

American Recovery and Reinvestment Act of 2009

[Sections 101 and 102 of Title I of Division A and Titles II and III of division B of P.L. 111–5, Enacted February 17, 2009]

[As Amended Through P.L. 113–295, Enacted December 19, 2014]

【Currency: This publication is a compilation of the text of Public Law 111-5. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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

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GENERAL PROVISIONS—THIS TITLE

SEC. 101. TEMPORARY INCREASE IN BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—¹(a) MAXIMUM BENEFIT INCREASE.—

(1) IN GENERAL.—Beginning the first month that begins not less than 25 days after the date of enactment of this Act, the value of benefits determined under section 8(a) of the Food and Nutrition Act of 2008 and consolidated block grants for Puerto Rico and American Samoa determined under section 19(a) of such Act shall be calculated using 113.6 percent of the June 2008 value of the thrifty food plan as specified under section 3(o) of such Act, if the value of the benefits and block grants would be greater under that calculation than in the absence of this subsection.

(2) TERMINATION.—The authority provided by this subsection shall terminate after October 31, 2013.

¹The em dash following the period at the end of section heading has been editorially included.

(b) REQUIREMENTS FOR THE SECRETARY.—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 increase 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 that section;

(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

(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 through September 30, 2009.

(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.), the Secretary shall make available \$145,000,000 in fiscal year 2009 and \$150,000,000 in fiscal year 2010, of which \$4,500,000 is for necessary expenses of the Food and Nutrition Service for management and oversight of the program and for monitoring the integrity and evaluating the effects of the payments made under this section.

(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 for management and oversight, funds described in paragraph (1) shall be made available 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 (as of the date of enactment) 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 (as of the date of enactment) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)).

(d) **FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.**—For the costs relating to facility improvements and equipment upgrades associated with the Food Distribution Program on Indian Reservations, as 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: *Provided*, That administrative cost-sharing requirements are not applicable to funds provided in accordance with this provision.

(e) **TREATMENT OF JOBLESS WORKERS.**—

(1) **REMAINDER OF FISCAL YEAR 2009 THROUGH FISCAL YEAR 2010.**—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, 2010, 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 2011 AND THEREAFTER.**—Beginning on October 1, 2010, 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, 2010.

(f) **FUNDING.**—There are appropriated to the Secretary out of funds of the Treasury not otherwise appropriated such sums as are necessary to carry out this section.

DEPARTMENT OF AGRICULTURE

SEC. 102. AGRICULTURAL DISASTER ASSISTANCE TRANSITION. (a) FEDERAL CROP INSURANCE ACT.

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(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 substantial 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).

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

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TITLE II—ASSISTANCE FOR UNEM- PLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. [26 U.S.C. 1 note] SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title may be cited as the “Assistance for Unemployed Workers and Struggling Families Act”.

(b) TABLE OF CONTENTS OF TITLE.—The table of contents of this title is as follows:

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

Sec. 2000. Short title; table of contents of title.

Subtitle A—Unemployment Insurance

- Sec. 2001. Extension of emergency unemployment compensation program.
- Sec. 2002. Increase in unemployment compensation benefits.
- Sec. 2003. Special transfers for unemployment compensation modernization.
- Sec. 2004. Temporary assistance for states with advances.
- Sec. 2005. Full Federal funding of extended unemployment compensation for a limited period.
- Sec. 2006. Temporary increase in extended unemployment benefits under the Railroad Unemployment Insurance Act.

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 resumption of prior child support law.

Subtitle C—Economic Recovery Payments to Certain Individuals

- Sec. 2201. Economic recovery payment to recipients of social security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.
- Sec. 2202. Special credit for certain government retirees.

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. [26 U.S.C. 3304 note] 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 section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents’ allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this paragraph) plus an additional \$25.

(2) ALLOWABLE METHODS OF PAYMENT.—Any additional compensation provided for in accordance with paragraph (1) shall be payable either—

(A) as an amount which is paid at the same time and in the same manner as any regular compensation otherwise payable for the week involved; or

(B) at the option of the State, by payments which are made separately from, but on the same weekly basis as, any regular compensation otherwise payable.

(c) **NONREDUCTION RULE.**—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been 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 on or before June 2, 2010.

