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110TH CONGRESS
2D SESSION

H. R. 7110

AN ACT

Making supplemental appropriations for job creation and preservation, infrastructure investment, and economic and energy assistance for the fiscal year ending September 30, 2009, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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—INFRASTRUCTURE INVESTMENTS

CHAPTER 1—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for ''Grants-in-Aid for Airports'', to enable the Secretary of Transportation to make discretionary grants as authorized by subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, $600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2009: *Provided*, That in selecting projects to be funded, priority shall be given to airport projects that can award contracts based on bids within 120 days of enactment of this Act.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE INVESTMENT

For projects and activities eligible under section 133 of title 23, United States Code (without regard to subsection (d)), section 144 of such title (without regard to subsection (g)), and sections 103, 119, 148, and 149 of

such title, $12,800,000,000, to remain available until September 30, 2009: *Provided*, That funds made available under this heading shall be distributed among the States, including Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161, but, in the case of the Puerto Rico Highway Program and the Territorial Highway Program, under section 120(a)(5) of such division: *Provided further*, That in selecting projects to be funded, priority shall be given to ready-to-go projects that can award bids within 120 days of enactment of this Act: *Provided further*, That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall be 100 percent of the total cost thereof: *Provided further*, That amounts made available under this heading that are not obligated within 180 days after the date of enactment of this Act shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States able to obligate

amounts in addition to those previously distributed: *Provided further*, That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act.

FEDERAL RAILROAD ADMINISTRATION

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for ''Capital and Debt Service Grants to the National Railroad Passenger Corporation'', $500,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation may retain up to one-quarter of 1 percent of the funds made available under this heading to fund the oversight by the Federal Railroad Administration of the design and implementation of capital projects funded by grants made under this heading: *Provided further*, That none of the funds made available under this heading may be used to subsidize operating losses of Amtrak: *Provided further*, That none of the funds made available under this heading shall be for debt service obligations: *Provided further*, That in selecting projects to be funded, priority shall be given to Amtrak capital projects that can award contracts based on bids within 120 days of enactment of this Act.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

For transit capital assistance grants, $3,600,000,000, to remain available until September 30, 2009, of which $3,240,000,000 shall be for grants under section 5307 of title 49, United States Code and shall be apportioned in accordance with section 5336 of such title (other than subsections (i)(1) and (j)) but may not be combined or commingled with any other funds apportioned under such section 5336, and of which $360,000,000 shall be for grants under section 5311 of such title and shall be apportioned in accordance with such section 5311 but may not be combined or commingled with any other funds apportioned under that section: *Provided*, That in selecting projects to be funded, priority shall be given to projects that can award contracts based on bids within 120 days of enactment of this Act: *Provided further*, That the Federal share of the costs for which a grant is made under this heading shall be 100 percent.

TRANSIT ENERGY ASSISTANCE GRANTS

For transit energy assistance grants, $1,000,000,000, to remain available until September 30, 2009, of which $800,000,000 shall be for grants under section 5307 of title 49, United States Code and shall be apportioned in accordance with section 5336 of such title

(other than subsections (i)(1) and (j)) but may not be combined or commingled with any other funds apportioned under such section 5336, and of which $200,000,000 shall be for grants under section 5311 of such title and shall be apportioned in accordance with such section 5311 but may not be combined or commingled with any other funds apportioned under that section: *Provided*, That the Federal share of the costs for which a grant is made under this heading shall be 100 percent: *Provided further*, That notwithstanding such sections 5307 and 5311, funds appropriated under this heading are available for only one or more of the following purposes:

(1) If the recipient of the grant is reducing, or certifies to the Secretary of Transportation within the time the Secretary prescribes that, during the term of the grant, the recipient will reduce, one or more fares the recipient charges for public transportation, or in the case of subsection (f) of such section 5311, intercity bus service, those operating costs of equipment and facilities being used to provide the public transportation, or in the case of subsection (f) of such section 5311, intercity bus service, that the recipient is no longer able to pay from the revenues derived from such fare or fares as a result of such reduction.

