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Public Law 111–5
111th Congress

An Act

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

Feb. 17, 2009
[H.R. 1]

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

SECTION 1. SHORT TITLE.

American Recovery and Reinvestment Act of 2009.
26 USC 1 note.

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

DIVISION A—APPROPRIATIONS PROVISIONS

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES
TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES
TITLE III—DEPARTMENT OF DEFENSE
TITLE IV—ENERGY AND WATER DEVELOPMENT
TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT
TITLE VI—DEPARTMENT OF HOMELAND SECURITY
TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES
TITLE VIII—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES
TITLE IX—LEGISLATIVE BRANCH
TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES
TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS
TITLE XII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES
TITLE XIII—HEALTH INFORMATION TECHNOLOGY
TITLE XIV—STATE FISCAL STABILIZATION FUND
TITLE XV—ACCOUNTABILITY AND TRANSPARENCY
TITLE XVI—GENERAL PROVISIONS—THIS ACT

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

TITLE I—TAX PROVISIONS
TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES
TITLE III—PREMIUM ASSISTANCE FOR COBRA BENEFITS
TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS
TITLE V—STATE FISCAL RELIEF
TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM
TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

SEC. 3. PURPOSES AND PRINCIPLES.

26 USC 1 note.

(a) STATEMENT OF PURPOSES.—The purposes of this Act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.

(4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.

(5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

(b) GENERAL PRINCIPLES CONCERNING USE OF FUNDS.—The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified in subsection (a), including commencing expenditures and activities as quickly as possible consistent with prudent management.

1 USC 1 note.

SEC. 4. REFERENCES.

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

SEC. 5. EMERGENCY DESIGNATIONS.

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

(b) PAY-AS-YOU-GO.—All applicable provisions in this Act are designated as an emergency for purposes of pay-as-you-go principles.

DIVISION A—APPROPRIATIONS PROVISIONS

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

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

DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

For an additional amount for "Agriculture Buildings and Facilities and Rental Payments", $24,000,000, for necessary construction, repair, and improvement activities.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $22,500,000, to remain available until September 30, 2013, for

oversight and audit of programs, grants, and activities funded by this Act and administered by the Department of Agriculture.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $176,000,000, for work on deferred maintenance at Agricultural Research Service facilities: *Provided*, That priority in the use of such funds shall be given to critical deferred maintenance, to projects that can be completed, and to activities that can commence promptly following enactment of this Act.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for "Farm Service Agency, Salaries and Expenses," $50,000,000, for the purpose of maintaining and modernizing the information technology system.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", $290,000,000, of which $145,000,000 is for necessary expenses to purchase and restore floodplain easements as authorized by section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) (except that no more than $30,000,000 of the amount provided for the purchase of floodplain easements may be obligated for projects in any one State): *Provided*, That such funds shall be allocated to projects that can be fully funded and completed with the funds appropriated in this Act, and to activities that can commence promptly following enactment of this Act.

WATERSHED REHABILITATION PROGRAM

For an additional amount for "Watershed Rehabilitation Program", $50,000,000: *Provided,* That such funds shall be allocated to projects that can be fully funded and completed with the funds appropriated in this Act, and to activities that can commence promptly following enactment of this Act.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

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

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: $67,000,000

for section 502 direct loans; and $133,000,000 for section 502 unsubsidized guaranteed loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

For an additional amount for the cost of direct loans and grants for rural community facilities programs as authorized by section 306 and described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act, $130,000,000.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

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

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans and grants for the rural water, waste water, and waste disposal programs authorized by sections 306 and 310B and described in section 381E(d)(2) of the Consolidated Farm and Rural Development Act, $1,380,000,000.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

Grants.
Loans.

For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants (including for technical assistance), $2,500,000,000: *Provided*, That the cost of direct and guaranteed loans shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That, notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States: *Provided further*, That at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture: *Provided further,* That priority for awarding such funds shall be given to project applications for broadband systems that will deliver end users a choice of more than one service provider: *Provided further*, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have access to broadband service: *Provided further*, That priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers: *Provided further*, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: *Provided further*, That priority for awarding

such funds shall be given to project applications for activities that can be completed if the requested funds are provided: *Provided further*, That priority for awarding such funds shall be given to activities that can commence promptly following approval: *Provided further*, That no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Technology Opportunities Program: *Provided further*, That the Secretary shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

Reports. Deadlines.

FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS

For an additional amount for the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et. seq.), except sections 17 and 21, $100,000,000, to carry out a grant program for National School Lunch Program equipment assistance: *Provided,* That such funds shall be provided to States administering a school lunch program in a manner proportional with each States' administrative expense allocation: *Provided further,* That the States shall provide competitive grants to school food authorities based upon the need for equipment assistance in participating schools with priority given to school in which not less than 50 percent of the students are eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act.

Grants.

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

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $500,000,000, of which $400,000,000 shall be placed in reserve to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates, and of which $100,000,000 shall be for the purposes specified in section 17(h)(10)(B)(ii): *Provided,* That up to one percent of the funding provided for the purposes specified in section 17(h)(10)(B)(ii) may be reserved by the Secretary for Federal administrative activities in support of those purposes.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the emergency food assistance program as authorized by section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)), $150,000,000: *Provided,* That of the funds made available, the Secretary may use up to $50,000,000 for costs associated with the distribution of commodities, of which up to $25,000,000 shall be made available in fiscal year 2009.

GENERAL PROVISIONS—THIS TITLE

Puerto Rico. American Samoa.

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

Effective date.

(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.

(2) TERMINATION.—

(A) The authority provided by this subsection shall terminate after September 30, 2009.

(B) Notwithstanding subparagraph (A), the Secretary of Agriculture may not reduce the value of the maximum allotments, minimum allotments or consolidated block grants for Puerto Rico and American Samoa below the level in effect for fiscal year 2009 as a result of paragraph (1).

(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.

Deadline.

(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).

Grants.

(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.— Effective dates.

(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.

SEC. 102. AGRICULTURAL DISASTER ASSISTANCE TRANSITION. (a) FEDERAL CROP INSURANCE ACT. Section 531(g) of the Federal Crop Insurance Act (7 U.S.C. 1531(g)) is amended by adding at the end the following:

"(7) 2008 TRANSITION ASSISTANCE.—

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

in accordance with subparagraph (B) if the eligible producers on the farm—

Deadline.

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

"(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

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

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

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

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

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

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

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

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

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

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

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

"(ii) as determined by the Secretary—

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

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

"(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).".

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

"(7) 2008 TRANSITION ASSISTANCE.—

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

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

Deadline.

"(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(ii) as determined by the Secretary—

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

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

"(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).".

(c) FARM OPERATING LOANS.—

(1) IN GENERAL.—For the principal amount of direct farm operating loans under section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941), $173,367,000.

(2) DIRECT FARM OPERATING LOANS.—For the cost of direct farm operating loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), $20,440,000.

(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. Deadline.

(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.

Deadline.

(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.

Deadlines.

(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

Reports.

(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).

SEC. 103. For fiscal years 2009 and 2010, in the case of each program established or amended by the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), other than by title I of such Act, that is authorized or required to be carried out using funds of the Commodity Credit Corporation—

(1) such funds shall be available for the purpose of covering salaries and related administrative expenses, including technical assistance, associated with the implementation of the program, without regard to the limitation on the total amount of allotments and fund transfers contained in section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i); and

(2) the use of such funds for such purpose shall not be considered to be a fund transfer or allotment for purposes

of applying the limitation on the total amount of allotments and fund transfers contained in such section.

SEC. 104. In addition to other available funds, of the funds made available to the Rural Development mission area in this title, not more than 3 percent of the funds can be used for administrative costs to carry out loan, loan guarantee and grant activities funded in this title, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses": *Provided,* That of this amount $1,750,000 shall be committed to agency projects associated with maintaining the compliance, safety, and soundness of the portfolio of loans guaranteed through the section 502 guaranteed loan program.

SEC. 105. Of the amounts appropriated in this title to the "Rural Housing Service, Rural Community Facilities Program Account", the "Rural Business-Cooperative Service, Rural Business Program Account", and the "Rural Utilities Service, Rural Water and Waste Disposal Program Account", at least 10 percent shall be allocated for assistance in persistent poverty counties: *Provided,* That for the purposes of this section, the term "persistent poverty counties" means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1980, 1990, and 2000 decennial censuses.

Definition.

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

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs", $150,000,000: *Provided,* That $50,000,000 shall be for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149): *Provided further,* That in allocating the funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring: *Provided further*, That not to exceed 2 percent of the funds provided under this heading may be transferred to and merged with the appropriation for "Salaries and Expenses" for purposes of program administration and oversight: *Provided further*, That up to $50,000,000 of the funds provided under this heading may be transferred to federally authorized regional economic development commissions.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic Censuses and Programs", $1,000,000,000.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

Grants.

For an amount for "Broadband Technology Opportunities Program", $4,700,000,000: *Provided,* That of the funds provided under this heading, not less than $4,350,000,000 shall be expended pursuant to division B of this Act, of which: not less than $200,000,000 shall be available for competitive grants for expanding public computer center capacity, including at community colleges and public libraries; not less than $250,000,000 shall be available for competitive grants for innovative programs to encourage sustainable adoption of broadband service; and $10,000,000 shall be transferred to "Department of Commerce, Office of Inspector General" for the purposes of audits and oversight of funds provided under this heading and such funds shall remain available until expended: *Provided further,* That of the funds provided under this heading, up to $350,000,000 may be expended pursuant to Public Law 110–385 (47 U.S.C. 1301 note) and for the purposes of developing and maintaining a broadband inventory map pursuant to division B of this Act: *Provided further,* That of the funds provided under this heading, amounts deemed necessary and appropriate by the Secretary of Commerce, in consultation with the Federal Communications Commission (FCC), may be transferred to the FCC for the purposes of developing a national broadband plan or for carrying out any other FCC responsibilities pursuant to division B of this Act, and only if the Committees on Appropriations of the House and the Senate are notified not less than 15 days in advance of the transfer of such funds: *Provided further,* That not more than 3 percent of funds provided under this heading may be used for administrative costs, and this limitation shall apply to funds which may be transferred to the FCC.