(2) **TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JUNE 2, 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 com-

pensation 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 December 7, 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.—The monthly equivalent of any additional compensation paid under this section shall be disregarded in considering the amount of income of an individual for any purposes under title XIX and title XXI of the Social Security 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 Appropriations 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. SPECIAL TRANSFERS FOR 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 in Fiscal Years 2009, 2010, and 2011 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 unemployment 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 work (as defined by the Secretary of Labor), 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 (as so defined).

“(B) An individual shall not be disqualified from regular unemployment compensation for separating 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 those terms are 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)(i) 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, except that such compensation is not required to be paid to an individual who is receiving similar stipends or other training allowances for non-training costs.

“(ii) Each State-approved training program or job training program referred to in clause (i) 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.

“(iii) The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to—

“(I) the individual’s average weekly benefit amount (including dependents’ allowances) for the most recent benefit year, less

“(II) any deductible income, as determined under State law.

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), except that a State law may provide for a reasonable reduction in the amount of any such allowance for a week of less than total unemployment.

“(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, 2011.

“(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.

“(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve \$7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 902, 910, or 1203 of the amount in the Federal unemployment account as of any given time. Any amount so reserved for which the Secretary of the Treasury has not received a certification under paragraph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2011, become unrestricted as to use as part of the Federal unemployment account.

“(7) For purposes of this subsection, the terms ‘benefit year’, ‘base period’, 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).

“Special Transfer in Fiscal Year 2009 for Administration

“(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days 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 during such period on any advance or advances made under section 1201 to a State.

“(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.”.

SEC. 2005. [26 U.S.C. 3304 note] FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) IN GENERAL.—In the case of sharable extended compensation and sharable regular compensation paid for weeks of unemployment beginning after the date of the enactment of this section and before December 31, 2013, section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall be applied by substituting “100 percent of” for “one-half of”.

(b) SPECIAL RULE.—At the option of a State, for any weeks of unemployment beginning after the date of the enactment of this section and before December 31, 2013, an individual’s eligibility period (as described in section 203(c) of the Federal-State Extended Unemployment Compensation Act of 1970) shall, for purposes of any determination of eligibility for extended compensation under the State law of such State, be considered to include any week which begins—

(1) after the date as of which such individual exhausts all rights to emergency unemployment compensation; and

(2) during an extended benefit period that began on or before the date described in paragraph (1).

(c) **LIMITED EXTENSION.**—In the case of an individual who receives extended compensation with respect to 1 or more weeks of unemployment beginning after the date of the enactment of this Act and before December 31, 2013, the provisions of subsections (a) and (b) shall, at the option of a State, be applied by substituting “ending before June 30, 2014” for “before December 31, 2013”.

(d) **EXTENSION OF TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.**—

(1) **IN GENERAL.**—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449) is amended by striking “December 8, 2009” and inserting “May 30, 2010”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449).

(e) **DEFINITIONS.**—For purposes of this section—

(1) the terms “sharable extended compensation” and “sharable regular compensation” have the respective meanings given such terms under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970;

(2) the terms “extended compensation”, “State”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(3) the term “emergency unemployment compensation” means benefits payable to individuals under title IV of the Supplemental Appropriations Act, 2008 with respect to their unemployment; and

(4) the term “extended benefit period” means an extended benefit period as determined in accordance with applicable provisions of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) **REGULATIONS.**—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section.

SEC. 2006. TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) **IN GENERAL.**—Section 2(c)(2) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)(2)) is amended by adding at the end the following:

“(D) **TEMPORARY INCREASE IN EXTENDED UNEMPLOYMENT BENEFITS.**—

“(i) **EMPLOYEES WITH 10 OR MORE YEARS OF SERVICE.**—Subject to clause (iii), in the case of an employee who has 10 or more years of service (as so defined), with respect to extended unemployment benefits—

“(I) subparagraph (A) shall be applied by substituting ‘130 days of unemployment’ for ‘65 days of unemployment’; and

“(II) subparagraph (B) shall be applied by inserting ‘(or, in the case of unemployment benefits,

13 consecutive 14-day periods)’ after ‘7 consecutive 14-day periods’.