(2) If the recipient of the grant is expanding, or certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will expand, public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, those operating and capital costs of equipment and facilities being used to provide the public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, that the recipient incurs as a result of the expansion of such service.

(3) To avoid increases in fares for public transportation, or in the case of subsection (f) of such section 5311, intercity bus service, or decreases in current public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, that would otherwise result from an increase in costs to the public transportation or intercity bus agency for transportation-related fuel or meeting additional transportation-related equipment or facility maintenance needs, if the recipient of the grant certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will not increase the fares that the recipient charges for public transportation, or in the case of

subsection (f) of such section 5311, intercity bus service, or, will not decrease the public transportation service, or in the case of subsection (f) of such section 5311, intercity bus service, that the recipient provides.

(4) If the recipient of the grant is acquiring, or certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will acquire, clean fuel or alternative fuel vehicle-related equipment or facilities for the purpose of improving fuel efficiency, the costs of acquiring the equipment or facilities.

(5) If the recipient of the grant is establishing or expanding, or certifies to the Secretary within the time the Secretary prescribes that, during the term of the grant, the recipient will establish or expand, commuter matching services to provide commuters with information and assistance about alternatives to single occupancy vehicle use, those administrative costs in establishing or expanding such services.

CHAPTER 2—CLEAN WATER

ENVIRONMENTAL PROTECTION AGENCY

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', $7,500,000,000, to remain available

until September 30, 2009, for capitalization grants for State revolving funds, which shall be used as follows:

(1) $6,500,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, except that the funds shall not be subject to the state matching requirements in paragraphs (2) and (3) of section 602(b) of such Act.

(2) $1,000,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, except that the funds shall not be subject to the state matching requirements of section 1452(e) of such Act:

Provided, That a State shall agree to enter into binding commitments with the funds appropriated under this heading no later than 120 days after the date on which the State receives the funds: *Provided further*, That, notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to a total of 1.5 percent of the funds made available under paragraph (1) of this heading may be reserved by the Administrator of the Environmental Protection Agency for grants under section 518(c) of such Act: *Provided further*, That section 1452(k) of the Safe Drinking Water

Act shall not apply to amounts made available under this heading.

CHAPTER 3—FLOOD CONTROL AND WATER RESOURCES

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'', $2,500,000,000, to remain available until September 30, 2010: *Provided*, That funds appropriated under this heading shall not be derived from the Inland Waterways Trust Fund: *Provided further,* That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act and to give preference to those activities that are labor intensive.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'', $500,000,000, to remain available until September 30, 2010: *Provided*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project

elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act and to give preference to those activities that are labor intensive.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'', $2,000,000,000, to remain available until September 30, 2010: *Provided*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act and to give preference to those activities that are labor intensive.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'', $300,000,000, to remain available until September 30, 2010: *Provided*, That such sums shall be used for capital improvement projects, including authorized rural water projects: *Provided further*, That of the amount appropriated under this heading, $126,000,000 shall be used for water reclamation and reuse projects authorized under title XVI of Public Law 102–575.

1 CHAPTER 4—21ST CENTURY GREEN HIGH-
2 PERFORMING PUBLIC SCHOOL FACILITIES
3 DEPARTMENT OF EDUCATION
4 SCHOOL MODERNIZATION, RENOVATION, AND REPAIR
5 For carrying out section 1401, $3,000,000,000, to re-
6 main available through September 30, 2009.
7 GENERAL PROVISIONS, THIS CHAPTER
8 SEC. 1401. (a) DEFINITIONS.—In this section:
9 (1) The term ''Bureau-funded school'' has the
10 meaning given to such term in section 1141 of the
11 Education Amendments of 1978 (25 U.S.C. 2021).
12 (2) The term ''charter school'' has the meaning
13 given such term in section 5210 of the Elementary
14 and Secondary Education Act of 1965.
15 (3) The term ''local educational agency''—
16 (A) has the meaning given to that term in
17 section 9101 of the Elementary and Secondary
18 Education Act of 1965, and shall also include
19 the Recovery School District of Louisiana and
20 the New Orleans Public Schools; and
21 (B) includes any public charter school that
22 constitutes a local educational agency under
23 State law.
24 (4) The term ''outlying area''—

(A) means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(5) The term ''public school facilities'' includes charter schools.

