 needs, such as children, are appropriately addressed.
24 "(D) To the extent specified by the Secretary,
25 the certified EHR technology is compatible with

1 State or Federal administrative management sys-
2 tems.
3 "(6)(A) In no case shall the payments described in
4 paragraph (1), with respect to a hospital, exceed in the
5 aggregate the product of—
6 "(i) the overall hospital EHR amount for the
7 hospital computed under subparagraph (B); and
8 "(ii) the Medicaid share for such hospital com-
9 puted under subparagraph (C).
10 "(B) For purposes of this paragraph, the overall hos-
11 pital EHR amount, with respect to a hospital, is the sum
12 of the applicable amounts specified in section
13 1886(n)(2)(A) for such hospital for the first 4 payment
14 years (as estimated by the Secretary) determined as if the
15 Medicare share specified in clause (ii) of such section were
16 1. The Secretary shall publish in the Federal Register the
17 overall hospital EHR amount for each hospital eligible for
18 payments under this subsection. In computing amounts
19 under clause (ii) for payment years after the first payment
20 year, the Secretary shall assume that in subsequent pay-
21 ment years discharges increase at the average annual rate
22 of growth of the most recent three years for which dis-
23 charge data are available.
24 "(C) The Medicaid share computed under this sub-
25 paragraph, for a hospital for a period specified by the Sec-

1 retary, shall be calculated in the same manner as the
2 Medicare share under section 1886(n)(2)(D) for such a
3 hospital and period, except that there shall be substituted
4 for the numerator under clause (i) of such section the
5 amount that is equal to the number of inpatient-bed-days
6 (as established by the Secretary) which are attributable
7 to individuals who are receiving medical assistance under
8 this title and who are not described in section
9 1886(n)(2)(D)(i). In computing inpatient-bed-days under
10 the previous sentence, the Secretary shall take into ac-
11 count inpatient-bed-days attributable to inpatient-bed-
12 days that are paid for individuals enrolled in a Medicaid
13 managed care plan (under section 1903(m) or section
14 1932).

15 ''(7) With respect to health care providers other than
16 hospitals, the Secretary shall establish and implement a
17 detailed process to ensure coordination of the different
18 programs for payment of such health care providers for
19 adoption or use of health information technology (includ-
20 ing certified EHR technology), as well as payments for
21 such health care providers provided under this title or title
22 XVIII, to assure no duplication of funding. The Secretary
23 shall promulgate regulations to carry out the preceding
24 sentence.

1 "(8) In carrying out paragraph (5)(C), the State and
2 Secretary shall seek, to the maximum extent practicable,
3 to avoid duplicative requirements from Federal and State
4 Governments to demonstrate meaningful use of certified
5 EHR technology under this title and title XVIII. In doing
6 so, the Secretary may deem satisfaction of requirements
7 for such meaningful use for a payment year under title
8 XVIII to be sufficient to qualify as meaningful use under
9 this subsection. The Secretary may also specify the report-
10 ing periods under this subsection in order to carry out this
11 paragraph.

12 "(9) In order to be provided Federal financial partici-
13 pation under subsection (a)(3)(F)(ii), a State must dem-
14 onstrate to the satisfaction of the Secretary, that the
15 State—

16 "(A) is using the funds provided for the pur-
17 poses of administering payments under this sub-
18 section, including tracking of meaningful use by
19 Medicaid providers;

20 "(B) is conducting adequate oversight of the
21 program under this subsection, including routine
22 tracking of meaningful use attestations and report-
23 ing mechanisms; and

24 "(C) is pursuing initiatives to encourage the
25 adoption of certified EHR technology to promote

1 health care quality and the exchange of health care
2 information under this title, subject to applicable
3 laws and regulations governing such exchange.
4 "(10) The Secretary shall periodically submit reports
5 to the Committee on Energy and Commerce of the House
6 of Representatives and the Committee on Finance of the
7 Senate on status, progress, and oversight of payments
8 under paragraph (1).".
9 (b) IMPLEMENTATION FUNDING.—In addition to
10 funds otherwise available, out of any funds in the Treas-
11 ury not otherwise appropriated, there are appropriated to
12 the Secretary of Health and Human Services for the Cen-
13 ter for Medicare & Medicaid Services Program Manage-
14 ment Account, $40,000,000 for each of fiscal years 2009
15 through 2015 and $20,000,000 for each succeeding fiscal
16 year through fiscal year 2018, which shall be available for
17 purposes of carrying out the provisions of (and the amend-
18 ments made by) this part. Amounts appropriated under
19 this subsection for a fiscal year shall be available until ex-
20 pended.
21 (c) HHS REPORT ON IMPLEMENTATION OF DE-
22 TAILED PROCESS TO ASSURE NO DUPLICATION OF FUND-
23 ING.—Not later than July 1, 2012, the Secretary of
24 Health and Human Services shall submit to Congress a
25 report on the establishment and implementation of the de-

1 tailed process under section 1903(t)(7) of the Social Secu-
2 rity Act, as added by subsection (a), together with rec-
3 ommendations for such legislation and administrative ac-
4 tion as the Secretary determines appropriate.