“(ii) EMPLOYEES WITH LESS THAN 10 YEARS OF SERVICE.—Subject to clause (iii), in the case of an employee who has less than 10 years of service (as so defined), with respect to extended unemployment benefits, this paragraph shall apply to such an employee in the same manner as this paragraph would apply to an employee described in clause (i) if such clause had not been enacted.

“(iii) APPLICATION.—The provisions of clauses (i) and (ii) shall apply to an employee who received normal benefits for days of unemployment under this Act during the period beginning July 1, 2008, and ending on June 30, 2009, except that no extended benefit period under this paragraph shall begin after December 31, 2009. Notwithstanding the preceding sentence, no benefits shall be payable under this subparagraph and clauses (i) and (ii) shall no longer be applicable upon the exhaustion of the funds appropriated under clause (iv) for payment of benefits under this subparagraph.

“(iv) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated \$20,000,000 to cover the cost of additional extended unemployment benefits provided under this subparagraph, to remain available until expended.”.

(b) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$80,000 to cover the administrative expenses associated with the payment of additional extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, as added by subsection (a), to remain available until expended. In addition to funds appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$807,000 to cover the administrative expenses associated with the payment of additional extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, to remain available until expended.

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, \$5,000,000,000 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 an amount equal to 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 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 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-recurrent short-term benefits, and subsidized employment, during any period for which the State requests funds under this subsection, and during the emergency fund base year of the State, the Secretary may make appropriate adjustments to the data, on a State-by-State basis, to ensure that the data are comparable with respect to the groups of families served and the types of aid provided. The Secretary may develop a mechanism for collecting expenditure data, including procedures which allow States to make reasonable estimates, and may set deadlines for making revisions to the data.

“(5) LIMITATION.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

“(6) LIMITATIONS ON USE OF FUNDS.—A State to which an amount is paid under this subsection may use the amount only as authorized by section 404.

“(7) TIMING OF IMPLEMENTATION.—The Secretary shall implement this subsection as quickly as reasonably possible, pursuant to appropriate guidance to States.

“(8) APPLICATION TO INDIAN TRIBES.—This subsection shall apply to an Indian tribe with an approved tribal family assistance plan under section 412 in the same manner as this subsection applies to a State.

“(9) 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 program 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, except that paragraph (9) of such subsection shall remain in effect until October 1, 2011, but only with respect to section 407(b)(3)(A)(i) of such Act.

(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)(9)), 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) SUNSET OF OTHER TEMPORARY PROVISIONS.—

(1) **DISREGARD FROM LIMITATION ON TOTAL PAYMENTS TO TERRITORIES.**—Effective October 1, 2010, section 1108(a)(2) of the Social Security Act (42 U.S.C. 1308(a)(2)) is amended by striking “403(c)(3),” (as added by subsection (c)).

(2) **CASELOAD REDUCTION CREDIT.**—Effective October 1, 2011, section 407(b)(3)(A)(i) of such Act (42 U.S.C. 607(b)(3)(A)(i)) is amended by striking “(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)(9)), 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))” (as added by subsection (b)).

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 RESUMPTION OF PRIOR CHILD SUPPORT LAW.

During the period that begins on October 1, 2008, and ends on September 30, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied and administered as if the phrase “from amounts paid to the State under section 458 or” does not appear in such section.

Subtitle C—Economic Recovery Payments to Certain Individuals

SEC. 2201. [26 U.S.C. 6428 note] ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SE- CURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BEN- EFITS.

(a) AUTHORITY TO MAKE PAYMENTS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Subject to paragraph (5)(B), the Secretary of the Treasury shall disburse a \$250 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 Social Security Act (42 U.S.C. 402(j)(1), 423(b)) under—

(I) section 202(a) of such Act (42 U.S.C. 402(a));

(II) section 202(b) of such Act (42 U.S.C. 402(b));

(III) section 202(c) of such Act (42 U.S.C. 402(c));

(IV) section 202(d)(1)(B)(ii) of such Act (42 U.S.C. 402(d)(1)(B)(ii));

(V) section 202(e) of such Act (42 U.S.C. 402(e));

(VI) section 202(f) of such Act (42 U.S.C. 402(f));

(VII) section 202(g) of such Act (42 U.S.C. 402(g));

(VIII) section 202(h) of such Act (42 U.S.C. 402(h));

(IX) section 223(a) of such Act (42 U.S.C. 423(a));

(X) section 227 of such Act (42 U.S.C. 427); or

(XI) section 228 of such Act (42 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 disbursing 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 disburse 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 disbursed 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 entitlement to, or eligibility for, a benefit specified in subparagraph (B) or (C) of subsection (a)(1).