(6) The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(7) The term ''LEED Green Building Rating System'' means the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(8) The term ''Energy Star'' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

(9) The term ''CHPS Criteria'' means the green building rating program developed by the Collaborative for High Performance Schools.

(10) The term ''Green Globes'' means the Green Building Initiative environmental design and rating system referred to as Green Globes.

(b) PURPOSE.—Grants under this section shall be for the purpose of modernizing, renovating, or repairing public school facilities, based on their need for such improvements, to be safe, healthy, high-performing, and up-to-date technologically.

(c) ALLOCATION OF FUNDS.—

(1) RESERVATION.—From the amount appropriated to carry out this section, the Secretary of Education shall reserve 1 percent of such amount, consistent with the purpose described in subsection (b)—

(A) to provide assistance to the outlying areas; and

(B) for payments to the Secretary of the Interior to provide assistance to Bureau-funded schools.

(2) ALLOCATION TO STATES.—

(A) STATE-BY-STATE ALLOCATION.—Of the amount appropriated to carry out this section, and not reserved under paragraph (1), each State shall be allocated an amount in proportion to the amount received by all local edu-

cational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2008 relative to the total amount received by all local educational agencies in every State under such part for such fiscal year.

(B) STATE ADMINISTRATION.—A State may reserve up to 1 percent of its allocation under subparagraph (A) to carry out its responsibilities under this section, including—

(i) providing technical assistance to local educational agencies;

(ii) developing, within 6 months of receiving its allocation under subparagraph (A), a plan to develop a database that includes an inventory of public school facilities in the State and the modernization, renovation, and repair needs of, energy use by, and the carbon footprint of such schools; and

(iii) developing a school energy efficiency quality plan.

(C) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—From the amount allocated to a State under subparagraph (A), each local edu-

cational agency in the State that meets the requirements of section 1112(a) of the Elementary and Secondary Education Act of 1965 shall receive an amount in proportion to the amount received by such local educational agency under part A of title I of that Act for fiscal year 2008 relative to the total amount received by all local educational agencies in the State under such part for such fiscal year, except that no local educational agency that received funds under part A of title I of that Act for such fiscal year shall receive a grant of less than $5,000.

(D) SPECIAL RULE.—Section 1122(c)(3) of the Elementary and Secondary Education Act of 1965 shall not apply to subparagraph (A) or (C).

(3) SPECIAL RULES.—

(A) DISTRIBUTIONS BY SECRETARY.—The Secretary of Education shall make and distribute the reservations and allocations described in paragraphs (1) and (2) not later than 30 days after the date of the enactment of this Act.

(B) DISTRIBUTIONS BY STATES.—A State shall make and distribute the allocations described in paragraph (2)(C) within 30 days of receiving such funds from the Secretary.

(d) ALLOWABLE USES OF FUNDS.—A local educational agency receiving a grant under this section shall use the grant for modernization, renovation, or repair of public school facilities, including—

(1) repairing, replacing, or installing roofs, including extensive, intensive or semi-intensive green roofs, electrical wiring, plumbing systems, sewage systems, lighting systems, or components of such systems, windows, or doors, including security doors;

(2) repairing, replacing, or installing heating, ventilation, air conditioning systems, or components of such systems (including insulation), including indoor air quality assessments;

(3) bringing public schools into compliance with fire, health, and safety codes, including professional installation of fire/life safety alarms, including modernizations, renovations, and repairs that ensure that schools are prepared for emergencies, such as improving building infrastructure to accommodate security measures;

(4) modifications necessary to make public school facilities accessible to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that such modifications shall not be the primary use of the grant;

(5) asbestos or polychlorinated biphenyls abatement or removal from public school facilities;

(6) implementation of measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls, abatement, or a combination of each;

(7) implementation of measures designed to reduce or eliminate human exposure to mold or mildew;

(8) upgrading or installing educational technology infrastructure to ensure that students have access to up-to-date educational technology;