5 TITLE V—STATE FISCAL RELIEF

6 SEC. 5000. PURPOSES; TABLE OF CONTENTS.

7 (a) PURPOSES.—The purposes of this title are as fol-
8 lows:

9 (1) To provide fiscal relief to States in a period
10 of economic downturn.

11 (2) To protect and maintain State Medicaid
12 programs during a period of economic downturn, in-
13 cluding by helping to avert cuts to provider payment
14 rates and benefits or services, and to prevent con-
15 strictions of income eligibility requirements for such
16 programs, but not to promote increases in such re-
17 quirements.

18 (b) TABLE OF CONTENTS.—The table of contents for
19 this title is as follows:

TITLE V—STATE FISCAL RELIEF

Sec. 5000. Purposes; table of contents.
Sec. 5001. Temporary increase of Medicaid FMAP.
Sec. 5002. Extension and update of special rule for increase of Medicaid DSH allotments for low DSH States.
Sec. 5003. Payment of Medicare liability to States as a result of the Special Disability Workload Project.
Sec. 5004. Funding for the Department of Health and Human Services Office of the Inspector General.
Sec. 5005. GAO study and report regarding State needs during periods of national economic downturn.

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (e), (f), and (g), if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section;

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first calendar quarter in fiscal year 2011.

(b) GENERAL 7.6 PERCENTAGE POINT INCREASE.—Subject to subsections (e), (f), and (g), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)) , the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 7.6 percentage points.

(c) ADDITIONAL RELIEF BASED ON INCREASE IN UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), if a State is a qualifying State under paragraph (2) for a calendar quarter occurring during the recession adjustment period, the FMAP for the State shall be further increased by the number of percentage points equal to the product of the State percentage applicable for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) after the application of subsections (a) and (b) and the applicable percent determined in paragraph (3) for the calendar quarter (or, if greater, for a previous such calendar quarter, subject to paragraph (4)) .

(2) QUALIFYING CRITERIA.—

(A) IN GENERAL.—For purposes of paragraph (1), a State qualifies for additional relief under this subsection for a calendar quarter occurring during the recession adjustment period if the State is 1 of the 50 States or the District of Columbia and the State satisfies any of the following criteria for the quarter:

(i) An increase of at least 1.5 percentage points, but less than 2.5 percentage points, in the average monthly unemployment rate, seasonally adjusted, for the State or District, as determined by comparing months in the most recent previous 3-consecutive month period for which data are available for the State or District to the lowest average monthly unemployment rate, seasonally adjusted, for the State or District for any 3-consecutive-month period preceding that period and beginning on or after January 1, 2006 (based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor).

(ii) An increase of at least 2.5 percentage points, but less than 3.5 percent-

age points, in the average monthly unemployment rate, seasonally adjusted, for the State or District (as so determined).

(iii) An increase of at least 3.5 percentage points for the State or District, in the average monthly unemployment rate, seasonally adjusted, for the State or District (as so determined).

(B) MAINTENANCE OF STATUS.—If a State qualifies for additional relief under this subsection for a calendar quarter, it shall be deemed to have qualified for such relief for each subsequent calendar quarter ending before July 1, 2010.

(3) APPLICABLE PERCENT.—For purposes of paragraph (1), the applicable percent is—

(A) 2.5 percent, if the State satisfies the criteria described in paragraph (2)(A)(i) for the calendar quarter;

(B) 4.5 percent if the State satisfies the criteria described in paragraph (2)(A)(ii) for the calendar quarter; and

(C) 6.5 percent if the State satisfies the criteria described in paragraph (2)(A)(iii) for the calendar quarter.

(4) MAINTENANCE OF HIGHER PERCENTAGE REDUCTION FOR PERIOD AFTER LOWER PERCENTAGE DEDUCTION WOULD OTHERWISE TAKE EFFECT.—

(A) HOLD HARMLESS PERIOD.—If the percentage reduction applied to a State under paragraph (3) for any calendar quarter in the recession adjustment period beginning on or after January 1, 2009, and ending before July 1, 2010, (determined without regard to this paragraph) is less than the percentage reduction applied for the preceding quarter (as so determined), the higher percentage reduction shall continue in effect for each subsequent calendar quarter ending before July 1, 2010.

(B) NOTICE OF DECREASE IN PERCENTAGE REDUCTION.—The Secretary shall notify a State at least 3 months prior to applying any lower percentage reduction to the State under paragraph (3).