Notification. Deadline.

Applicability.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

For an amount for "Digital-to-Analog Converter Box Program", $650,000,000, for additional coupons and related activities under the program implemented under section 3005 of the Digital Television Transition and Public Safety Act of 2005: *Provided,* That of the amounts provided under this heading, $90,000,000 may be for education and outreach, including grants to organizations for programs to educate vulnerable populations, including senior citizens, minority communities, people with disabilities, low-income individuals, and people living in rural areas, about the transition and to provide one-on-one assistance to vulnerable populations, including help with converter box installation: *Provided further,* That the amounts provided in the previous proviso may be transferred to the Federal Communications Commission (FCC) if deemed necessary and appropriate by the Secretary of Commerce in consultation with the FCC, and only if the Committees on Appropriations of the House and the Senate are notified not less than 5 days in advance of transfer of such funds.

Notification. Deadline.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for "Scientific and Technical Research and Services", $220,000,000.

CONSTRUCTION OF RESEARCH FACILITIES

For an additional amount for "Construction of Research Facilities", $360,000,000, of which $180,000,000 shall be for a competitive construction grant program for research science buildings.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $230,000,000.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $600,000,000.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $6,000,000, to remain available until September 30, 2013.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $2,000,000, to remain available until September 30, 2013.

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

Grants.

For an additional amount for "Violence Against Women Prevention and Prosecution Programs", $225,000,000 for grants to combat violence against women, as authorized by part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.): *Provided,* That, $50,000,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for "State and Local Law Enforcement Assistance", $2,000,000,000, for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Acts of 1968 ("1968 Act"), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act).

For an additional amount for "State and Local Law Enforcement Assistance", $225,000,000, for competitive grants to improve the functioning of the criminal justice system, to assist victims of crime (other than compensation), and youth mentoring grants.

For an additional amount for "State and Local Law Enforcement Assistance", $40,000,000, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotics activity stemming from the Southern border, of which $10,000,000 shall be transferred to "Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses" for the ATF Project Gunrunner.

For an additional amount for "State and Local Law Enforcement Assistance", $225,000,000, for assistance to Indian tribes, notwithstanding Public Law 108–199, division B, title I, section 112(a)(1) (118 Stat. 62), which shall be available for grants under section 20109 of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

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

For an additional amount for "State and Local Law Enforcement Assistance", $125,000,000, for assistance to law enforcement in rural States and rural areas, to prevent and combat crime, especially drug-related crime.

For an additional amount for "State and Local Law Enforcement Assistance", $50,000,000, for Internet Crimes Against Children (ICAC) initiatives.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for "Community Oriented Policing Services", for grants under section 1701 of title I of the 1968 Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796dd) for hiring and rehiring of additional career law enforcement officers under part Q of such title, notwithstanding subsection (i) of such section, $1,000,000,000.

SALARIES AND EXPENSES

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

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For an additional amount for "Science", $400,000,000.

AERONAUTICS

For an additional amount for "Aeronautics", $150,000,000.

EXPLORATION

For an additional amount for "Exploration", $400,000,000.

CROSS AGENCY SUPPORT

For an additional amount for "Cross Agency Support", $50,000,000.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $2,000,000, to remain available until September 30, 2013.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and Related Activities", $2,500,000,000: *Provided*, That $300,000,000 shall be available solely for the Major Research Instrumentation program and $200,000,000 shall be for activities authorized by title II of Public Law 100–570 for academic research facilities modernization.

EDUCATION AND HUMAN RESOURCES

For an additional amount for "Education and Human Resources", $100,000,000.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For an additional amount for "Major Research Equipment and Facilities Construction", $400,000,000.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $2,000,000, to remain available until September 30, 2013.

GENERAL PROVISION—THIS TITLE

SEC. 201. Sections 1701(g) and 1704(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(g) and 3796dd–3(c)) shall not apply with respect to funds appropriated in this or any other Act making appropriations for fiscal year 2009 or 2010 for Community Oriented Policing Services authorized under part Q of such Act of 1968.

TITLE III—DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $1,474,525,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $657,051,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $113,865,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $1,095,959,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $98,269,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $55,083,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $39,909,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $13,187,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $266,304,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $25,848,000, to remain available for obligation until September 30, 2010, to improve, repair and modernize Department of Defense facilities, restore and modernize real property to include barracks, and invest in the energy efficiency of Department of Defense facilities.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $75,000,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", $75,000,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $75,000,000, to remain available for obligation until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $75,000,000, to remain available for obligation until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $400,000,000 for operation and maintenance, to remain available for obligation until September 30, 2010, to improve, repair and modernize military medical facilities, and invest in the energy efficiency of military medical facilities.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $15,000,000 for operation and maintenance, to remain available for obligation until September 30, 2011.

TITLE IV—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for "Investigations", $25,000,000: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

Deadlines.
Reports.

CONSTRUCTION

For an additional amount for "Construction", $2,000,000,000: *Provided,* That not less than $200,000,000 of the funds provided

shall be for water-related environmental infrastructure assistance: *Provided further,* That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this title: *Provided further,* That notwithstanding any other provision of law, funds provided in this paragraph shall not be cost shared with the Inland Waterways Trust Fund as authorized in Public Law 99–662: *Provided further,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further,* That funds appropriated under this heading may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330); or section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), notwithstanding the program cost limitations set forth in those sections: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

Deadlines.
Reports.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries", $375,000,000: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: *Provided further,* That for projects that are being completed with funds appropriated

in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

Deadlines.
Reports.

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance", $2,075,000,000: *Provided,* That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: *Provided further,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That section 9006 of Public Law 110–114 shall not apply to funds provided in this title: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

Deadlines.
Reports.

REGULATORY PROGRAM

For an additional amount for "Regulatory Program", $25,000,000.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For an additional amount for "Formerly Utilized Sites Remedial Action Program", $100,000,000: *Provided,* That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations

Deadlines.
Reports.

of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", $1,000,000,000: *Provided,* That of the amount appropriated under this heading, not less than $126,000,000 shall be used for water reclamation and reuse projects authorized under title XVI of Public Law 102–575: *Provided further,* That funds provided in this Act shall be used for elements of projects, programs or activities that can be completed within these funding amounts and not create budgetary obligations in future fiscal years: *Provided further,* That $50,000,000 of the funds provided under this heading may be transferred to the Department of the Interior for programs, projects and activities authorized by the Central Utah Project Completion Act (titles II–V of Public Law 102–575): *Provided further,* That $50,000,000 of the funds provided under this heading may be used for programs, projects, and activities authorized by the California Bay-Delta Restoration Act (Public Law 108–361): *Provided further,* That not less than $60,000,000 of the funds provided under this heading shall be used for rural water projects and shall be expended primarily on water intake and treatment facilities of such projects: *Provided further,* That not less than $10,000,000 of the funds provided under this heading shall be used for a bureau-wide inspection of canals program in urbanized areas: *Provided further,* That the costs of extraordinary maintenance and replacement activities carried out with funds provided in this Act shall be repaid pursuant to existing authority, except the length of repayment period shall be as determined by the Commissioner, but in no case shall the repayment period exceed 50 years and the repayment shall include interest, at a rate determined by the Secretary of the Treasury as of the beginning of the fiscal year in which the work is commenced, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the project adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan: *Provided further,* That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: *Provided further,* That the Secretary of the Interior shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: *Provided further,* That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

Deadlines.
Reports.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for "Energy Efficiency and Renewable Energy", $16,800,000,000: *Provided,* That $3,200,000,000 shall be available for Energy Efficiency and Conservation Block Grants for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.), of which $2,800,000,000 is available through the formula in subtitle E: *Provided further,* That the Secretary may use the most recent and accurate population data available to satisfy the requirements of section 543(b) of the Energy Independence and Security Act of 2007: *Provided further,* That the remaining $400,000,000 shall be awarded on a competitive basis: *Provided further,* That $5,000,000,000 shall be for the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.): *Provided further,* That $3,100,000,000 shall be for the State Energy Program authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321): *Provided further,* That $2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers: *Provided further,* That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further,* That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further,* That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

Grants.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for "Electricity Delivery and Energy Reliability," $4,500,000,000: *Provided*, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, to include demand responsive equipment, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply, and for implementation of programs authorized under title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 et seq.): *Provided further,* That $100,000,000 shall be available for worker training activities: *Provided further,* That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318

of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further,* That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further,* That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: *Provided further,* That for the purpose of facilitating the development of regional transmission plans, the Office of Electricity Delivery and Energy Reliability within the Department of Energy is provided $80,000,000 within the available funds to conduct a resource assessment and an analysis of future demand and transmission requirements after consultation with the Federal Energy Regulatory Commission: *Provided further,* That the Office of Electricity Delivery and Energy Reliability in coordination with the Federal Energy Regulatory Commission will provide technical assistance to the North American Electric Reliability Corporation, the regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT: *Provided further,* That such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies, programs, laws, and regulations: *Provided further,* That $10,000,000 is provided to implement section 1305 of Public Law 110–140: *Provided further*, That the Secretary of Energy may use or transfer amounts provided under this heading to carry out new authority for transmission improvements, if such authority is enacted in any subsequent Act, consistent with existing fiscal management practices and procedures.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil Energy Research and Development", $3,400,000,000.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Non-Defense Environmental Cleanup", $483,000,000.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

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

SCIENCE

For an additional amount for "Science", $1,600,000,000.

ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

For the Advanced Research Projects Agency—Energy, $400,000,000, as authorized under section 5012 of the America COMPETES Act (42 U.S.C. 16538).

TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

For an additional amount for the cost of guaranteed loans authorized by section 1705 of the Energy Policy Act of 2005, $6,000,000,000, available until expended, to pay the costs of guarantees made under this section: *Provided,* That of the amount provided for title XVII, $25,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program: *Provided further,* That of the amounts provided for title XVII, $10,000,000 shall be transferred to and available for administrative expenses for the Advanced Technology Vehicles Manufacturing Loan Program.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $15,000,000, to remain available until September 30, 2012.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Defense Environmental Cleanup," $5,127,000,000.