(c) TREATMENT OF PAYMENTS.—

(1) PAYMENT TO BE DISREGARDED FOR PURPOSES OF ALL FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—A payment under subsection (a) shall not be regarded as income and shall not be regarded as a resource for the month of receipt and the following 9 months, for purposes of determining the eligibility of the recipient (or the recipient's spouse or family) 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.

(2) PAYMENT NOT CONSIDERED INCOME FOR PURPOSES OF TAXATION.—A payment under subsection (a) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(3) PAYMENTS PROTECTED FROM ASSIGNMENT.—The provisions of sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407, 1383(d)(1)), section 14(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(a)), and section 5301 of title 38, United States Code, shall 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 through 2011, to remain available until expended, to carry out this section:

(1) For the Secretary of the Treasury, \$131,000,000 for administrative costs incurred in carrying out this section, section

2202, section 36A of the Internal Revenue Code of 1986 (as added by this Act), and other provisions of this Act or the amendments made by this Act relating to the Internal Revenue Code of 1986.

(2) For the Commissioner of Social Security—

(A) such sums as may be necessary for payments to individuals certified by the Commissioner of Social Security as entitled to receive a payment under this section; and

(B) \$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—

(A) such sums as may be necessary for payments to individuals certified by the Railroad Retirement Board as entitled to receive a payment under this section; and

(B) \$1,400,000 to the Railroad Retirement Board's Limitation on Administration for administrative costs incurred in carrying out this section.

(4)(A) For the Secretary of Veterans Affairs—

(i) such sums as may be necessary for the Compensation and Pensions account, for payments to individuals certified by the Secretary of Veterans Affairs as entitled to receive a payment under this section; and

(ii) \$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.

(B) The Department of Veterans Affairs Compensation and Pensions account shall hereinafter be available for payments authorized under subsection (a)(1)(A) to individuals entitled to a benefit payment described in subsection (a)(1)(B)(iii).

SEC. 2202. [26 U.S.C. 6428 note] SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES.

(a) **IN GENERAL.**—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for the first taxable year beginning in 2009 an amount equal \$250 (\$500 in the case of a joint return where both spouses are eligible individuals).

(b) **ELIGIBLE INDIVIDUAL.**—For purposes of this section—

(1) **IN GENERAL.**—The term “eligible individual” means any individual—

(A) who receives during the first taxable year beginning in 2009 any amount as a pension or annuity for service performed in the employ of the United States or any State, political subdivision of a State, or any instrumentality thereof, which is not considered employment for purposes of chapter 21 of the Internal Revenue Code of 1986, and

(B) who does not receive a payment under section 2201 during such taxable year.

(2) **IDENTIFICATION NUMBER REQUIREMENT.**—Such term shall not include any individual who does not include on the return of tax for the taxable year—

(A) such individual's social security account number, and

(B) in the case of a joint return, the social security account number of one of the taxpayers on such return.

For purposes of the preceding sentence, the social security account number shall not include a TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) issued by the Internal Revenue Service. Any omission of a correct social security account number required under this subparagraph shall be treated as a mathematical or clerical error for purposes of applying section 6213(g)(2) of such Code to such omission.

(c) TREATMENT OF CREDIT.—

(1) REFUNDABLE CREDIT.—

(A) IN GENERAL.—The credit allowed by subsection (a) shall be treated as allowed by subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986.

(B) APPROPRIATIONS.—For purposes of section 1324(b)(2) of title 31, United States Code, the credit allowed by subsection (a) shall be treated in the same manner a refund from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this Act).

(2) DEFICIENCY RULES.—For purposes of section 6211(b)(4)(A) of the Internal Revenue Code of 1986, the credit allowable by subsection (a) shall be treated in the same manner as the credit allowable under section 36A of the Internal Revenue Code of 1986 (as added by this Act).