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (f) and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and

in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by 15.2 percent.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.));

(3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

1 (5) any payments under title XIX of such Act
2 that are attributable to expenditures for medical as-
3 sistance provided to individuals made eligible under
4 a State plan under title XIX of the Social Security
5 Act (including under any waiver under such title or
6 under section 1115 of such Act (42 U.S.C. 1315))
7 because of income standards (expressed as a per-
8 centage of the poverty line) for eligibility for medical
9 assistance that are higher than the income stand-
10 ards (as so expressed) for such eligibility as in effect
11 on July 1, 2008.
12 (f) STATE INELIGIBILITY.—
13 (1) MAINTENANCE OF ELIGIBILITY REQUIRE-
14 MENTS.—
15 (A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), a State is not eligible for
17 an increase in its FMAP under subsection (a),
18 (b), or (c), or an increase in a cap amount
19 under subsection (d), if eligibility standards,
20 methodologies, or procedures under its State
21 plan under title XIX of the Social Security Act
22 (including any waiver under such title or under
23 section 1115 of such Act (42 U.S.C. 1315)) are
24 more restrictive than the eligibility standards,
25 methodologies, or procedures, respectively,

1 under such plan (or waiver) as in effect on July
2 1, 2008.
3 (B) STATE REINSTATEMENT OF ELIGI-
4 BILITY PERMITTED.—Subject to subparagraph
5 (C), a State that has restricted eligibility stand-
6 ards, methodologies, or procedures under its
7 State plan under title XIX of the Social Secu-
8 rity Act (including any waiver under such title
9 or under section 1115 of such Act (42 U.S.C.
10 1315)) after July 1, 2008, is no longer ineli-
11 gible under subparagraph (A) beginning with
12 the first calendar quarter in which the State
13 has reinstated eligibility standards, methodolo-
14 gies, or procedures that are no more restrictive
15 than the eligibility standards, methodologies, or
16 procedures, respectively, under such plan (or
17 waiver) as in effect on July 1, 2008.
18 (C) SPECIAL RULES.—A State shall not be
19 ineligible under subparagraph (A)—
20 (i) for the calendar quarters before
21 July 1, 2009, on the basis of a restriction
22 that was applied after July 1, 2008, and
23 before the date of the enactment of this
24 Act, if the State prior to July 1, 2009, has
25 reinstated eligibility standards, methodolo-

gies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay in the request for, and approval of, a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—No State shall be eligible for an increased FMAP rate as provided under this section for any claim submitted by a provider subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) during any period in which that State has failed to pay claims in accordance with section 1902(a)(37)(A) of such Act. Each State shall report to the Secretary, no later than 30 days following the 1st day of the month, its compliance with the requirements of section 1902(a)(37)(A) of the Social Security Act as they

1 pertain to claims made for covered services during
2 the preceding month.
3 (3) NO WAIVER AUTHORITY.—The Secretary
4 may not waive the application of this subsection or
5 subsection (g) under section 1115 of the Social Se-
6 curity Act or otherwise.
7 (g) REQUIREMENTS.—
8 (1) IN GENERAL.—A State may not deposit or
9 credit the additional Federal funds paid to the State
10 as a result of this section to any reserve or rainy day
11 fund maintained by the State.
12 (2) STATE REPORTS.—Each State that is paid
13 additional Federal funds as a result of this section
14 shall, not later than September 30, 2011, submit a
15 report to the Secretary, in such form and such man-
16 ner as the Secretary shall determine, regarding how
17 the additional Federal funds were expended.
18 (3) ADDITIONAL REQUIREMENT FOR CERTAIN
19 STATES.—In the case of a State that requires polit-
20 ical subdivisions within the State to contribute to-
21 ward the non-Federal share of expenditures under
22 the State Medicaid plan required under section
23 1902(a)(2) of the Social Security Act (42 U.S.C.
24 1396a(a)(2)), the State is not eligible for an in-
25 crease in its FMAP under subsection (b) or (c), or

an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) POVERTY LINE.—The term ''poverty line'' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(3) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on December 31, 2010.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

SEC. 5002. EXTENSION AND UPDATE OF SPECIAL RULE FOR INCREASE OF MEDICAID DSH ALLOTMENTS FOR LOW DSH STATES.

Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r–4(f)(5)) is amended—

(1) in subparagraph (B)—

(A) in the subparagraph heading, by striking ''YEAR 2004 AND SUBSEQUENT FISCAL YEARS'' and inserting ''YEARS 2004 THROUGH 2008'';

(B) in clause (i), by inserting ''and'' after the semicolon;

(C) in clause (ii), by striking ''; and'' and inserting a period; and

(D) by striking clause (iii); and

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

1 "(C) FOR FISCAL YEAR 2009 AND SUBSE-
2 QUENT FISCAL YEARS.—In the case of a State
3 in which the total expenditures under the State
4 plan (including Federal and State shares) for
5 disproportionate share hospital adjustments
6 under this section for fiscal year 2006, as re-
7 ported to the Administrator of the Centers for
8 Medicare & Medicaid Services as of August 31,
9 2009, is greater than 0 but less than 3 percent
10 of the State's total amount of expenditures
11 under the State plan for medical assistance
12 during the fiscal year, the DSH allotment for
13 the State with respect to—
14 "(i) fiscal year 2009, shall be the
15 DSH allotment for the State for fiscal year
16 2008 increased by 16 percent;
17 "(ii) fiscal year 2010, shall be the
18 DSH allotment for the State for fiscal year
19 2009 increased by 16 percent;
20 "(iii) fiscal year 2011 for the period
21 ending on December 31, 2010, shall be ¼
22 of the DSH allotment for the State for fis-
23 cal year 2010 increased by 16 percent;
24 "(iv) fiscal year 2011 for the period
25 beginning on January 1, 2011, and ending

on September 30, 2011, shall be ¾ of the DSH allotment that would have been determined under this subsection for the State for fiscal year 2011 if this subparagraph had not been enacted;