(9) modernization, renovation, or repair of science and engineering laboratory facilities, libraries, and career and technical education facilities, including those related to energy efficiency and renewable energy, and improvements to building infrastructure to accommodate bicycle and pedestrian access;

(10) renewable energy generation and heating systems, including solar, photovoltaic, wind, geothermal, or biomass, including wood pellet, systems or components of such systems;

(11) other modernization, renovation, or repair of public school facilities to—

(A) improve teachers' ability to teach and students' ability to learn;

(B) ensure the health and safety of students and staff;

(C) make them more energy efficient; or

(D) reduce class size; and

(12) required environmental remediation related to public school modernization, renovation, or repair described in paragraphs (1) through (11).

(e) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(1) payment of maintenance costs; or

(2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(f) SUPPLEMENT, NOT SUPPLANT.—A local educational agency receiving a grant under this section shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of

such Federal funds, be available for modernization, renovation, or repair of public school facilities.

(g) PROHIBITION REGARDING STATE AID.—A State shall not take into consideration payments under this section in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(h) SPECIAL RULE ON CONTRACTING.—Each local educational agency receiving a grant under this section shall ensure that, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, and women- and veteran-owned businesses, through full and open competition.

(i) SPECIAL RULE ON USE OF IRON AND STEEL PRODUCED IN THE UNITED STATES.—

(1) IN GENERAL.—A local educational agency shall not obligate or expend funds received under this section for a project for the modernization, renovation, or repair of a public school facility unless all of the iron and steel used in such project is produced in the United States.

(2) EXCEPTIONS.—The provisions of paragraph (1) shall not apply in any case in which the local educational agency finds that—

(A) their application would be inconsistent with the public interest;

(B) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) inclusion of iron and steel produced in the United States will increase the cost of the overall project contract by more than 25 percent.

(j) APPLICATION OF GEPA.—The grant program under this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b).

(k) GREEN SCHOOLS.—

(1) IN GENERAL.—A local educational agency shall use not less than 25 percent of the funds received under this section for public school modernization, renovation, or repairs that are certified, verified, or consistent with any applicable provisions of—

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

(E) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

(2) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall provide outreach and technical assistance to States and school districts concerning the best practices in school modernization, renovation, and repair, including those related to student academic achievement and student and staff health, energy efficiency, and environmental protection.

(l) REPORTING.—

(1) REPORTS BY LOCAL EDUCATIONAL AGENCIES.—Local educational agencies receiving a grant under this section shall compile, and submit to the State educational agency (which shall compile and submit such reports to the Secretary), a report describing the projects for which such funds were used, including—

(A) the number of public schools in the agency, including the number of charter schools;

(B) the total amount of funds received by the local educational agency under this section and the amount of such funds expended, including the amount expended for modernization, renovation, and repair of charter schools;

(C) the number of public schools in the agency with a metro-centric locale code of 41, 42, or 43 as determined by the National Center for Education Statistics and the percentage of funds received by the agency under this section that were used for projects at such schools;

(D) the number of public schools in the agency that are eligible for schoolwide programs under section 1114 of the Elementary and Secondary Education Act of 1965 and the percentage of funds received by the agency under this section that were used for projects at such schools;

(E) the cost of each project, which, if any, of the standards described in subsection (k)(1) the project met, and any demonstrable or ex-

pected academic, energy, or environmental benefits as a result of the project;

(F) if flooring was installed, whether—

(i) it was low- or no-VOC (Volatile Organic Compounds) flooring;

(ii) it was made from sustainable materials; and

(iii) use of flooring described in clause (i) or (ii) was cost effective; and

(G) the total number and amount of contracts awarded, and the number and amount of contracts awarded to local, small, minority-owned, women-owned, and veteran-owned businesses.

(2) REPORTS BY SECRETARY.—Not later than December 31, 2010, the Secretary of Education shall submit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate a report on grants made under this section, including the information described in paragraph (1), the types of modernization, renovation, and repair funded, and the number of students impacted, including the number of students counted

under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.