(d) 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 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.

(e) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of credits allowed under subsection (a) with respect to taxable years beginning in 2009. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No credit shall be allowed against United States income taxes for any taxable year under this section to any person to whom a credit is allowed against taxes imposed by the possession by reason of the credit allowed under subsection (a) for 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 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 Act).

TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

SEC. 3000. TABLE OF CONTENTS.

The table of contents of this title is as follows:

TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS

Sec. 3000. Table of contents.

Sec. 3001. Premium assistance for COBRA benefits.

SEC. 3001. [26 U.S.C. 6432 note] PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) PREMIUM ASSISTANCE FOR COBRA CONTINUATION COVERAGE FOR INDIVIDUALS AND THEIR FAMILIES.—

(1) PROVISION OF PREMIUM ASSISTANCE.—

(A) REDUCTION OF PREMIUMS PAYABLE.—In the case of any premium for a period of coverage beginning on or after the date of the enactment of this Act for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays (or a person other than such individual’s employer pays on behalf of such individual) 35 percent of the amount of such premium (as determined without regard to this subsection).

(B) PLAN ENROLLMENT OPTION.—

(i) IN GENERAL.—Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in coverage under a plan offered by the employer involved, or the employee organization involved (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 in-

dividual 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;

(III) the different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time at which such election is made; and

(IV) the different coverage is not—

(aa) coverage that provides only dental, vision, counseling, or referral services (or a combination of such services);

(bb) a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

(cc) coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination of such care).

(C) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6432 of the Internal Revenue Code of 1986, as added by paragraph (12).

(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any assistance eligible individual for months of coverage beginning on or after the earlier of—

(i) the first date that such individual is eligible for coverage under any other group health plan (other than coverage consisting of only dental, vision, counseling, or referral services (or a combination thereof), coverage under a flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986), or coverage of treatment that is furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care, or similar care (or a combination thereof)) or is eligible for benefits under title XVIII of the Social Security Act, or

(ii) the earliest of—

(I) the date which is 15 months after the first day 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) such qualified beneficiary is eligible for COBRA continuation coverage related to a qualifying event occurring during the period that begins with September 1, 2008, and ends with May 31, 2010,

(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 or consists of a reduction of hours followed by such an involuntary termination of employment during such period (as described in paragraph (17)(C)).

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE.—

(A) IN GENERAL.—For purposes of applying 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 does not have an election of COBRA continuation coverage in effect on the date of the enactment of this Act but who would be an assistance eligible individual if such election were so in effect, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the period beginning on the date of the enactment of this Act and ending 60 days after 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 with the first period of coverage beginning on or after 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 beginning of the period described in subparagraph (B)(i),

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(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, 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 consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual's eligibility within 15 business days after receipt of such individual's application for review under this paragraph. Either Secretary's determination upon review of the denial shall be de novo and shall be the final determination of such Secretary. A reviewing court shall grant deference to such Secretary's determination. The provisions of this paragraph, paragraphs (1) through (4), and paragraph (7) shall be treated as provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of part 5 of subtitle B of such title. In addition to civil actions that may be brought to enforce applicable provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than \$110 per day for each failure to comply with such determination of such Secretary after 10

days after the date of the plan sponsor's or issuer's receipt of the determination.

(6) **DISREGARD OF SUBSIDIES FOR PURPOSES OF FEDERAL AND STATE PROGRAMS.**—Notwithstanding any other provision of law, any premium reduction with respect to an assistance eligible individual under this subsection shall not be considered income or resources in determining eligibility for, or the amount of assistance or benefits provided under, any other public benefit provided under Federal law or the law of any State or political subdivision thereof.

(7) **NOTICES TO INDIVIDUALS.**—

(A) **GENERAL NOTICE.**—

(i) **IN GENERAL.**—In the case of notices provided under section 606(a)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), have a qualifying event relating to COBRA continuation coverage, the requirements of such sections shall not be treated as met unless such notices include an additional notification to the recipient of—

(I) the availability of premium reduction with respect to such coverage under this subsection, and

(II) the option to enroll in different coverage if the employer permits assistance eligible individuals to elect enrollment in different coverage (as described in paragraph (1)(B)).