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

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

GENERAL PROVISIONS—THIS TITLE

SEC. 401. BONNEVILLE POWER ADMINISTRATION BORROWING AUTHORITY. For the purposes of providing funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to implement the authority of the Administrator of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional $3,250,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any time.

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

"TITLE III—BORROWING AUTHORITY

"SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY. 42 USC 16421a.

"(a) DEFINITIONS.—In this section:

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

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

"(b) AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

"(A) each other such project; and

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

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

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

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

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

"(A) repayment of the associated loan for the project; and

"(B) payment of expenses for ancillary services and operation and maintenance.

"(4) LIMITATION ON AUTHORITY.—Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

"(5) TREATMENT OF CERTAIN REVENUES.—Revenue from ancillary services provided by existing Federal power systems to users of transmission projects funded pursuant to this section shall be treated as revenue to the existing power system that provided the ancillary services.

"(d) CERTIFICATION.—

"(1) IN GENERAL.—For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

"(A) the project is in the public interest;

"(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

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

"(2) FORGIVENESS OF BALANCES.—

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

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

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

"(e) PUBLIC PROCESSES.—

"(1) POLICIES AND PRACTICES.—Prior to requesting any loans under this section, the Administrator shall use a public

process to develop practices and policies that implement the authority granted by this section.

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

Notice. Federal Register, publication.

SEC. 403. SET-ASIDE FOR MANAGEMENT AND OVERSIGHT. Up to 0.5 percent of each amount appropriated in this title may be used for the expenses of management and oversight of the programs, grants, and activities funded by such appropriation, and may be transferred by the head of the Federal department or agency involved to any other appropriate account within the department or agency for that purpose: *Provided,* That the Secretary will provide a report to the Committees on Appropriations of the House of Representatives and the Senate 30 days prior to the transfer: *Provided further,* That funds set aside under this section shall remain available for obligation until September 30, 2012.

Reports. Deadline.

SEC. 404. TECHNICAL CORRECTIONS TO THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007. (a) Section 543(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17153(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by striking paragraph (1) and inserting the following:

"(1) 34 percent to eligible units of local government—alternative 1, in accordance with subsection (b);

"(2) 34 percent to eligible units of local government—alternative 2, in accordance with subsection (b);".

(b) Section 543(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17153(b)) is amended by striking "subsection (a)(1)" and inserting "subsection (a)(1) or (2)".

(c) Section 548(a)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17158(a)(1)) is amending by striking "; provided" and all that follows through "541(3)(B)".

SEC. 405. AMENDMENTS TO TITLE XIII OF THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 and following) is amended as follows:

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

42 USC 17384.

"(A) IN GENERAL.—In carrying out the initiative, the Secretary shall provide financial support to smart grid demonstration projects in urban, suburban, tribal, and rural areas, including areas where electric system assets are controlled by nonprofit entities and areas where electric system assets are controlled by investor-owned utilities.".

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

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

(3) By inserting after section 1304(b)(3)(D) the following new subparagraphs:

Clearinghouse.

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

"(F) OPEN PROTOCOLS AND STANDARDS.—The Secretary shall require as a condition of receiving funding under this subsection that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate.".

42 USC 17384.

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

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

42 USC 17386.

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

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

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

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

Deadline.
Notice.

"(e) PROCEDURES AND RULES.—(1) The Secretary shall, within 60 days after the enactment of the American Recovery and Reinvestment Act of 2009, by means of a notice of intent and subsequent solicitation of grant proposals—

"(A) establish procedures by which applicants can obtain grants of not more than one-half of their documented costs;

"(B) require as a condition of receiving funding under this subsection that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate;

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

"(D) establish procedures to ensure there will be public records of grants made, recipients, and qualifying Smart Grid investments which have received grants; and

"(E) establish procedures to provide advance payment of moneys up to the full amount of the grant award.

"(2) The Secretary shall have discretion and exercise reasonable judgment to deny grants for investments that do not qualify.".

SEC. 406. RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION LOAN GUARANTEE PROGRAM. (a) AMENDMENT.—Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by adding the following at the end:

"SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOYMENT OF RENEWABLE ENERGY AND ELECTRIC POWER TRANSMISSION PROJECTS. 42 USC 16516.

"(a) IN GENERAL.—Notwithstanding section 1703, the Secretary may make guarantees under this section only for the following categories of projects that commence construction not later than September 30, 2011:

"(1) Renewable energy systems, including incremental hydropower, that generate electricity or thermal energy, and facilities that manufacture related components.

"(2) Electric power transmission systems, including upgrading and reconductoring projects.

"(3) Leading edge biofuel projects that will use technologies performing at the pilot or demonstration scale that the Secretary determines are likely to become commercial technologies and will produce transportation fuels that substantially reduce life-cycle greenhouse gas emissions compared to other transportation fuels.

"(b) FACTORS RELATING TO ELECTRIC POWER TRANSMISSION SYSTEMS.—In determining to make guarantees to projects described in subsection (a)(2), the Secretary may consider the following factors:

"(1) The viability of the project without guarantees.

"(2) The availability of other Federal and State incentives.

"(3) The importance of the project in meeting reliability needs.

"(4) The effect of the project in meeting a State or region's environment (including climate change) and energy goals.

"(c) WAGE RATE REQUIREMENTS.—The Secretary shall require that each recipient of support under this section provide reasonable assurance that all laborers and mechanics employed in the performance of the project for which the assistance is provided, including those employed by contractors or subcontractors, will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code (commonly referred to as the 'Davis-Bacon Act').

"(d) LIMITATION.—Funding under this section for projects described in subsection (a)(3) shall not exceed $500,000,000.

"(e) SUNSET.—The authority to enter into guarantees under this section shall expire on September 30, 2011.".

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

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

SEC. 407. WEATHERIZATION ASSISTANCE PROGRAM AMENDMENTS. (a) INCOME LEVEL.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking "150 percent" both places it appears and inserting "200 percent".

(b) ASSISTANCE LEVEL PER DWELLING UNIT.—Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended by striking "$2,500" and inserting "$6,500".

(c) EFFECTIVE USE OF FUNDS.—In providing funds made available by this Act for the Weatherization Assistance Program, the Secretary may encourage States to give priority to using such funds for the most cost-effective efficiency activities, which may include insulation of attics, if, in the Secretary's view, such use of funds would increase the effectiveness of the program.

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

(e) ASSISTANCE FOR PREVIOUSLY WEATHERIZED DWELLING UNITS.—Section 415(c)(2) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(2)) is amended by striking "September 30, 1979" and inserting "September 30, 1994".

SEC. 408. TECHNICAL CORRECTIONS TO PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978. (a) Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by redesignating paragraph (16) relating to consideration of smart grid investments (added by section 1307(a) of Public Law 110–140) as paragraph (18) and by redesignating paragraph (17) relating to smart grid information (added by section 1308(a) of Public Law 110–140) as paragraph (19).

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

SEC. 409. RENEWABLE ELECTRICITY TRANSMISSION STUDY. In completing the 2009 National Electric Transmission Congestion Study, the Secretary of Energy shall include—

(1) an analysis of the significant potential sources of renewable energy that are constrained in accessing appropriate market areas by lack of adequate transmission capacity;

(2) an analysis of the reasons for failure to develop the adequate transmission capacity;

(3) recommendations for achieving adequate transmission capacity;

(4) an analysis of the extent to which legal challenges filed at the State and Federal level are delaying the construction of transmission necessary to access renewable energy; and

(5) an explanation of assumptions and projections made in the Study, including—

(A) assumptions and projections relating to energy efficiency improvements in each load center;

(B) assumptions and projections regarding the location and type of projected new generation capacity; and

(C) assumptions and projections regarding projected deployment of distributed generation infrastructure.

SEC. 410. ADDITIONAL STATE ENERGY GRANTS. (a) IN GENERAL.—Amounts appropriated under the heading "Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy" in this title shall be available to the Secretary of Energy for making additional grants under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.). The Secretary shall make grants under this section in excess of the base allocation established for a State under regulations issued pursuant to the

Notification.

authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy in writing that the governor has obtained necessary assurances that each of the following will occur:

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A building energy code (or codes) for residential buildings that meets or exceeds the most recently published International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1–2007, or achieves equivalent or greater energy savings.

(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year. Deadline.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded—

(i) by the State; or

(ii) through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this paragraph.

(b) STATE MATCH.—The State cost share requirement under the item relating to "Department of Energy; Energy Conservation" in title II of the Department of the Interior and Related Agencies

Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861) shall not apply to assistance provided under this section.

(c) EQUIPMENT AND MATERIALS FOR ENERGY EFFICIENCY MEASURES AND RENEWABLE ENERGY MEASURES.—No limitation on the percentage of funding that may be used for the purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures under grants provided under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) shall apply to assistance provided under this section.

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, $7,000,000, to remain available until September 30, 2013, for oversight and audits of the administration of the making work pay tax credit and economic recovery payments under the American Recovery and Reinvestment Act of 2009.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For an additional amount for "Community Development Financial Institutions Fund Program Account", $100,000,000, to remain available until September 30, 2010, for qualified applicants under the fiscal year 2009 funding round of the Community Development Financial Institutions Program, of which up to $8,000,000 may be for financial assistance, technical assistance, training and outreach programs designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers and up to $2,000,000 may be used for administrative expenses: *Provided,* That for the purpose of the fiscal year 2009 funding round, the following statutory provisions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d): *Provided further,* That no awardee, together with its subsidiaries and affiliates, may be awarded more than 5 percent of the aggregate funds available during fiscal year 2009 from the Community Development Financial Institutions Program: *Provided further,* That no later than 60 days after the date of enactment of this Act, the Department of the Treasury shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under this heading.

Waiver.

Deadline. Expenditure plan.