"(v) fiscal year 2012, shall be the DSH allotment that would have been determined under this subsection for the State for fiscal year 2012 if this subparagraph had not been enacted; and

"(vi) fiscal year 2013 and any subsequent fiscal year, shall be the DSH allotment for the State for the previous fiscal year subject to an increase for inflation as provided in paragraph (3)(A).".

SEC. 5003. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement, not later than 3 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—

(1) DEADLINE FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated $3,000,000,000 for fiscal year 2009 for making payments to States under paragraph (1).

(3) LIMITATIONS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed $3,000,000,000; or

(B) any payments be provided by the Secretary under this section after the first day of the first month that begins 4 months after the date of enactment of this Act.

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable

1 estimates as necessary, for determining expeditiously
2 the amount of the payment that shall be made to
3 each State that enters into an agreement under this
4 section. The payment methodology shall consider the
5 following factors:

6 (A) The number of SDW cases found to
7 have been eligible for benefits under the Medi-
8 care program and the month of the initial
9 Medicare program eligibility for such cases.

10 (B) The applicable non-Federal share of
11 expenditures made by a State under the Med-
12 icaid program during the time period for SDW
13 cases.

14 (C) Such other factors as the Secretary
15 and the Commissioner, in consultation with the
16 States, determine appropriate.

17 (2) CONDITIONS FOR PAYMENTS.—A State
18 shall not receive a payment under this section unless
19 the State—

20 (A) waives the right to file a civil action
21 (or to be a party to any action) in any Federal
22 or State court in which the relief sought in-
23 cludes a payment from the United States to the
24 State related to the Medicare liability under
25 title XVIII of the Social Security Act (42

U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project.

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.—No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

(4) INELIGIBLE STATES.—No State that is a party to a civil action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(d) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

1 (2) MEDICAID PROGRAM.—The term ''Medicaid
2 program'' means the program of medical assistance
3 established under title XIX of the Social Security
4 Act (42 U.S.C. 1396a et seq.) and includes medical
5 assistance provided under any waiver of that pro-
6 gram approved under section 1115 or 1915 of such
7 Act (42 U.S.C. 1315, 1396n) or otherwise.
8 (3) MEDICARE PROGRAM.—The term ''Medicare
9 program'' means the program established under title
10 XVIII of the Social Security Act (42 U.S.C. 1395 et
11 seq.).
12 (4) SECRETARY.—The term ''Secretary'' means
13 the Secretary of Health and Human Services.
14 (5) SDW CASE.—The term ''SDW case'' means
15 a case in the Special Disability Workload project in-
16 volving an individual determined by the Commis-
17 sioner to have been eligible for benefits under title
18 II of the Social Security Act (42 U.S.C. 401 et seq.)
19 for a period during which such benefits were not
20 provided to the individual and who was, during all
21 or part of such period, enrolled in a State Medicaid
22 program.
23 (6) SPECIAL DISABILITY WORKLOAD
24 PROJECT.—The term ''Special Disability Workload
25 project'' means the project described in the 2008

Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

(7) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

SEC. 5004. FUNDING FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.

For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $31,250,000 for the recession adjustment period (as defined in section 5001(h)(3)). Amounts appropriated under this section shall remain available for expenditure until September 30, 2012, and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

SEC. 5005. GAO STUDY AND REPORT REGARDING STATE NEEDS DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) IN GENERAL.—The Comptroller General of the United States shall study the period of national economic downturn in effect on the date of enactment of this Act, as well as previous periods of national economic downturn since 1974, for the purpose of developing recommendations for addressing the needs of States during such periods. As part of such analysis, the Comptroller General shall study the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(b) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to the appropriate committees of Congress on the results of the study conducted under paragraph (1). Such report shall include the following:

(1) Such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance formula for temporary adjustment of the Federal medical assistance percentage under Medicaid (also referred to as a ''countercyclical FMAP'') described in GAO report number GAO–07–97 to improve the effectiveness of the application of such percentage in addressing the

needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that would begin and end the application of such percentage;

(B) how the determination of the amount of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of the amount of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods.

(2) An analysis of the impact on States during such periods of—

(A) declines in private health benefits coverage;

(B) declines in State revenues; and

(C) caseload maintenance and growth under Medicaid, the State Children's Health Insurance Program, or any other publicly-funded programs to provide health benefits coverage for State residents.

(3) Identification of, and recommendations for addressing, the effects on States of any other spe-

cific economic indicators that the Comptroller General determines appropriate.