(ii) **ALTERNATIVE NOTICE.**—In the case of COBRA continuation coverage to which the notice provision under such sections does not apply, the Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall, in consultation with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

(iii) **FORM.**—The requirement of the additional notification under this subparagraph may be met by amendment of existing notice forms or by inclusion of a separate document with the notice otherwise required.

(B) **SPECIFIC REQUIREMENTS.**—Each additional notification under subparagraph (A) shall include—

(i) the forms necessary for establishing eligibility for premium reduction under this subsection,

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection 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 under section 6720C of the Internal Revenue Code of 1986 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 IN CONNECTION WITH EXTENDED ELECTION PERIODS.—In the case of any assistance eligible individual (or any individual described in paragraph (4)(A)) who became entitled to elect COBRA continuation coverage before the date of the enactment of this Act, the administrator of the group health plan (or other entity) 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) and failure to provide such notice shall be treated as a failure to meet the notice requirements under the applicable COBRA continuation provision.

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act—

(i) 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 (other than the additional notification described in clause (ii)), and

(ii) in the case of any additional notification provided pursuant to subparagraph (A) under section 8905a(f)(2)(A) of title 5, United States Code, the Office of Personnel Management shall prescribe a model for such additional notification.

(8) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the provisions of this subsection, including the prevention of fraud and abuse under this subsection, except that the Secretary of Labor and the Secretary of Health and Human Services may prescribe such regulations (including interim final regulations) or other guidance as may be necessary or appropriate to carry out the provisions of paragraphs (5), (7), and (9).

(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 websites of the Departments of Labor, Treasury, and Health and Human Services.

(10) DEFINITIONS.—For purposes of this section—

(A) ADMINISTRATOR.—The term “administrator” has the meaning given such term in section 3(16)(A) 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 comparable continuation coverage. Such term does not include coverage under a health flexible spending arrangement under a cafeteria plan within the meaning of section 125 of the Internal Revenue Code of 1986.

(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, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(H) PERIOD OF COVERAGE.—Any reference in this subsection to a period of coverage shall be treated as a reference to a monthly or shorter period of coverage with respect to which premiums are charged with respect to such coverage.

(11) REPORTS.—

(A) INTERIM REPORT.—The Secretary of the Treasury shall submit an interim report to the Committee on Edu-

cation and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes—

(i) the number of individuals provided such assistance as of the date of the report; and

(ii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with such assistance as of the date of the report.

(B) FINAL REPORT.—As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the 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, as amended by this Act, 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 as provided in subsection (c) for the amount of premiums not paid by assistance eligible individuals by reason of section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009.

“(b) PERSON ENTITLED TO REIMBURSEMENT.—For purposes of subsection (a), except as otherwise provided by the Secretary, the person to whom premiums are payable under COBRA continuation coverage shall be treated as being—

“(1) in the case of any group health plan which is a multi-employer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), the plan,

“(2) in the case of any group health plan not described in paragraph (1)—

“(A) which is subject to the COBRA continuation provisions contained in—

“(i) the Internal Revenue Code of 1986,

“(ii) the Employee Retirement Income Security Act of 1974,

“(iii) the Public Health Service Act, or

“(iv) title 5, United States Code, or

“(B) under which some or all of the coverage is not provided by insurance,

the employer maintaining the plan, and

“(3) in the case of any group health plan not described in paragraph (1) or (2), the insurer providing the coverage under the group health plan.

“(c) METHOD OF REIMBURSEMENT.—Except as otherwise provided by the Secretary—

“(1) TREATMENT AS PAYMENT OF PAYROLL TAXES.—Each person entitled to reimbursement under subsection (a) (and filing a claim for such reimbursement at such time and in such manner as the Secretary may require) shall be treated for purposes of this title and section 1324(b)(2) of title 31, United States Code, as having paid to the Secretary, on the date that the assistance eligible individual’s premium payment is received, payroll taxes in an amount equal to the portion of such reimbursement which relates to such premium. To the extent that the amount treated as paid under the preceding sentence exceeds the amount of such person’s liability for such taxes, the Secretary shall credit or refund such excess in the same manner as if it were an overpayment of such taxes.