INTERNAL REVENUE SERVICE

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

For an additional amount to implement the health insurance tax credit under the TAA Health Coverage Improvement Act of 2009, $80,000,000, to remain available until September 30, 2010.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $5,550,000,000, to carry out the purposes of the Fund, of which not less than $750,000,000 shall be available for Federal buildings and United States courthouses, not less than $300,000,000 shall be available for border stations and land ports of entry, and not less than $4,500,000,000 shall be available for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined in section 401 of Public Law 110–140: *Provided,* That not to exceed $108,000,000 of the amounts provided under this heading may be expended for rental of space, related to leasing of temporary space in connection with projects funded under this heading: *Provided further,* That not to exceed $127,000,000 of the amounts provided under this heading may be expended for building operations, for the administrative costs of completing projects funded under this heading: *Provided further,* That not to exceed $3,000,000 of the funds provided shall be for on-the-job pre-apprenticeship and apprenticeship training programs registered with the Department of Labor, for the construction, repair, and alteration of Federal buildings: *Provided further,* That not less than $5,000,000,000 of the funds provided under this heading shall be obligated by September 30, 2010, and the remainder of the funds provided under this heading shall be obligated not later than September 30, 2011: *Provided further,* That the Administrator of General Services is authorized to initiate design, construction, repair, alteration, and other projects through existing authorities of the Administrator: *Provided further,* That the General Services Administration shall submit a detailed plan, by project, regarding the use of funds made available in this Act to the Committees on Appropriations of the House of Representatives and the Senate within 45 days of enactment of this Act, and shall provide notification to the Committees within 15 days prior to any changes regarding the use of these funds: *Provided further*, That, hereafter, the Administrator shall report to the Committees on the obligation of these funds on a quarterly basis beginning on June 30, 2009: *Provided further*, That of the amounts provided, $4,000,000 shall be transferred to and merged with "Government-Wide Policy", for the Office of Federal High-Performance Green Buildings as authorized in the Energy Independence and Security Act of 2007 (Public Law 110–140): *Provided further,* That amounts provided under this heading that are savings or cannot be used for the activity for which originally obligated may

Deadlines.

Plans.
Deadlines.
Notification.

Reports.
Deadlines.

Deadline.
Notification.

be deobligated and, notwithstanding any other provision of law, reobligated for the purposes identified in the plan required under this heading not less than 15 days after notification has been provided to the Committees on Appropriations of the House of Representatives and the Senate.

ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of acquiring motor vehicles with higher fuel economy, including: hybrid vehicles; electric vehicles; and commercially-available, plug-in hybrid vehicles, $300,000,000, to remain available until September 30, 2011: *Provided*, That none of these funds may be obligated until the Administrator of General Services submits to the Committees on Appropriations of the House of Representatives and the Senate, within 90 days after enactment of this Act, a plan for expenditure of the funds that details the current inventory of the Federal fleet owned by the General Services Administration, as well as other Federal agencies, and the strategy to expend these funds to replace a portion of the Federal fleet with the goal of substantially increasing energy efficiency over the current status, including increasing fuel efficiency and reducing emissions: *Provided further*, That, hereafter, the Administrator shall report to the Committees on the obligation of these funds on a quarterly basis beginning on September 30, 2009.

Deadline. Expenditure plan.

Reports. Deadlines.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, to remain available until September 30, 2013, for oversight and audit of programs, grants, and projects funded under this title, $7,000,000.

RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

For necessary expenses of the Recovery Act Accountability and Transparency Board to carry out the provisions of title XV of this Act, $84,000,000, to remain available until September 30, 2011.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount, to remain available until September 30, 2010, $69,000,000, of which $24,000,000 is for marketing, management, and technical assistance under section 7(m) of the Small Business Act (15 U.S.C. 636(m)(4)) by intermediaries that make microloans under the microloan program, and of which $20,000,000 is for improving, streamlining, and automating information technology systems related to lender processes and lender oversight: *Provided,* That no later than 60 days after the date of enactment of this Act, the Small Business Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed expenditure plan for funds provided under the heading "Small Business Administration" in this Act.

Deadline. Expenditure plan.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $10,000,000, to remain available until September 30, 2013, for oversight and audit of programs, grants, and projects funded under this title.

SURETY BOND GUARANTEES REVOLVING FUND

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

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $6,000,000, to remain available until September 30, 2010, and for an additional amount for the cost of guaranteed loans, $630,000,000, to remain available until September 30, 2010: *Provided,* That of the amount for the cost of guaranteed loans, $375,000,000 shall be for reimbursements, loan subsidies and loan modifications for loans to small business concerns authorized in section 501 of this title; and $255,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized in section 506 of this title: *Provided further,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 501. FEE REDUCTIONS. (a) ADMINISTRATIVE PROVISIONS SMALL BUSINESS ADMINISTRATION.—Until September 30, 2010, and to the extent that the cost of such elimination or reduction of fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and section 502 of this title, for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

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

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

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

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

(A) the Administrator shall, in lieu of the fee otherwise applicable under section 503(d)(2) of the Small Business

Investment Act of 1958 (15 U.S.C. 697(d)(2)), collect no fee;

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

(2) REIMBURSEMENT FOR WAIVED FEES.—

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

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

(c) APPLICATION OF FEE ELIMINATIONS.—

(1) To the extent that amounts are made available to the Administrator for the purpose of fee eliminations or reductions under subsection (a), the Administrator shall—

(A) first use any amounts provided to eliminate or reduce fees paid by small business borrowers under clauses (i) through (iii) of paragraph (18)(A), to the maximum extent possible; and

(B) then use any amounts provided to eliminate or reduce fees under paragraph (23)(A) paid by small business lenders with assets less than $1,000,000,000 as of the date of enactment; and

(C) then use any remaining amounts appropriated under this title to reduce fees paid by small business lenders other than those with assets less than $1,000,000,000.

(2) The Administrator shall eliminate fees under subsections (a) and (b) until the amount provided for such purposes, as applicable, under the heading "Business Loans Program Account" under the heading "Small Business Administration" under this Act are expended.

SEC. 502. ECONOMIC STIMULUS LENDING PROGRAM FOR SMALL BUSINESSES. (a) PURPOSE.—The purpose of this section is to permit the Small Business Administration to guarantee up to 90 percent of qualifying small business loans made by eligible lenders.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "Administrator" means the Administrator of the Small Business Administration.

(2) The term "qualifying small business loan" means any loan to a small business concern pursuant to section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 and following) except for such loans made under section 7(a)(31).

(3) The term "small business concern" has the same meaning as provided by section 3 of the Small Business Act (15 U.S.C. 632).

(c) QUALIFIED BORROWERS.—

(1) ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—A loan guarantee may not be made under this section for a loan made to a concern if an individual who is an alien unlawfully present in the United States—

(A) has an ownership interest in that concern; or

(B) has an ownership interest in another concern that itself has an ownership interest in that concern.

(2) FIRMS IN VIOLATION OF IMMIGRATION LAWS.—No loan guarantee may be made under this section for a loan to any entity found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien.

(d) CRIMINAL BACKGROUND CHECKS.—Prior to the approval of any loan guarantee under this section, the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.

(e) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(f) SUNSET.—Loan guarantees may not be issued under this section after the date 12 months after the date of enactment of this Act.

Applicability.

(g) SMALL BUSINESS ACT PROVISIONS.—The provisions of the Small Business Act applicable to loan guarantees under section 7 of that Act and regulations promulgated thereunder as of the date of enactment of this Act shall apply to loan guarantees under this section except as otherwise provided in this section.

(h) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 503. ESTABLISHMENT OF SBA SECONDARY MARKET GUARANTEE AUTHORITY. (a) PURPOSE.—The purpose of this section is to provide the Administrator with the authority to establish the SBA Secondary Market Guarantee Authority within the SBA to provide a Federal guarantee for pools of first lien 504 loans that are to be sold to third-party investors.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "Administrator" means the Administrator of the Small Business Administration.

(2) The term "first lien position 504 loan" means the first mortgage position, non-federally guaranteed loans made by private sector lenders made under title V of the Small Business Investment Act.

(c) ESTABLISHMENT OF AUTHORITY.—

(1) ORGANIZATION.—

(A) The Administrator shall establish a Secondary Market Guarantee Authority within the Small Business Administration.

(B) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(C) The Administrator is authorized to hire such personnel as are necessary to operate the Authority and may contract such operations of the Authority as necessary to qualified third party companies or individuals.

(D) The Administrator is authorized to contract with private sector fiduciary and custom dial agents as necessary to operate the Authority.

(2) GUARANTEE PROCESS.—

Regulations.

(A) The Administrator shall establish, by rule, a process in which private sector entities may apply to the Administration for a Federal guarantee on pools of first lien position 504 loans that are to be sold to third-party investors.

(B) The Administrator is authorized to contract with private sector fiduciary and custom dial agents as necessary to operate the Authority.

(3) RESPONSIBILITIES.—

Regulations.

(A) The Administrator shall establish, by rule, a process in which private sector entities may apply to the SBA for a Federal guarantee on pools of first lien position 504 loans that are to be sold to third-party investors.

(B) The rule under this section shall provide for a process for the Administrator to consider and make decisions regarding whether to extend a Federal guarantee referred to in clause (i). Such rule shall also provide that:

(i) The seller of the pools purchasing a guarantee under this section retains not less than 5 percent of the dollar amount of the pools to be sold to third-party investors.

(ii) The Administrator shall charge fees, upfront or annual, at a specified percentage of the loan amount that is at such a rate that the cost of the program under the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661) shall be equal to zero.

(iii) The Administrator may guarantee not more than $3,000,000,000 of pools under this authority.

(C) The Administrator shall establish documents, legal covenants, and other required documentation to protect the interests of the United States.

(D) The Administrator shall establish a process to receive and disburse funds to entities under the authority established in this section.

(d) LIMITATIONS.—

(1) The Administrator shall ensure that entities purchasing a guarantee under this section are using such guarantee for the purpose of selling 504 first lien position pools to third-party investors.