TITLE VI—EXECUTIVE COMPENSATION

SUBTITLE A—OVERSIGHT

TITLE VI—EXECUTIVE COMPENSATION OVERSIGHT

Sec. 6001. Definitions.
Sec. 6002. Executive compensation and corporate governance.
Sec. 6003. Board Compensation Committee.
Sec. 6004. Limitation on luxury expenditures.
Sec. 6005. Shareholder approval of executive compensation.
Sec. 6006. Review of prior payments to executives.

SEC. 6001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) SENIOR EXECUTIVE OFFICER.—The term ''senior executive officer'' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(2) GOLDEN PARACHUTE PAYMENT.—The term ''golden parachute payment'' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

(3) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343, 12 U.S.C. 5201 et seq.).

(4) TARP RECIPIENT.—The term ''TARP recipient'' means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

SEC. 6002. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) IN GENERAL.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

(1) the standards established by the Secretary under this title; and

(2) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

(b) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

1 (c) SPECIFIC REQUIREMENTS.—The standards es-
2 tablished under subsection (b) shall include—
3 (1) limits on compensation that exclude incen-
4 tives for senior executive officers of the TARP re-
5 cipient to take unnecessary and excessive risks that
6 threaten the value of such recipient during the pe-
7 riod that any obligation arising from TARP assist-
8 ance is outstanding;
9 (2) a provision for the recovery by such TARP
10 recipient of any bonus, retention award, or incentive
11 compensation paid to a senior executive officer and
12 any of the next 20 most highly-compensated employ-
13 ees of the TARP recipient based on statements of
14 earnings, revenues, gains, or other criteria that are
15 later found to be materially inaccurate;
16 (3) a prohibition on such TARP recipient mak-
17 ing any golden parachute payment to a senior execu-
18 tive officer or any of the next 5 most highly-com-
19 pensated employees of the TARP recipient during
20 the period that any obligation arising from TARP
21 assistance is outstanding;
22 (4) a prohibition on such TARP recipient pay-
23 ing or accruing any bonus, retention award, or in-
24 centive compensation during the period that the obli-
25 gation is outstanding to at least the 25 most highly-

compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient;

(5) a prohibition on any compensation plan that would encourage manipulation of the reported earnings of such TARP recipient to enhance the compensation of any of its employees; and

(6) a requirement for the establishment of a Board Compensation Committee that meets the requirements of section 6003.

(d) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this title—

(1) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

(2) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

SEC. 6003. BOARD COMPENSATION COMMITTEE.

(a) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation

Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

(b) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semi-annually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

SEC. 6004. LIMITATION ON LUXURY EXPENDITURES.

(a) POLICY REQUIRED.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

(1) entertainment or events;

(2) office and facility renovations;

(3) aviation or other transportation services; or

(4) other activities or events that are not reasonable expenditures for conferences, staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

SEC. 6005. SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

(a) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or author-

1 ization for an annual or other meeting of the shareholders
2 of any TARP recipient during the period in which any ob-
3 ligation arising from financial assistance provided under
4 the TARP remains outstanding shall permit a separate
5 shareholder vote to approve the compensation of execu-
6 tives, as disclosed pursuant to the compensation disclosure
7 rules of the Commission (which disclosure shall include the
8 compensation discussion and analysis, the compensation
9 tables, and any related material).

10 (b) NONBINDING VOTE.—A shareholder vote de-
11 scribed in subsection (a) shall not be binding on the board
12 of directors of a TARP recipient, and may not be con-
13 strued as overruling a decision by such board, nor to cre-
14 ate or imply any additional fiduciary duty by such board,
15 nor shall such vote be construed to restrict or limit the
16 ability of shareholders to make proposals for inclusion in
17 proxy materials related to executive compensation.

18 (c) DEADLINE FOR RULEMAKING.—Not later than 1
19 year after the date of enactment of this Act, the Commis-
20 sion shall issue any final rules and regulations required
21 by this section.

22 **SEC. 6006. REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.**

23 (a) IN GENERAL.—The Secretary shall review bo-
24 nuses, retention awards, and other compensation paid to
25 employees of each entity receiving TARP assistance before

the date of enactment of this Act to determine whether any such payments were excessive, inconsistent with the purposes of this Act or the TARP, or otherwise contrary to the public interest.

(b) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in subsection (a), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

Subtitle B—Limits on Executive Compensation

SEC. 6011. SHORT TITLE.

This subtitle may be cited as the ''Cap Executive Officer Pay Act of 2009''.

SEC. 6012. LIMIT ON EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no person who is an officer, director, executive, or other employee of a financial institution or other entity that receives or has received funds under the Troubled Asset Relief Program (or ''TARP''), established under section 101 of the Emergency Economic Stabilization Act of 2008, may receive annual compensation in excess of the amount of compensation paid to the President of the United States.