CHAPTER 5—HOUSING

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

PUBLIC HOUSING CAPITAL FUND

For an additional amount for the ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), $1,000,000,000, to remain available until September 30, 2009: *Provided*, That this additional amount shall be allocated to public housing agencies according to the same funding formula used for other amounts already made available in fiscal year 2008, and not later than 120 days after enactment of this Act: *Provided further*, That in selecting projects to be funded, public housing agencies shall give priority to capital projects for which contract awards based on competitive bids can be executed within 120 days of enactment of this Act.

CHAPTER 6—ENERGY DEVELOPMENT

DEPARTMENT OF ENERGY

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $500,000,000, to remain available until September 30, 2009: *Provided*, That funds shall be available for expenses necessary for energy efficiency and renewable energy research and development and demonstration activities to accelerate the development of technologies that will diversify the nation's energy portfolio and contribute to a reliable, domestic energy supply.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability'', $100,000,000, to remain available until September 30, 2009: *Provided*, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, enhance security and reliability of the energy infrastructure, and facilitate recovery from disruptions to the energy supply.

ADVANCED BATTERY LOAN GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed loans as authorized by section 135 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17012),

$1,000,000,000 to remain available until expended: *Provided*, That of such amount, $5,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program: *Provided further*, That commitments for guaranteed loans using such amount shall not exceed $3,333,000,000 in total loan principal: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

TITLE II—UNEMPLOYMENT COMPENSATION AND JOB TRAINING

CHAPTER 1—EXTENSION OF UNEMPLOYMENT COMPENSATION

ADDITIONAL FIRST-TIER BENEFITS

SEC. 2101. Section 4002(b)(1) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in subparagraph (A), by striking ''50'' and inserting ''80''; and

(2) in subparagraph (B), by striking ''13'' and inserting ''20''.

SECOND-TIER BENEFITS

SEC. 2102. Section 4002 of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended by adding at the end the following:

''(c) SPECIAL RULE.—

"(1) IN GENERAL.—If, at the time that the amount established in an individual's account under subsection (b)(1) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount equal to the lesser of—

"(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law, or

"(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

"(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

"(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

"(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

"(i) were applied by substituting '4' for '5' each place it appears; and

"(ii) did not include the requirement under paragraph (1)(A) thereof; or

"(C) such a period would then be in effect for such State under such Act if—

"(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

"(ii) such section 203(f)—

"(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

"(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

"(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.".

PHASEOUT PROVISIONS

SEC. 2103. Section 4007(b) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (3),"; and

(2) by striking paragraph (2) and inserting the following:

"(2) NO AUGMENTATION AFTER MARCH 31, 2009.—If the amount established in an individual's account under subsection (b)(1) is exhausted after March 31, 2009, then section 4002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

"(3) TERMINATION.—No compensation under this title shall be payable for any week beginning after August 27, 2009.".

EFFECTIVE DATE

SEC. 2104. (a) IN GENERAL.—The amendments made by this chapter shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, subject to subsection (b).

(b) ADDITIONAL BENEFITS.—In applying the amendments made by sections 2101 and 2102, any additional emergency unemployment compensation made payable by such amendments (which would not otherwise have been payable if such amendments had not been enacted) shall be payable only with respect to any week of unemployment beginning on or after the date of the enactment of this Act.

CHAPTER 2—JOB TRAINING

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' for activities under the Workforce Investment Act of 1998, $400,000,000, to remain available through June 30, 2009, of which $200,000,000 is for grants to the States for dislocated worker employment and training activities and $200,000,000 is for grants to the States for youth activities: *Provided*, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) or section 128(a) of such Act: *Provided further*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of such Act shall be the only measure of performance used to assess the effectiveness of youth activities provided with such funds: *Provided further*, That, with respect to the youth activities provided with such funds, section 101(13)(A) of such Act shall be applied by substituting ''age 24'' for ''age 21''.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States for reemployment services in accord-

ance with section 6 of the Wagner-Peyser Act, $100,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, and which shall remain available through September 30, 2009: *Provided*, That, with respect to such funds, section 6(b)(1) of such Act shall be applied by substituting ''one-third'' for ''two-thirds'' in subparagraph (A), with the remaining one-third of the sums to be allotted in accordance with section 132(b)(2)(B)(ii)(III) of the Workforce Investment Act of 1998.