(2) If the Administrator finds that any such guarantee was used for a purpose other than that specified in paragraph (1), the Administrator shall—

(A) prohibit the purchaser of the guarantee or its affiliates (within the meaning of the regulations under 13 CFR 121.103) from using the authority of this section in the future; and

(B) take any other actions the Administrator, in consultation with the Attorney General of the United States deems appropriate.

Reports.
Deadlines.

(e) OVERSIGHT.—The Administrator shall submit a report to Congress not later than the third business day of each month setting forth each of the following:

(1) The aggregate amount of guarantees extended under this section during the preceding month.

(2) The aggregate amount of guarantees outstanding.

(3) Defaults and payments on defaults made under this section.

(4) The identity of each purchaser of a guarantee found by the Administrator to have misused guarantees under this section.

(5) Any other information the Administrator deems necessary to fully inform Congress of undue risk to the United States associated with the issuance of guarantees under this section.

(f) DURATION OF PROGRAM.—The authority of this section shall terminate on the date 2 years after the date of enactment of this section.

(g) FUNDING.—Such sums as necessary are authorized to be appropriated to carry out the provisions of this section.

(h) BUDGET TREATMENT.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661 and following).

(i) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall issue regulations under this section within 15 days after the date of enactment of this section. The notice requirements of section 553(b) of title 5, United States Code shall not apply to the promulgation of such regulations. Deadlines.

SEC. 504. STIMULUS FOR COMMUNITY DEVELOPMENT LENDING. (a) LOW INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding at the end the following:

"(7) PERMISSIBLE DEBT REFINANCING.—

"(A) IN GENERAL.—Any financing approved under this title may include a limited amount of debt refinancing.

"(B) EXPANSIONS.—If the project involves expansion of a small business concern, any amount of existing indebtedness that does not exceed 50 percent of the project cost of the expansion may be refinanced and added to the expansion cost, if—

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

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

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

"(iv) the financing under this title will be used only for refinancing existing indebtedness or costs relating to the project financed under this title;

"(v) the financing under this title will provide a substantial benefit to the borrower when prepayment penalties, financing fees, and other financing costs are accounted for;

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

"(vii) the financing under section 504 will provide better terms or rate of interest than the existing indebtedness at the time of refinancing.".

(b) JOB CREATION GOALS.—Section 501(e)(1) and section 501(e)(2) of the Small Business Investment Act (15 U.S.C. 695) are each amended by striking "$50,000" and inserting "$65,000".

SEC. 505. INCREASING SMALL BUSINESS INVESTMENT. (a) SIMPLIFIED MAXIMUM LEVERAGE LIMITS.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended as follows:

(1) By striking so much of paragraph (2) as precedes subparagraphs (C) and (D) and inserting the following:

"(2) MAXIMUM LEVERAGE.—

"(A) IN GENERAL.—The maximum amount of outstanding leverage made available to any one company licensed under section 301(c) of this Act may not exceed the lesser of—

"(i) 300 percent of such company's private capital; or

"(ii) $150,000,000.

"(B) MULTIPLE LICENSES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to two or more companies licensed under section 301(c) of this Act that are commonly controlled (as determined by the Administrator) and not under capital impairment may not exceed $225,000,000.";

(2) By amending paragraph (2)(C) by inserting "(i)" before "In calculating" and adding the following at the end thereof:

"(ii) The maximum amount of outstanding leverage made available to—

"(I) any 1 company described in clause (iii) may not exceed the lesser of 300 percent of private capital of the company, or $175,000,000; and

"(II) 2 or more companies described in clause (iii) that are under common control (as determined by the Administrator) may not exceed $250,000,000.

"(iii) A company described in this clause is a company licensed under section 301(c) in the first fiscal year after the date of enactment of this clause or any fiscal year thereafter that certifies in writing that not less than 50 percent of the dollar amount of investments of that company shall be made in companies that are located in a low-income geographic area (as that term is defined in section 351).".

(3) By striking paragraph (4).

(b) SIMPLIFIED AGGREGATE INVESTMENT LIMITATIONS.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) PERCENTAGE LIMITATION ON PRIVATE CAPITAL.—If any small business investment company has obtained financing from the Administrator and such financing remains outstanding, the aggregate amount of securities acquired and for which commitments may be issued by such company under the provisions of this title

for any single enterprise shall not, without the approval of the Administrator, exceed 10 percent of the sum of—

"(1) the private capital of such company; and

"(2) the total amount of leverage projected by the company in the company's business plan that was approved by the Administrator at the time of the grant of the company's license.".

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

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

SEC. 506. BUSINESS STABILIZATION PROGRAM. (a) IN GENERAL.—Subject to the availability of appropriations, the Administrator of the Small Business Administration shall carry out a program to provide loans on a deferred basis to viable (as such term is determined pursuant to regulation by the Administrator of the Small Business Administration) small business concerns that have a qualifying small business loan and are experiencing immediate financial hardship.

(b) ELIGIBLE BORROWER.—A small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(c) QUALIFYING SMALL BUSINESS LOAN.—A loan made to a small business concern that meets the eligibility standards in section 7(a) of the Small Business Act (15 U.S.C. 636(a)) but shall not include loans guarantees (or loan guarantee commitments made) by the Administrator prior to the date of enactment of this Act.

(d) LOAN SIZE.—Loans guaranteed under this section may not exceed $35,000.

(e) PURPOSE.—Loans guaranteed under this program shall be used to make periodic payment of principal and interest, either in full or in part, on an existing qualifying small business loan for a period of time not to exceed 6 months.

(f) LOAN TERMS.—Loans made under this section shall:

(1) carry a 100 percent guaranty; and

(2) have interest fully subsidized for the period of repayment.

(g) REPAYMENT.—Repayment for loans made under this section shall—

(1) be amortized over a period of time not to exceed 5 years; and

(2) not begin until 12 months after the final disbursement of funds is made. Effective date.

(h) COLLATERAL.—The Administrator of the Small Business Administration may accept any available collateral, including subordinated liens, to secure loans made under this section.

(i) FEES.—The Administrator of the Small Business Administration is prohibited from charging any processing fees, origination fees, application fees, points, brokerage fees, bonus points, prepayment penalties, and other fees that could be charged to a loan applicant for loans under this section.

(j) SUNSET.—The Administrator of the Small Business Administration shall not issue loan guarantees under this section after September 30, 2010.

Deadline.

(k) EMERGENCY RULEMAKING AUTHORITY.—The Administrator of the Small Business Administration shall issue regulations under this section within 15 days after the date of enactment of this section. The notice requirements of section 553(b) of title 5, United States Code shall not apply to the promulgation of such regulations.

SEC. 507. GAO REPORT.

(a) REPORT.—Not later than 60 days after the enactment of this Act, the Comptroller General of the United States shall report to the Congress on the actions of the Administrator in implementing the authorities established in the administrative provisions of this title.

(b) INCLUDED ITEM.—The report under this section shall include a summary of the activity of the Administrator under this title and an analysis of whether he is accomplishing the purpose of increasing liquidity in the secondary market for Small Business Administration loans.

SEC. 508. SURETY BONDS.

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

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

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

(3) by adding at the end the following:

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

(b) DENIAL OF LIABILITY—

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

(1) by striking subsection (e) and inserting the following:

"(e) REIMBURSEMENT OF SURETY; CONDITIONS.—

Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of liability (in whole or in part within the discretion of the Administration) if—

(1) the surety obtained such guarantee or agreement, or applied for such reinbursement, by fraud or material misrepresentation,

(2) the total contract amount at the time of execution of the bond or bonds exceeds $5,000,000,

(3) the surety has breached a material term or condition of such guarantee agreement, or

(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d)."

(2) by adding at the end the following:

"(k) For bonds made or executed with the prior approval of the Administration, the Administration shall not deny liability to a surety based upon material information that was provided as part of the guaranty application.".

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

"(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes

of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.".

(d) STUDY—The Administrator of the Small Business Administration shall conduct a study of the current funding structure of the surety bond program carried out under part B (15 U.S.C. 694a et seq.) of title IV of the Small Business Investment Act of 1958. The study shall include--

(1) an assessment of whether the program's current funding framework and program fees are inhibiting the program's growth;

(2) an assessment of whether surety companies and small business concerns could benefit from an alternative funding structure; and

(e) REPORT—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study required under subsection (d).

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

15 USC 694a note.

SEC. 509. ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.

(a) PURPOSE.—The purpose of this section is to provide the Small Business Administration with the authority to establish a Secondary Market Lending Authority within the SBA to make loans to the systemically important SBA secondary market broker-dealers who operate the SBA secondary market.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "Administrator" means the Administrator of the SBA.

(2) The term "SBA" means the Small Business Administration.

(3) The terms "Secondary Market Lending Authority" and "Authority" mean the office establishedunder subsection (c).

(4) The term "SBA secondary market" meansthe market for the purchase and sale of loans originated, underwritten, and closed under the Small Business Act.

(5) The term "Systemically Important Secondary Market Broker-Dealers" mean those entities designated under subsection (c)(1) as vital to the continued operation of the SBA secondary market by reason of their purchase and sale of the government guaranteed portion of loans, or pools of loans,originated, underwritten, and closed under the Small Business Act.

(c) RESPONSIBILITIES, AUTHORITIES, ORGANIZATION, AND LIMITATIONS.—

(1) DESIGNATION OF SYSTEMICALLY IMPORTANT SBA SECONDARY MARKET BROKER-DEALERS.—The Administrator shall establish a process to designate, in consultation with the Board of Governors of the Federal Reserve and the Secretary of the Treasury, Systemically Important Secondary Market Broker-Dealers.

(2) ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY.—

(A) ORGANIZATION.—

(i) The Administrator shall establish within the SBA an office to provide loans to Systemically Important Secondary Market Broker-dealers to be used for the purpose of financing the inventory of the government guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(ii) The Administrator shall appoint a Director of the Authority who shall report to the Administrator.

(iii) The Administrator is authorized to hire such personnel as are necessary to operate the Authority.

(iv) The Administrator may contract such Authority operations as he determines necessary to qualified third-party companies or individuals.

(v) The Administrator is authorized to contract with private sector fiduciary and custodial agents as necessary to operate the Authority.