(b) DURATION.—The limitation in subsection (a) shall be a condition of the receipt of assistance under the TARP, and of any modification to such assistance that was received on or before the date of enactment of this Act, and shall remain in effect with respect to each financial institution or other entity that receives such assistance or modification for the duration of the assistance or obligation provided under the TARP.

SEC. 6013. RULEMAKING AUTHORITY.

The Secretary shall expeditiously issue such rules as are necessary to carry out this subtitle, including with respect to reimbursement of compensation amounts, as appropriate.

SEC. 6014. COMPENSATION.

As used in this subtitle, the term ''compensation'' includes wages, salary, deferred compensation, retirement contributions, options, bonuses, property, and any other form of compensation or bonus that the Secretary of the Treasury determines is appropriate.

Subtitle C—Excessive Bonuses

SEC. 6021. TREATMENT OF EXCESSIVE BONUSES BY TARP RECIPIENTS.

(a) IN GENERAL.—If, before the date of enactment of this Act, the preferred stock of a financial institution was purchased by the Government using funds provided

1 under the Troubled Asset Relief Program established pur-
2 suant to the Emergency Economic Stabilization Act of
3 2008, then, notwithstanding any otherwise applicable re-
4 striction on the redeemability of such preferred stock, such
5 financial institution shall redeem an amount of such pre-
6 ferred stock equal to the aggregate amount of all excessive
7 bonuses paid or payable to all covered individuals.

8 (b) TIMING.—Each financial institution described in
9 subsection (a) shall comply with the requirements of sub-
10 section (a)—

11 (1) not later than 120 days after the date of
12 enactment of this Act, with respect to excessive bo-
13 nuses (or portions thereof) paid before the date of
14 enactment of this Act; and

15 (2) not later than the day before an excessive
16 bonus (or portion thereof) is paid, with respect to
17 any excessive bonus (or portion thereof) paid on or
18 after the date of enactment of this Act.

19 (c) DEFINITIONS.—As used in this section, the fol-
20 lowing definitions shall apply:

21 (1) EXCESSIVE BONUS.—

22 (A) IN GENERAL.—The term ''excessive
23 bonus'' means the portion of the applicable
24 bonus payments made to a covered individual in
25 excess of $100,000.

(B) APPLICABLE BONUS PAYMENTS.—

(i) IN GENERAL.—The term ''applicable bonus payment'' means any bonus payment to a covered individual—

(I) which is paid or payable by reason of services performed by such individual in a taxable year of the financial institution (or any member of a controlled group described in subparagraph (D)) ending in 2008, and

(II) the amount of which was first communicated to such individual during the period beginning on January 1, 2008, and ending January 31, 2009, or was based on a resolution of the board of directors of such institution that was adopted before the end of such taxable year.

(ii) CERTAIN PAYMENTS AND CONDITIONS DISREGARDED.—In determining whether a bonus payment is described in clause (i)(I)—

(I) a bonus payment that relates to services performed in any taxable year before the taxable year described

in such clause and that is wholly or partially contingent on the performance of services in the taxable year so described shall be disregarded, and

(II) any condition on a bonus payment for services performed in the taxable year so described that the employee perform services in taxable years after the taxable year so described shall be disregarded.

(C) BONUS PAYMENT.—The term ''bonus payment'' means any payment which—

(i) is a discretionary payment to a covered individual by a financial institution (or any member of a controlled group described in subparagraph (D)) for services rendered,

(ii) is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate, and

(iii) is paid or payable in cash or other property other than—

(I) stock in such institution or member, or

(II) an interest in a troubled asset (within the meaning of the Emergency Economic Stabilization Act of 2008) held directly or indirectly by such institution or member.

Such term does not include payments to an employee as commissions, welfare and fringe benefits, or expense reimbursements.

(D) COVERED INDIVIDUAL.—The term ''covered individual'' means, with respect to any financial institution, any director or officer or other employee of such financial institution or of any member of a controlled group of corporations (within the meaning of section 52(a) of the Internal Revenue Code of 1986) that includes such financial institution.

(2) FINANCIAL INSTITUTION.—The term ''financial institution'' has the same meaning as in section 3 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5252).

(d) EXCISE TAX ON TARP COMPANIES THAT FAIL TO REDEEM CERTAIN SECURITIES FROM UNITED STATES.—

(1) IN GENERAL.—Chapter 46 of the Internal Revenue Code of 1986 (relating to excise tax on golden parachute payments) is amended by adding at the end the following new section:

"SEC. 4999A. FAILURE TO REDEEM CERTAIN SECURITIES FROM UNITED STATES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on any financial institution which—

"(1) is required to redeem an amount of its preferred stock from the United States pursuant to section 1903(a) of the American Recovery and Reinvestment Tax Act of 2009, and

"(2) fails to redeem all or any portion of such amount within the period prescribed for such redemption.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to 35 percent of the amount which the financial institution failed to redeem within the time prescribed under 1903(b) of the American Recovery and Reinvestment Tax Act of 2009.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A for the taxable year in which a deduction is allowed for any excessive bonus

with respect to which the redemption described in subsection (a)(1) is required to be made.