TITLE III—TEMPORARY INCREASE IN MEDICAID MATCHING RATE

TEMPORARY INCREASE OF MEDICAID FMAP FOR 14 MONTHS

SEC. 3001. (a) PERMITTING MAINTENANCE OF FISCAL YEAR 2008 OR 2009 FMAP.—Subject to subsections (d), (e), and (f), if the FMAP determined without regard to this section for a State for—

(1) fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section; or

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2009, the FMAP for

the State for fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section, but only for the portion of the first calendar quarter in fiscal year 2010 before December 1, 2009.

(b) GENERAL 1 PERCENTAGE POINT INCREASE.—

(1) IN GENERAL.—Subject to subsections (d), (e), and (f), for each State for fiscal year 2009 and the portion of the first calendar quarter in fiscal year 2010 before December 1, 2009, the FMAP (taking into account the application of subsection (a) and before the application of subsection (c)) shall be increased by 1 percentage point.

(2) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (e) and (f), with respect to fiscal year 2009 and with respect to fiscal year 2010 in proportion to the portion of the fiscal year that occurs during the first calendar quarter before December 1, 2009, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by 4 percent.

(c) ADDITIONAL PERCENTAGE POINTS INCREASE FOR QUALIFYING STATES.—

(1) IN GENERAL.—Subject to subsections (d), (e), and (f), in the case of a State that is 1 of the 50 States or the District of Columbia, if the State is awarded a total of—

(A) 3 or more points under paragraph (2) for a calendar quarter in fiscal year 2009 or for the first calendar quarter in fiscal year 2010, then for that calendar quarter or, in the case the State is awarded such points for the calendar quarter in fiscal year 2010, for the portion of such quarter before December 1, 2009, (and each succeeding calendar quarter, if any, in fiscal year 2009 and the portion of the first calendar quarter in fiscal year 2010 before December 1, 2009) the FMAP (taking into account the application of subsections (a) and (b)(1)) shall be further increased by 3 percentage points; or

(B) 2 points under paragraph (2) for a calendar quarter in fiscal year 2009 or in the first calendar quarter in fiscal year 2010 and has not been awarded 3 or more points under such paragraph for a previous calendar quarter

in fiscal year 2009, then for that calendar quarter or, in the case the State is awarded such points for the calendar quarter in fiscal year 2010, for the portion of such quarter before December 1, 2009, (and each succeeding calendar quarter, if any, in fiscal year 2009 and the portion of the first calendar quarter in fiscal year 2010 before December 1, 2009) the FMAP (taking into account the application of subsections (a) and (b)(1)) shall be further increased by 1 percentage point.

(2) AWARDING OF POINTS BASED ON QUALIFYING CRITERIA.—For purposes of paragraph (1), each State shall be awarded points for a calendar quarter equal to the total of the points awarded under each of the following subparagraphs:

(A) REDUCTION IN EMPLOYMENT.—

(i) IN GENERAL.—A State shall be awarded under this subparagraph—

(I) 2 points if the State's employment for the quarter decreased or if such employment for the quarter increased but by not more than 0.25 percent; or

(II) 1 point if the State's employment for the quarter increased by more than 0.25 percent but by less than 2.0 percent.

(ii) MEASUREMENT OF EMPLOYMENT.—For purposes of clause (i), an increase or decrease in a State's employment for a quarter shall be measured by comparing—

(I) the average total nonfarm employment for the State in the 3 most recent months, as determined based on the most recent monthly publications of the Current Employer Statistics Survey of the Bureau of Labor Statistics available as of the first day of the quarter; to

(II) the average total nonfarm employment for the State in the same months two years earlier, as so determined.

(B) INCREASE IN FOOD STAMPS OR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION.—

(i) IN GENERAL.—A State shall be awarded under this subparagraph 1 point if the State's food stamp or Supplemental Nutrition Assistance Program participation for the quarter increased by more than 4 percent.