(B) LOANS.—

Regulations.

(i) The Administrator shall establish by rule a process under which Systemically Important SBA Secondary Market Broker-Dealers designated under paragraph (1) may apply to the Administrator for loans under this section.

(ii) The rule under clause (i) shall provide a process for the Administrator to consider and make decisions regarding whether or not to extend a loan applied for under this section. Such rule shall include provisions to assure each of the following:

(I) That loans made under this section are for the sole purpose of financing the inventory of the govern ment guaranteed portion of loans, originated, underwritten, and closed under the Small Business Act or pools of such loans.

(II) That loans made under this section are fully collateralized to the satisfaction of the Administrator.

(III) That there is no limit to the frequency in which a borrower may borrow under this section unless the Administrator determines that doing so would create an undue risk of loss to the agency or the United States.

(IV) That there is no limit on the size of a loan, subject to the discretion of the Administrator.

(iii) Interest on loans under this section shall not exceed the Federal Funds target rate as established by the Federal Reserve Board of Governors plus 25 basis points.

(iv) The rule under this section shall provide for such loan documents, legal covenants, collateral requirements and other required documentation as necessary to protect the interests of the agency, the United States, and the taxpayer.

(v) The Administrator shall establish custodial accounts to safeguard any collateral pledged to the SBA in connection with a loan under this section.

(vi) The Administrator shall establish a process to disburse and receive funds to and from borrowers under this section.

(C) LIMITATIONS ON USE OF LOAN PROCEEDS BY SYSTEMICALLY IMPORTANT SECONDARY MARKET BROKER-DEALERS.—The Administrator shall ensure that borrowers under this section are using funds provided under this section only for the purpose specified in subparagraph (B)(ii)(I). If the Administrator finds that such funds were used for any other purpose, the Administrator shall—

(i) require immediate repayment of outstanding loans;

(ii) prohibit the borrower, its affiliates, or any future corporate manifestation of the borrower from using the Authority; and

(iii) take any other actions the Administrator, in consultation with the Attorney General of the United States, deemsappropriate.

(d) REPORT TO CONGRESS.—The Administrator shall submit a report to Congress not later than the third business day of each month containing a statement of each of the following:

(1) The aggregate loan amounts extended during the preceding month under this section.

(2) The aggregate loan amounts repaid under this section during the proceeding month.

(3) The aggregate loan amount outstanding under this section.

(4) The aggregate value of assets held as collateral under this section;

(5) The amount of any defaults or delinquencies on loans made under this section.

(6) The identity of any borrower found by the Administrator to misuse funds made available under this section.

(7) Any other information the Administrator deems necessary to fully inform Congress of undue risk of financial loss to the United States in connection with loans made under this section.

(e) DURATION.—The authority of this section shall remain in effect for a period of 2 years after the date of enactment of this section.

(f) FEES.—The Administrator shall charge fees, up front, annual, or both at a specified percentage of the loan amount that is at such a rate that the cost of the program under the Federal Credit Reform Act of 1990 ((title V of the Congressional Budget and Impoundment Control Act of 1974; 2 U.S.C. 661) shall be equal to zero.

(h) BUDGET TREATMENT.—Nothing in this section shall be construed to exempt any activity of the Administrator under this section from the Federal Credit Reform Act of 1990 (title V of the Congressional Budget and Im poundment Control Act of 1974; 2 U.S.C. 661 and following).

(i) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall promulgate regulations under this section within 30 days after the date of enactment of enactment of this section. In promulgating these regulations,the Administrator the notice requirements of section 553(b) of title 5 of the United States Code shall not apply. Deadline.

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the "Office of the Under Secretary for Management", $200,000,000 for planning, design, construction costs, site security, information technology infrastructure, fixtures, and related costs to consolidate the Department of Homeland Security headquarters: *Provided,* That no later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of General Services, shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

Deadline. Expenditure plan.

OFFICE OF INSPECTOR GENERAL

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

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $160,000,000, of which $100,000,000 shall be for the procurement and deployment of non-intrusive inspection systems; and of which $60,000,000 shall be for procurement and deployment of tactical communications equipment and radios: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

Deadline. Expenditure plan.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for "Border Security Fencing, Infrastructure, and Technology", $100,000,000 for expedited development and deployment of border security technology on the Southwest border: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

Deadline. Expenditure plan.

CONSTRUCTION

For an additional amount for "Construction", $420,000,000 solely for planning, management, design, alteration, and construction of U.S. Customs and Border Protection owned land border ports of entry: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

Deadline. Expenditure plan.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

AUTOMATION MODERNIZATION

For an additional amount for "Automation Modernization", $20,000,000 for the procurement and deployment of tactical communications equipment and radios: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure of these funds.

Deadline. Expenditure plan.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for "Aviation Security", $1,000,000,000 for procurement and installation of checked baggage explosives detection systems and checkpoint explosives detection equipment: *Provided,* That the Assistant Secretary of Homeland Security (Transportation Security Administration) shall prioritize the award of these funds to accelerate the installations at locations with completed design plans: *Provided further,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

Deadline. Expenditure plan.

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements", $98,000,000 for shore facilities and aids to navigation facilities; for priority procurements due to materials and labor cost increases; and for costs to repair, renovate, assess, or improve vessels: *Provided,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

Deadline. Expenditure plan.

ALTERATION OF BRIDGES

For an additional amount for "Alteration of Bridges", $142,000,000 for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516): *Provided*, That the Coast Guard shall award these funds to those bridges that are ready to proceed to construction: *Provided further,* That no later than 45 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for the expenditure of these funds.

Deadline. Expenditure plan.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

For an additional amount for grants, $300,000,000, to be allocated as follows:

(1) $150,000,000 for Public Transportation Security Assistance and Railroad Security Assistance under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135 and 1163).

(2) $150,000,000 for Port Security Grants in accordance with 46 U.S.C. 70107, notwithstanding 46 U.S.C. 70107(c).

FIREFIGHTER ASSISTANCE GRANTS

For an additional amount for competitive grants, $210,000,000 for modifying, upgrading, or constructing non-Federal fire stations: *Provided,* That up to 5 percent shall be for program administration: *Provided further,* That no grant shall exceed $15,000,000.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

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

EMERGENCY FOOD AND SHELTER

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

GENERAL PROVISIONS—THIS TITLE

President. Panel.

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

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

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

SEC. 603. Subparagraph (E) of section 34(a)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(a)(1)(E)) shall not apply with respect to funds appropriated in this or any other Act making appropriations for fiscal year 2009 or 2010 for grants under such section 34.

SEC. 604. (a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States. 6 USC 453b.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following, if the item is directly related to the national security interests of the United States:

(1) An article or item of—

(A) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

(B) tents, tarpaulins, covers, textile belts, bags, protective equipment (including but not limited to body armor), sleep systems, load carrying equipment (including but not limited to fieldpacks), textile marine equipment, parachutes, or bandages;

(C) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(D) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices. This section is not applicable to covered items that are, or include, materials determined to be non-available in accordance with Federal Acquisition Regulation 25.104 Nonavailable Articles.

(d) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), the Secretary of Homeland Security may accept delivery of an item covered by subsection (b) that contains non-compliant fibers if the total value of non-compliant fibers contained in the end item does not exceed 10 percent of the total purchase price of the end item.

(e) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements by vessels in foreign waters.

(2) Emergency procurements.

(f) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified

acquisition threshold referred to in section 2304(g) of title 10, United States Code.

(g) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items not withstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), with the exception of commercial items listed under subsections (b)(1)(C) and (b)(1)(D) above. For the purposes of this section, "commercial" shall be as defined in the Federal Acquisition Regulation—Part 2.

(h) GEOGRAPHIC COVERAGE.—In this section, the term "United States" includes the possessions of the United States.

Internet posting.

(i) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subsection (b)(1), if the Secretary of Homeland Security applies an exception set forth in subsection (c) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration known as FedBizOps.gov (or any successor site).

(j) TRAINING DURING FISCAL YEAR 2009.—

(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that each member of the acquisition workforce in the Department of Homeland Security who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2009 on the requirements of this section and the regulations implementing this section.

(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

Applicability.

(k) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.— This section shall be applied in a manner consistent with United States obligations under international agreements.

(l) EFFECTIVE DATE.—This section applies with respect to contracts entered into by the Department of Homeland Security 180 days after the date of the enactment of this Act.

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of Lands and Resources", for activities on all Bureau of Land Management lands including maintenance, rehabilitation, and restoration of facilities, property, trails and lands and for remediation of abandoned mines and wells, $125,000,000.

CONSTRUCTION

For an additional amount for "Construction", for activities on all Bureau of Land Management lands including construction, reconstruction, decommissioning and repair of roads, bridges, trails, property, and facilities and for energy efficient retrofits of existing facilities, $180,000,000.

WILDLAND FIRE MANAGEMENT

For an additional amount for "Wildland Fire Management", for hazardous fuels reduction, $15,000,000.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", for deferred maintenance, construction, and capital improvement projects on national wildlife refuges and national fish hatcheries and for high priority habitat restoration projects, $165,000,000.

CONSTRUCTION

For an additional amount for "Construction", for construction, reconstruction, and repair of roads, bridges, property, and facilities and for energy efficient retrofits of existing facilities, $115,000,000.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", for deferred maintenance of facilities and trails and for other critical repair and rehabilitation projects, $146,000,000.

HISTORIC PRESERVATION FUND

For an additional amount for "Historic Preservation Fund", for historic preservation projects at historically black colleges and universities as authorized by the Historic Preservation Fund Act of 1996 and the Omnibus Parks and Public Lands Act of 1996, $15,000,000: *Provided,* That any matching requirements otherwise required for such projects are waived.

CONSTRUCTION

For an additional amount for "Construction", for repair and restoration of roads; construction of facilities, including energy efficient retrofits of existing facilities; equipment replacement; preservation and repair of historical resources within the National Park System; cleanup of abandoned mine sites on park lands; and other critical infrastructure projects, $589,000,000.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $140,000,000, for repair, construction and restoration of facilities; equipment replacement and upgrades including stream gages, and seismic and volcano monitoring systems; national map activities; and other critical deferred maintenance and improvement projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", for workforce training programs and the housing improvement program, $40,000,000.