"(2) EXTENSION OF TIME.—The due date for payment of tax imposed by this section shall in no event be earlier than the 150th day following the date of the enactment of this section.".

(2) CONFORMING AMENDMENTS.—

(A) The heading for chapter 46 of such Code are amended to read as follows:

"CHAPTER 46-TAXES ON CERTAIN EXCESSIVE REMUNERATION

"Sec. 4999. Golden parachute payments.
"Sec. 4999A. Failure to redeem certain securities from United States.".

(B) The item relating to chapter 46 in the table of chapters for subtitle D of such Code is amended to read as follows:

"Chapter 46. Taxes on excessive remuneration.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to failures described in section 4999A(a)(2) of the Internal Revenue Code of 1986 occurring after the date of the enactment of this Act.

TITLE VII—FORECLOSURE PREVENTION

TITLE VII—FORECLOSURE PREVENTION

Sec. 7001. Mandatory loan modifications.

SEC. 7001. MANDATORY LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended—

(1) by striking the last sentence;

(2) by striking ''To the extent'' and inserting the following:

''(1) IN GENERAL.—To the extent''; and

(3) by adding at the end the following:

''(2) LOAN MODIFICATIONS REQUIRED.—

''(A) IN GENERAL.—In addition to actions required under paragraph (1), the Secretary shall, not later than 15 days after the date of enactment of this paragraph, develop and implement a plan to facilitate loan modifications to prevent avoidable mortgage loan foreclosures.

''(B) FUNDING.—Of amounts made available under section 115 and not otherwise obligated, not less than $50,000,000,000, shall be made available to the Secretary for purposes of carrying out the mortgage loan modification plan required to be developed and implemented under this paragraph.

''(C) CRITERIA.—The loan modification plan required by this paragraph may incorporate the use of—

"(i) loan guarantees and credit enhancements;

"(ii) the reduction of loan principal amounts and interest rates;

"(iii) extension of mortgage loan terms; and

"(iv) any other similar mechanisms or combinations thereof, as determined appropriate by the Secretary.

"(D) DESIGNATION AUTHORITY.—

"(i) FDIC.—The Secretary may designate the Corporation, on a reimbursable basis, to carry out the loan modification plan developed under this paragraph.

"(ii) CONTRACTING AUTHORITY.—If designated under clause (i), the Corporation may use its contracting authority under section 9 of the Federal Deposit Insurance Act.

"(E) CONSULTATION REQUIRED.—In developing the loan modification plan under this paragraph, the Secretary shall consult with the Chairperson of the Board of Directors of the Corporation, the Board, and the Secretary of Housing and Urban Development.

"(F) REPORTS TO CONGRESS.—The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

"(i) upon development of the plan required by this paragraph, a report describing such plan; and

"(ii) a monthly report on the number and types of loan modifications occurring during the reporting period, and the performance of the loan modification plan overall.".

TITLE VIII—FORECLOSURE MITIGATION

TITLE VIII—FORECLOSURE MITIGATION

Sec. 8001. Short Title.
Sec. 8002. Definitions.
Sec. 8003. Payments to eligible servicers authorized.
Sec. 8004. Authorization of appropriations.
Sec. 8005. Sunset of authority.

SEC. 8001. SHORT TITLE.

This title may be cited as the "Help Families Keep Their Homes Act of 2009".

SEC. 8002. DEFINITIONS.

For purposes of this title—

(1) the term ''securitized mortgages'' means residential mortgages that have been pooled by a securitization vehicle;

(2) the term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans;

(B) holds all of the mortgage loans which are the basis for any vehicle described in subparagraph (A); and

(C) has not issued securities that are guaranteed by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(3) the term ''servicer'' means a servicer of securitized mortgages;

(4) the term ''eligible servicer'' means a servicer of pooled and securitized residential mortgages;

(5) the term ''eligible mortgage'' means a residential mortgage, the principal amount of which did not exceed the conforming loan size limit that was in existence at the time of origination for a comparable dwelling, as established by the Federal National Mortgage Association;

(6) the term ''Secretary'' means the Secretary of the Treasury;

(7) the term ''effective term of the Act'' means the period beginning on the effective date of this title and ending on December 31, 2011;

(8) the term ''incentive fee'' means the monthly payment to eligible servicers, as determined under section 7003; and

(9) the term ''prepayment fee'' means the payment to eligible servicers, as determined under section 7003(b).

SEC. 8003. PAYMENTS TO ELIGIBLE SERVICERS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized to make payments to eligible servicers, subject to the terms and conditions established under this title.

(b) FEES PAID TO ELIGIBLE SERVICERS.—

(1) IN GENERAL.—An eligible servicer may collect reasonable incentive fee payments, as estab-

lished by the Secretary, not to exceed $2,000 per loan.