(ii) FOOD STAMP OR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION.—For purposes of clause (i), an increase in a State's food stamp or Supplemental Nutrition Assistance Program participation for a quarter shall be measured by comparing—

(I) the average monthly participation by persons in food stamps or the Supplemental Nutrition Assistance Program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) for the State in the 3 most recent months, as determined based on the most recent monthly publications of Food and Nutrition Service Data of the Department of Agriculture available as of the first day of the quarter, adjusted for participation in disaster

1 programs under section 5(h) of the
2 Food and Nutrition Act of 2008 (7.
3 U.S.C. 2014(h)); to
4 (II) the average monthly partici-
5 pation by persons in food stamps or
6 the Supplemental Nutrition Assist-
7 ance Program for the State in the
8 same months two years earlier, as so
9 determined.
10 (C) INCREASE IN FORECLOSURES.—
11 (i) IN GENERAL.—A State shall be
12 awarded under this subparagraph —
13 (I) 2 points if the State's fore-
14 closure rate for the quarter increased
15 by greater than 200 percent; or
16 (II) 1 point if the State's fore-
17 closure rate increased by greater than
18 60 percent, but not more than 200
19 percent.
20 (ii) FORECLOSURE RATE.—For pur-
21 poses of clause (i), an increase in a State's
22 foreclosure rate for a quarter shall be
23 measured by comparing—
24 (I) the percentage of total mort-
25 gages in foreclosure for the State for

the most recent quarter, as determined by the Board of Governors of the Federal Reserve System based on the most recent satisfactory data available to such Board available as of the first day of the quarter; to

(II) such percentage for the State for the same quarter two years earlier, as so determined.

(d) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(e) STATE INELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is not eligible for an increase in its FMAP under subsection (b)(1) or (c), or an increase in a

1 cap amount under subsection (b)(2), if eligibility
2 standards, methodologies, or procedures under its
3 State plan under title XIX of the Social Security Act
4 (including any waiver under such title or under sec-
5 tion 1115 of such Act (42 U.S.C. 1315)) are more
6 restrictive than the eligibility standards, methodolo-
7 gies, or procedures, respectively, under such plan (or
8 waiver) as in effect on July 1, 2008.

9 (2) STATE REINSTATEMENT OF ELIGIBILITY
10 PERMITTED.—A State that has restricted eligibility
11 standards, methodologies, or procedures under its
12 State plan under title XIX of the Social Security Act
13 (including any waiver under such title or under sec-
14 tion 1115 of such Act (42 U.S.C. 1315)) after July
15 1, 2008, is no longer ineligible under paragraph (1)
16 beginning with the first calendar quarter in which
17 the State has reinstated eligibility standards, meth-
18 odologies, or procedures that are no more restrictive
19 than the eligibility standards, methodologies, or pro-
20 cedures, respectively, under such plan (or waiver) as
21 in effect on July 1, 2008.

22 (3) RULE OF CONSTRUCTION.—Nothing in
23 paragraph (1) or (2) shall be construed as affecting
24 a State's flexibility with respect to benefits offered
25 under the State Medicaid program under title XIX

of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(f) REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (b)(1) or (c), or an increase in a cap amount under subsection (b)(2), if it requires that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for fiscal year 2009, than the percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

1 (h) REPEAL.—Effective as of October 1, 2010, this
2 section is repealed.

3 ADJUSTMENT IN COMPUTATION OF MEDICAID FMAP TO
4 DISREGARD AN EXTRAORDINARY EMPLOYER PEN-
5 SION CONTRIBUTION

6 SEC. 3002. (a) IN GENERAL.—Only for purposes of
7 computing the FMAP (as defined in subsection (e)) for
8 a State for a fiscal year (beginning with fiscal year 2006)
9 and applying the FMAP under title XIX of the Social Se-
10 curity Act, any significantly disproportionate employer
11 pension or insurance fund contribution described in sub-
12 section (b) shall be disregarded in computing the per cap-
13 ita income of such State, but shall not be disregarded in
14 computing the per capita income for the continental
15 United States (and Alaska) and Hawaii.