CONSTRUCTION

For an additional amount for "Construction", for repair and restoration of roads; replacement school construction; school improvements and repairs; and detention center maintenance and repairs, $450,000,000: *Provided,* That section 1606 of this Act shall not apply to tribal contracts entered into by the Bureau of Indian Affairs with this appropriation.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For an additional amount for "Indian Guaranteed Loan Program Account", $10,000,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for "Office of Inspector General", $15,000,000, to remain available until September 30, 2012.

ENVIROMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $20,000,000, to remain available until September 30, 2012.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount for "Hazardous Substance Superfund", $600,000,000, which shall be for the Superfund Remedial program: *Provided,* That the Administrator of the Environmental Protection Agency (Administrator) may retain up to 3 percent of the funds appropriated herein for management and oversight purposes.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for "Leaking Underground Storage Tank Trust Fund Program", $200,000,000, which shall be for cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act: *Provided,* That none of these funds shall be subject to cost share requirements under section 9003(h)(7)(B) of such Act: *Provided further,* That the Administrator may retain up to 1.5 percent of the funds appropriated herein for management and oversight purposes.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "State and Tribal Assistance Grants", $6,400,000,000, which shall be allocated as follows:

(1) $4,000,000,000 shall be for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act and $2,000,000,000 shall be for capitalization grants under section 1452 of the Safe Drinking Water Act: *Provided,* That the Administrator may retain up to 1 percent of the funds appropriated herein for management and oversight purposes: *Provided further,* That funds appropriated herein shall not be subject to the matching or cost share requirements of sections 602(b)(2), 602(b)(3) or 202 of the Federal Water Pollution Control Act nor the matching requirements of section 1452(e) of the Safe Drinking Water Act: *Provided further,* That the Administrator shall reallocate funds appropriated herein for the Clean and Drinking Water State Revolving Funds (Revolving Funds) where projects are not under contract or construction within 12 months of the date of enactment of this Act: *Provided further,* That notwithstanding the priority rankings they would otherwise receive under each program, priority for funds appropriated herein shall be given to projects on a State priority list that are ready to proceed to construction within 12 months of the date of enactment of this Act: *Provided further,* That notwithstanding the requirements of section 603(d) of the Federal Water Pollution Control Act or section 1452(f) of the Safe Drinking Water Act, for the funds appropriated herein, each State shall use not less than 50 percent of the amount of its capitalization grants to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these: *Provided further,* That, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds appropriated herein for the Revolving Funds shall be for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities: *Provided further,* That notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to 1.5 percent of the funds appropriated herein for the Clean Water State Revolving Funds may be reserved by the Administrator for tribal grants under section 518(c) of such Act: *Provided further,* That up to 4 percent of the funds appropriated herein for tribal set-asides under the Revolving Funds may be transferred to the Indian

Deadline.

Health Service to support management and oversight of tribal projects: *Provided further,* That none of the funds appropriated herein shall be available for the purchase of land or easements as authorized by section 603(c) of the Federal Water Pollution Control Act or for activities authorized by section 1452(k) of the Safe Drinking Water Act: *Provided further,* That notwithstanding section 603(d)(2) of the Federal Water Pollution Control Act and section 1452(f)(2) of the Safe Drinking Water Act, funds may be used to buy, refinance or restructure the debt obligations of eligible recipients only where such debt was incurred on or after October 1, 2008;

(2) $100,000,000 shall be to carry out Brownfields projects authorized by section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided,* That the Administrator may reserve up to 3.5 percent of the funds appropriated herein for management and oversight purposes: *Provided further,* That none of the funds appropriated herein shall be subject to cost share requirements under section 104(k)(9)(B)(iii) of such Act; and

(3) $300,000,000 shall be for Diesel Emission Reduction Act grants pursuant to title VII, subtitle G of the Energy Policy Act of 2005: *Provided,* That the Administrator may reserve up to 2 percent of the funds appropriated herein for management and oversight purposes: *Provided further,* That none of the funds appropriated herein for Diesel Emission Reduction Act grants shall be subject to the State Grant and Loan Program Matching Incentive provisions of section 793(c)(3) of such Act.

ADMINISTRATIVE PROVISION, ENVIRONMENTAL PROTECTION AGENCY

(INCLUDING TRANSFERS OF FUNDS)

Funds made available to the Environmental Protection Agency by this Act for management and oversight purposes shall remain available until September 30, 2011, and may be transferred to the "Environmental Programs and Management" account as needed.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance", $650,000,000, for priority road, bridge and trail maintenance and decommissioning, including related watershed restoration and ecosystem enhancement projects; facilities improvement, maintenance and renovation; remediation of abandoned mine sites; and support costs necessary to carry out this work.

WILDLAND FIRE MANAGEMENT

For an additional amount for "Wildland Fire Management", $500,000,000, of which $250,000,000 is for hazardous fuels reduction, forest health protection, rehabilitation and hazard mitigation activities on Federal lands and of which $250,000,000 is for State and private forestry activities including hazardous fuels reduction,

forest health and ecosystem improvement activities on State and private lands using all authorities available to the Forest Service: *Provided,* That up to $50,000,000 of the total funding may be used to make wood-to-energy grants to promote increased utilization of biomass from Federal, State and private lands: *Provided further,* That funds provided for activities on State and private lands shall not be subject to matching or cost share requirements.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For an additional amount for "Indian Health Services", for health information technology activities, $85,000,000: *Provided,* That such funds may be used for both telehealth services development and related infrastructure requirements that are typically funded through the "Indian Health Facilities" account: *Provided further,* That notwithstanding any other provision of law, health information technology funds provided within this title shall be allocated at the discretion of the Director of the Indian Health Service.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian Health Facilities", for facilities construction projects, deferred maintenance and improvement projects, the backlog of sanitation projects and the purchase of equipment, $415,000,000, of which $227,000,000 is provided within the health facilities construction activity for the completion of up to two facilities from the current priority list for which work has already been initiated: *Provided,* That for the purposes of this Act, spending caps included within the annual appropriation for "Indian Health Facilities" for the purchase of medical equipment shall not apply: *Provided further,* That section 1606 of this Act shall not apply to tribal contracts entered into by the Service with this appropriation.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

For an additional amount for "Facilities Capital", for repair and revitalization of existing facilities, $25,000,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For an additional amount for "Grants and Administration", $50,000,000, to be distributed in direct grants to fund arts projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support during

the current economic downturn: *Provided*, That 40 percent of such funds shall be distributed to State arts agencies and regional arts organizations in a manner similar to the agency's current practice and 60 percent of such funds shall be for competitively selected arts projects and activities according to sections 2 and 5(c) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951, 954(c)): *Provided further*, That matching requirements under section 5(e) of such Act shall be waived.

Waiver authority.

GENERAL PROVISIONS—THIS TITLE

Deadlines. Expenditure plan.

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

Reports.

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

SEC. 702. In carrying out the work for which funds in this title are being made available, the Secretary of the Interior and the Secretary of Agriculture shall utilize, where practicable, the Public Lands Corps, Youth Conservation Corps, Student Conservation Association, Job Corps and other related partnerships with Federal, State, local, tribal or non-profit groups that serve young adults.

Notification. Deadline.

SEC. 703. Each agency receiving funds under this title may transfer up to 10 percent of the funds in any account to other appropriation accounts within the agency, if the head of the agency (1) determines that the transfer will enhance the efficiency or effectiveness of the use of the funds without changing the intended purpose; and (2) notifies the Committees on Appropriations of the House of Representatives and the Senate 10 days prior to the transfer.

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

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Grants.

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services" for activities under the Workforce Investment Act of 1998 ("WIA"), $3,950,000,000, which shall be available for obligation on the date of enactment of this Act, as follows:

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

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

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

Applicability.

(3) $1,250,000,000 for grants to the States for dislocated worker employment and training activities;

(4) $200,000,000 for the dislocated workers assistance national reserve;

(5) $50,000,000 for YouthBuild activities: *Provided,* That for program years 2008 and 2009, the YouthBuild program may serve an individual who has dropped out of high school and re-enrolled in an alternative school, if that re-enrollment is part of a sequential service strategy; and

(6) $750,000,000 for a program of competitive grants for worker training and placement in high growth and emerging industry sectors: *Provided*, That $500,000,000 shall be for research, labor exchange and job training projects that prepare workers for careers in energy efficiency and renewable energy as described in section 171(e)(1)(B) of the WIA: *Provided further*, That in awarding grants from those funds not designated in the preceding proviso, the Secretary of Labor shall give priority to projects that prepare workers for careers in the health care sector:

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

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount for "Community Service Employment for Older Americans" to carry out title V of the Older Americans Act of 1965, $120,000,000, which shall be available for obligation on the date of enactment of this Act and shall remain available through June 30, 2010: *Provided*, That funds shall be allotted within 30 days of such enactment to current grantees in proportion to their allotment in program year 2008: *Provided further,* That funds made available under this heading in this Act may, in accordance with section 517(c) of the Older Americans Act of 1965, be recaptured and reobligated.

Deadline.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State Unemployment Insurance and Employment Service Operations" for grants to States in accordance with section 6 of the Wagner-Peyser Act, $400,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, and which shall be

available for obligation on the date of enactment of this Act: *Provided*, That such funds shall remain available to the States through September 30, 2010: *Provided further*, That $250,000,000 of such funds shall be used by States for reemployment services for unemployment insurance claimants (including the integrated Employment Service and Unemployment Insurance information technology required to identify and serve the needs of such claimants): *Provided further*, That the Secretary of Labor shall establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services.

Procedures.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Departmental Management", $80,000,000, for the enforcement of worker protection laws and regulations, oversight, and coordination activities related to the infrastructure and unemployment insurance investments in this Act: *Provided*, That the Secretary of Labor may transfer such sums as necessary to "Employment and Standards Administration", "Employee Benefits Security Administration", "Occupational Safety and Health Administration", and "Employment and Training Administration—Program Administration" for enforcement, oversight, and coordination activities: *Provided further,* That prior to obligating any funds proposed to be transferred from this account, the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan describing the planned uses of each amount proposed to be transferred.