(2) CONSULTATION.—The fees permitted under this section shall be subject to standards established by the Secretary, in consultation with the Secretary of Housing and Urban Development and the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, which standards shall—

(A) include an evaluation of whether an eligible mortgage is affordable for the remainder of its term; and

(B) identify a reasonable fee to be paid to the servicer in the event that an eligible mortgage is prepaid.

(3) FORM OF PAYMENT.—Fees permitted under this section may be paid in a lump sum or on a monthly basis. If paid on a monthly basis, the fee may only be remitted as long as the loan performs.

(c) SAFE HARBOR.—Notwithstanding any other provision of law, and notwithstanding any investment contract between a servicer and a securitization vehicle, a servicer—

(1) owes any duty to maximize the net present value of the pooled mortgages in the securitization

vehicle to all investors and parties having a direct or indirect interest in such vehicle, and not to any individual party or group of parties; and

(2) shall be deemed to act in the best interests of all such investors and parties if the servicer agrees to or implements a modification, workout, or other loss mitigation plan for a residential mortgage or a class of residential mortgages that constitutes a part or all of the pooled mortgages in such securitization vehicle, if—

(A) default on the payment of such mortgage has occurred or is reasonably foreseeable;

(B) the property securing such mortgage is occupied by the mortgagor of such mortgage or the homeowner; and

(C) the servicer reasonably and in good faith believes that the anticipated recovery on the principal outstanding obligation of the mortgage under the modification or workout plan exceeds, on a net present value basis, the anticipated recovery on the principal outstanding obligation of the mortgage through foreclosure;

(3) shall not be obligated to repurchase loans from, or otherwise make payments to, the

1 securitization vehicle on account of a modification,
2 workout, or other loss mitigation plan that satisfies
3 the conditions of paragraph (2); and
4 (4) if it acts in a manner consistent with the
5 duties set forth in paragraphs (1) and (2), shall not
6 be liable for entering into a modification or workout
7 plan to any person—
8 (A) based on ownership by that person of
9 a residential mortgage loan or any interest in a
10 pool of residential mortgage loans, or in securi-
11 ties that distribute payments out of the prin-
12 cipal, interest, and other payments in loans in
13 the pool;
14 (B) who is obligated pursuant to a deriva-
15 tive instrument to make payments determined
16 in reference to any loan or any interest referred
17 to in subparagraph (A); or
18 (C) that insures any loan or any interest
19 referred to in subparagraph (A) under any pro-
20 vision of law or regulation of the United States
21 or any State or political subdivision thereof.
22 (d) REPORTING REQUIREMENTS.—
23 (1) IN GENERAL.—Each servicer shall report
24 regularly, not less frequently than monthly, to the

1 Secretary on the extent and scope of the loss mitiga-
2 tion activities of the mortgage owner.
3 (2) CONTENT.—Each report required by this
4 subsection shall include—
5 (A) the number and percent of residential
6 mortgage loans receiving loss mitigation that
7 have become performing loans;
8 (B) the number and percent of residential
9 mortgage loans receiving loss mitigation that
10 have proceeded to foreclosure;
11 (C) the total number of foreclosures initi-
12 ated during the reporting period;
13 (D) data on loss mitigation activities, in-
14 cluding the performance of mitigated loans,
15 disagreggated for each form of loss mitigation,
16 which forms may include—
17 (i) a waiver of any late payment
18 charge, penalty interest, or any other fees
19 or charges, or any combination thereof;
20 (ii) the establishment of a repayment
21 plan under which the homeowner resumes
22 regularly scheduled payments and pays ad-
23 ditional amounts at scheduled intervals to
24 cure the delinquency;

(iii) forbearance under the loan that provides for a temporary reduction in or cessation of monthly payments, followed by a reamortization of the amounts due under the loan, including arrearage, and a new schedule of repayment amounts;

(iv) waiver, modification, or variation of any material term of the loan, including short-term, long-term, or life-of-loan modifications that change the interest rate, forgive or forbear with respect to the payment of principal or interest, or extend the final maturity date of the loan;

(v) short refinancing of the loan consisting of acceptance of payment from or on behalf of the homeowner of an amount less than the amount alleged to be due and owing under the loan, including principal, interest, and fees, in full satisfaction of the obligation under such loan and as part of a refinance transaction in which the property is intended to remain the principal residence of the homeowner;

(vi) acquisition of the property by the owner or servicer by deed in lieu of foreclosure;

(vii) short sale of the principal residence that is subject to the lien securing the loan;

(viii) assumption of the obligation of the homeowner under the loan by a third party;

(ix) cancellation or postponement of a foreclosure sale to allow the homeowner additional time to sell the property; or

(x) any other loss mitigation activity not covered; and

(E) such other information as the Secretary determines to be relevant.

(3) PUBLIC AVAILABILITY OF REPORTS.—After removing information that would compromise the privacy interests of mortgagors, the Secretary shall make public the reports required by this subsection and summary data.

SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, such sums as may be necessary to carry out this title.

1 **SEC. 8005. SUNSET OF AUTHORITY.**

2 The authority of the Secretary to provide assistance
3 under this title shall terminate on December 31, 2011.

○