16 (b) SIGNIFICANTLY DISPROPORTIONATE EMPLOYER
17 PENSION AND INSURANCE FUND CONTRIBUTION.—

18 (1) IN GENERAL.—For purposes of this section,
19 a significantly disproportionate employer pension
20 and insurance fund contribution described in this
21 subsection with respect to a State is any identifiable
22 employer contribution towards pension or other em-
23 ployee insurance funds that is estimated to accrue to
24 residents of such State for a calendar year (begin-
25 ning with calendar year 2003) if the increase in the
26 amount so estimated exceeds 25 percent of the total

increase in personal income in that State for the year involved.

(2) DATA TO BE USED.—For estimating and adjusting a FMAP already calculated as of the date of the enactment of this Act for a State with a significantly disproportionate employer pension and insurance fund contribution, the Secretary of Health and Human Services shall use the personal income data set originally used in calculating such FMAP.

(3) SPECIAL ADJUSTMENT FOR NEGATIVE GROWTH.—If in any calendar year the total personal income growth in a State is negative, an employer pension and insurance fund contribution for the purposes of calculating the State's FMAP for a calendar year shall not exceed 125 percent of the amount of such contribution for the previous calendar year for the State.

(c) HOLD HARMLESS.—No State shall have its FMAP for a fiscal year reduced as a result of the application of this section.

(d) REPORT.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the problems presented by the current treatment of pension and insurance fund contributions in the use of Bureau of

1 Economic Affairs calculations for the FMAP and for Med-
2 icaid and on possible alternative methodologies to mitigate
3 such problems.

4 (e) FMAP DEFINED.—For purposes of this section,
5 the term ''FMAP'' means the Federal medical assistance
6 percentage, as defined in section 1905(b) of the Social Se-
7 curity Act (42 U.S.C. 1396(d)).

8 TITLE IV—TEMPORARY INCREASE IN FOOD
9 ASSISTANCE

10 TEMPORARY INCREASE IN BENEFITS UNDER THE
11 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

12 SEC. 4001. (a) MAXIMUM BENEFIT INCREASE.—

13 (1) IN GENERAL.—Beginning the first month
14 that begins not less than 25 days after the date of
15 enactment of this Act, the value of benefits deter-
16 mined under section 8(a) of the Food and Nutrition
17 Act of 2008 and consolidated block grants for Puer-
18 to Rico and American Samoa determined under sec-
19 tion 19(a) of such Act shall be calculated using 105
20 percent of the June 2008 value of the thrifty food
21 plan as specified under section 3(o) of such Act.

22 (2) TERMINATION.—The authority provided by
23 this subsection shall terminate after September 30,
24 2009.

(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; and

(4) have the authority to take such measures as necessary to ensure the efficient administration of the benefits provided in this section.

(c) STATE ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section, the Secretary shall make available $50,000,000.

(2) AVAILABILITY OF FUNDS.—Funds described in paragraph (1) shall be made available as grants to State agencies based on each State's share of households that participate in the Supplemental Nutrition Assistance Program as reported to the De-

partment of Agriculture for the 12-month period ending with June, 2008.

(d) FUNDING.—There is appropriated to the Secretary of Agriculture such sums as are necessary to carry out this section.

TITLE V—GENERAL PROVISIONS

SHORT TITLE

SEC. 5001. This Act may be cited as the ''Job Creation and Unemployment Relief Act of 2008''.

PROHIBITION

SEC. 5002. Notwithstanding any other provision of this Act, none of the funds made available in this Act may be used to employ workers in violation of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a).

EMERGENCY DESIGNATION

SEC. 5003. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

SUPPLEMENTAL APPROPRIATIONS

SEC. 5004. Unless otherwise expressly provided, each amount in this Act is made available in addition to amounts otherwise available for fiscal year 2009.

Passed the House of Representatives September 26, 2008.

Attest:

Clerk.

110th CONGRESS
2d Session

H. R. 7110

AN ACT

Making supplemental appropriations for job creation and preservation, infrastructure investment, and economic and energy assistance for the fiscal year ending September 30, 2009, and for other purposes.