“(2) OVERSTATEMENTS.—Any overstatement of the reimbursement to which a person is entitled under this section (and any amount paid by the Secretary as a result of such overstatement) shall be treated as an underpayment of payroll taxes by such person and may be assessed and collected by the Secretary in the same manner as payroll taxes.

“(3) REIMBURSEMENT CONTINGENT ON PAYMENT OF REMAINING PREMIUM.—No reimbursement may be made under this section to a person with respect to any assistance eligible individual until after the reduced premium required under section 3002(a)(1)(A) of such Act with respect to such individual has been received.

“(d) DEFINITIONS.—For purposes of this section—

“(1) PAYROLL TAXES.—The term ‘payroll taxes’ means—

“(A) amounts required to be deducted and withheld for the payroll period under section 3402 (relating to wage withholding),

“(B) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

“(C) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes).

“(2) PERSON.—The term ‘person’ includes any governmental entity.

“(e) REPORTING.—Each person entitled to reimbursement under subsection (a) for any period shall submit such reports (at such time and in such manner) as the Secretary may require, including—

“(1) an attestation of involuntary termination of employment for each covered employee on the basis of whose termination entitlement to reimbursement is claimed under subsection (a),

“(2) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated off-

sets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a), and

“(3) a report containing the TINs of all covered employees, the amount of subsidy reimbursed with respect to each covered employee and qualified beneficiaries, and a designation with respect to each covered employee as to whether the subsidy reimbursement is for coverage of 1 individual or 2 or more individuals.

“(f) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including—

“(1) the requirement to report information or the establishment of other methods for verifying the correct amounts of reimbursements under this section, and

“(2) the application of this section to group health plans that are multiemployer plans (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974).”.

(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, with respect to the first period of COBRA continuation coverage to which subsection (a)(1)(A) applies or the immediately subsequent period, the full premium amount for such coverage, the person to whom such payment is payable 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 (a)(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:

“SEC. 6720C. PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR COBRA PREMIUM ASSISTANCE.

“(a) IN GENERAL.—Any person required to notify a group health plan under section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009 who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of 110 percent of the premium reduction provided under such section after termination of eligibility under such subsection.

“(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subsection (a) with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.”.

(B) CLERICAL AMENDMENT.—The table of sections of part I of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

“Sec. 6720C. Penalty for failure to notify health plan of cessation of eligibility for COBRA premium assistance.”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to failures occurring after the date of the enactment of this Act.

(14) COORDINATION WITH HCTC.—

(A) IN GENERAL.—Subsection (g) of section 35 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and inserting after paragraph (8) the following new paragraph:

“(9) COBRA PREMIUM ASSISTANCE.—In the case of an assistance eligible individual who receives premium reduction for COBRA continuation coverage under section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009 for any month during the taxable year, such individual shall not be treated as an eligible individual, a certified individual, or a qualifying family member for purposes of this section or section 7527 with respect to such month.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act.

(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139B the following new section:

“SEC. 139C. COBRA PREMIUM ASSISTANCE.

“In the case of an assistance eligible individual (as defined in section 3002 of the Health Insurance Assistance for the Unemployed 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.

(16) RULES RELATED TO 2009 EXTENSION.—

(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual’s transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

(i) such individual was covered under the COBRA continuation coverage to which such premium relates for the period of coverage immediately preceding such transition period, and

(ii) such individual pays, the amount of such premium, after the application of paragraph (1)(A), by the latest of—

(I) 60 days after the date of the enactment of this paragraph,

(II) 30 days after the date of provision of the notification required under subparagraph (D)(ii), or

(III) the end of the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986.

(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual’s transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

(C) TRANSITION PERIOD.—

(i) IN GENERAL.—For purposes of this paragraph, the term “transition period” means, with respect to

any assistance eligible individual, any period of coverage if—

(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and

(II) paragraph (1)(A) applies to such period by reason of the amendment made by section 1010(b) of the Department of Defense Appropriations Act, 2010.

(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

(D) NOTIFICATION.—

(i) IN GENERAL.—In the case of an individual who was an assistance eligible individual at any time on or after October 31, 2009, or experiences a qualifying event (consisting of termination of employment) relating to COBRA continuation coverage on or after such date, the administrator of the group health plan (or other entity) involved shall provide an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, within 60 days after the date of the enactment of such Act or, in the case of a qualifying event occurring after such date of enactment, consistent with the timing of notifications under paragraph (7)(A).

(ii) TO INDIVIDUALS WHO LOST ASSISTANCE.—In the case of an assistance eligible individual described in subparagraph (A)(i) who did not timely pay the premium for any period of coverage during such individual's transition period or paid the premium for such period without regard to paragraph (1)(A), the administrator of the group health plan (or other entity) involved shall provide to such individual, within the first 60 days of such individual's transition period, an additional notification with information regarding the amendments made by section 1010 of the Department of Defense Appropriations Act, 2010, including information on the ability under subparagraph (A) to make retroactive premium payments with respect to the transition period of the individual in order to maintain COBRA continuation coverage.

(iii) APPLICATION OF RULES.—Rules similar to the rules of paragraph (7) shall apply with respect to notifications under this subparagraph.

(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

(A) NEW ELECTION PERIOD.—

(i) IN GENERAL.—For the purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual on or after the date of the enactment of this paragraph shall be treated as a qualifying event.

(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual's involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred on or after the date of the enactment of this paragraph.

(18) RULES RELATED TO APRIL AND MAY 2010 EXTENSION.—

In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after April 1, 2010 and prior to the date of the enactment of this paragraph, rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.

(b) ELIMINATION OF PREMIUM SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—

Sec. 3001 American Recovery and Reinvestment Act of 2009 40

(1) RECAPTURE OF SUBSIDY FOR HIGH-INCOME INDIVIDUALS.—If—

(A) premium assistance is provided under this section with respect to any COBRA continuation coverage which covers the taxpayer, the taxpayer's spouse, or any dependent (within the meaning of section 152 of the Internal Revenue Code of 1986, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of the taxpayer during any portion of the taxable year, and

(B) the taxpayer's modified adjusted gross income for such taxable year exceeds \$125,000 (\$250,000 in the case of a joint return),

then the tax imposed by chapter 1 of such Code with respect to the taxpayer for such taxable year shall be increased by the amount of such assistance.

(2) PHASE-IN OF RECAPTURE.—

(A) IN GENERAL.—In the case of a taxpayer whose modified adjusted gross income for the taxable year does not exceed \$145,000 (\$290,000 in the case of a joint return), the increase in the tax imposed under paragraph (1) shall not exceed the phase-in percentage of such increase (determined without regard to this paragraph).

(B) PHASE-IN PERCENTAGE.—For purposes of this subsection, the term “phase-in percentage” means the ratio (expressed as a percentage) obtained by dividing—

(i) the excess of described in subparagraph (B) of paragraph (1), by

(ii) \$20,000 (\$40,000 in the case of a joint return).

(3) OPTION FOR HIGH-INCOME INDIVIDUALS TO WAIVE ASSISTANCE AND AVOID RECAPTURE.—Notwithstanding subsection (a)(3), an individual shall not be treated as an assistance eligible individual for purposes of this section and section 6432 of the Internal Revenue Code of 1986 if such individual—

(A) makes a permanent election (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to waive the right to the premium assistance provided under this section, and

(B) notifies the entity to whom premiums are reimbursed under section 6432(a) of such Code of such election.

(4) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term “modified adjusted gross income” means the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 of such Code.

(5) CREDITS NOT ALLOWED AGAINST TAX, ETC.—For purposes determining regular tax liability under section 26(b) of such Code, the increase in tax under this subsection shall not be treated as a tax imposed under chapter 1 of such Code.

(6) REGULATIONS.—The Secretary of the Treasury shall issue such regulations or other guidance as are necessary or appropriate to carry out this subsection, including requirements that the entity to whom premiums are reimbursed under section 6432(a) of the Internal Revenue Code of 1986 re-

port to the Secretary, and to each assistance eligible individual, the amount of premium assistance provided under subsection (a) with respect to each such individual.

(7) EFFECTIVE DATE.—The provisions of this subsection shall apply to taxable years ending after the date of the enactment of this Act.