Operating plan.

OFFICE OF JOB CORPS

For an additional amount for "Office of Job Corps", $250,000,000, for construction, rehabilitation and acquisition of Job Corps Centers, which shall be available upon the date of enactment of this Act and remain available for obligation through June 30, 2010: *Provided*, That section 1552(a) of title 31, United States Code shall not apply if funds are used for a multi-year lease agreement that will result in construction activities that can commence within 120 days of enactment of this Act: *Provided further*, That notwithstanding section 3324(a) of title 31, United States Code, the funds used for an agreement under the preceding proviso may be used for advance, progress, and other payments: *Provided further*, That the Secretary of Labor may transfer up to 15 percent of such funds to meet the operational needs of such centers, which may include training for careers in the energy efficiency, renewable energy, and environmental protection industries: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan describing the allocation of funds, and a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than September 30, 2009 and quarterly thereafter as long as funding provided under this heading is available for obligation or expenditure.

Operating plan.
Reports.
Deadlines.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the "Office of Inspector General", $6,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health Resources and Services", $2,500,000,000 which shall be used as follows:

(1) $500,000,000 shall be for grants to health centers authorized under section 330 of the Public Health Service Act ("PHS Act");

(2) $1,500,000,000 shall be available for grants for construction, renovation and equipment, and for the acquisition of health information technology systems, for health centers including health center controlled networks receiving operating grants under section 330 of the PHS Act, notwithstanding the limitation in section 330(e)(3); and

(3) $500,000,000 to address health professions workforce shortages, of which $75,000,000 for the National Health Service Corps shall remain available through September 30, 2011: *Provided,* That funds may be used to provide scholarships, loan repayment, and grants to training programs for equipment as authorized in the PHS Act, and grants authorized in sections 330L, 747, 767 and 768 of the PHS Act: *Provided further,* That 20 percent of the funds allocated to the National Health Service Corps shall be used for field operations:

Provided, That up to 0.5 percent of funds provided in this paragraph may used for administration of such funds: *Provided further,* That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan detailing activities to be supported and timelines for expenditure prior to making any Federal obligations of funds provided in this paragraph but not later than 90 days after the date of enactment of this Act: *Provided further,* That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded in this paragraph not later than November 1, 2009 and every 6 months thereafter as long as funding provided in this paragraph is available for obligation or expenditure.

Operating plan. Deadline.

Reports. Deadlines.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for "National Center for Research Resources", $1,300,000,000, of which $1,000,000,000 shall be for grants or contracts under section 481A of the Public Health Service Act to construct, renovate or repair existing non-Federal research facilities: *Provided*, That sections 481A(c)(1)(B)(ii), paragraphs (1), (3), and (4) of section 481A(e), and section 481B of such Act shall

Grants. Contracts.

not apply to the use of such funds: *Provided further*, That the references to "20 years" in subsections (c)(1)(B)(i) and (f) of section 481A of such Act are deemed to be references to "10 years" for purposes of using such funds: *Provided further*, That the National Center for Research Resources may also use $300,000,000 to provide, under the authority of section 301 and title IV of such Act, shared instrumentation and other capital research equipment to recipients of grants and contracts under section 481A of such Act and other appropriate entities: *Provided further*, That the Director of the Center shall provide to the Committees on Appropriations of the House of Representatives and the Senate an annual report indicating the number of institutions receiving awards of a grant or contract under section 481A of such Act, the proposed use of the funding, the average award size, a list of grant or contract recipients, and the amount of each award.

Reports. Deadline.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of the Director", $8,200,000,000: *Provided,* That $7,400,000,000 shall be transferred to the Institutes and Centers of the National Institutes of Health ("NIH") and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: *Provided further,* That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the NIH: *Provided further,* That none of these funds may be transferred to "National Institutes of Health—Buildings and Facilities", the Center for Scientific Review, the Center for Information Technology, the Clinical Center, or the Global Fund for HIV/AIDS, Tuberculosis and Malaria: *Provided further,* That the funds provided in this Act to the NIH shall not be subject to the provisions of 15 U.S.C. 638(f)(1) and 15 U.S.C. 638(n)(1): *Provided further,* That $400,000,000 may be used to carry out section 215 of division G of Public Law 110–161.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $500,000,000, to fund high-priority repair, construction and improvement projects for National Institutes of Health facilities on the Bethesda, Maryland campus and other agency locations.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Healthcare Research and Quality" to carry out titles III and IX of the Public Health Service Act, part A of title XI of the Social Security Act, and section

1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, $700,000,000 for comparative effectiveness research: *Provided*, That of the amount appropriated in this paragraph, $400,000,000 shall be transferred to the Office of the Director of the National Institutes of Health ("Office of the Director") to conduct or support comparative effectiveness research under section 301 and title IV of the Public Health Service Act: *Provided further*, That funds transferred to the Office of the Director may be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That within the amount available in this paragraph for the Agency for Healthcare Research and Quality, not more than 1 percent shall be made available for additional full-time equivalents.

In addition, $400,000,000 shall be available for comparative effectiveness research to be allocated at the discretion of the Secretary of Health and Human Services ("Secretary"): *Provided*, That the funding appropriated in this paragraph shall be used to accelerate the development and dissemination of research assessing the comparative effectiveness of health care treatments and strategies, through efforts that: (1) conduct, support, or synthesize research that compares the clinical outcomes, effectiveness, and appropriateness of items, services, and procedures that are used to prevent, diagnose, or treat diseases, disorders, and other health conditions; and (2) encourage the development and use of clinical registries, clinical data networks, and other forms of electronic health data that can be used to generate or obtain outcomes data: *Provided further*, That the Secretary shall enter into a contract with the Institute of Medicine, for which no more than $1,500,000 shall be made available from funds provided in this paragraph, to produce and submit a report to the Congress and the Secretary by not later than June 30, 2009, that includes recommendations on the national priorities for comparative effectiveness research to be conducted or supported with the funds provided in this paragraph and that considers input from stakeholders: *Provided further*, That the Secretary shall consider any recommendations of the Federal Coordinating Council for Comparative Effectiveness Research established by section 804 of this Act and any recommendations included in the Institute of Medicine report pursuant to the preceding proviso in designating activities to receive funds provided in this paragraph and may make grants and contracts with appropriate entities, which may include agencies within the Department of Health and Human Services and other governmental agencies, as well as private sector entities, that have demonstrated experience and capacity to achieve the goals of comparative effectiveness research: *Provided further*, That the Secretary shall publish information on grants and contracts awarded with the funds provided under this heading within a reasonable time of the obligation of funds for such grants and contracts and shall disseminate research findings from such grants and contracts to clinicians, patients, and the general public, as appropriate: *Provided further*, That, to the extent feasible, the Secretary shall ensure that the recipients of the funds provided by this paragraph offer an opportunity for public comment on the research: *Provided further*, That research conducted with funds appropriated under this paragraph

Contracts.
Reports.
Deadline.

Publication.

Public comment.

Research and development.

Reports. Deadline.

shall be consistent with Departmental policies relating to the inclusion of women and minorities in research: *Provided further*, That the Secretary shall provide the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate with an annual report on the research conducted or supported through the funds provided under this heading: *Provided further*, That the Secretary, jointly with the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated under this heading prior to making any Federal obligations of such funds in fiscal year 2009, but not later than July 30, 2009, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the type of research being conducted or supported, including the priority conditions addressed; and specify the allocation of resources within the Department of Health and Human Services: *Provided further*, That the Secretary, jointly with the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

Operating plans. Deadlines.

Reports. Deadlines.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For an additional amount for "Payments to States for the Child Care and Development Block Grant", $2,000,000,000, which shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided,* That, in addition to the amounts required to be reserved by the States under section 658G of the Child Care and Development Block Grant Act of 1990, $255,186,000 shall be reserved by the States for activities authorized under section 658G, of which $93,587,000 shall be for activities that improve the quality of infant and toddler care.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for "Children and Families Services Programs", $3,150,000,000, which shall be used as follows:

(1) $1,000,000,000 for carrying out activities under the Head Start Act.

(2) $1,100,000,000 for expansion of Early Head Start programs, as described in section 645A of the Head Start Act: *Provided*, That of the funds provided in this paragraph, up to 10 percent shall be available for the provision of training

and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act.

(3) $1,000,000,000 for carrying out activities under sections 674 through 679 of the Community Services Block Grant Act, of which no part shall be subject to section 674(b)(3) of such Act: *Provided,* That notwithstanding section 675C(a)(1) and 675C(b) of such Act, 1 percent of the funds made available to each State from this additional amount shall be used for benefits enrollment coordination activities relating to the identification and enrollment of eligible individuals and families in Federal, State, and local benefit programs: *Provided further,* That all funds remaining available to a State from this additional amount after application of the previous proviso shall be distributed to eligible entities as defined in section 673(1) of such Act: *Provided further*, That for services furnished under such Act during fiscal years 2009 and 2010, States may apply the last sentence of section 673(2) of such Act by substituting "200 percent" for "125 percent".

(4) $50,000,000 for carrying out activities under section 1110 of the Social Security Act.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for "Aging Services Programs" under subparts 1 and 2 of part C, of title III, and under title VI, of the Older Americans Act of 1965, $100,000,000, of which $65,000,000 shall be for Congregate Nutrition Services, $32,000,000 shall be for Home-Delivered Nutrition Services and $3,000,000 shall be for Nutrition Services for Native Americans.

OFFICE OF THE SECRETARY

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Office of the National Coordinator for Health Information Technology", $2,000,000,000, to carry out title XIII of this Act, to remain available until expended: *Provided*, That of such amount, the Secretary of Health and Human Services shall transfer $20,000,000 to the Director of the National Institute of Standards and Technology in the Department of Commerce for continued work on advancing health care information enterprise integration through activities such as technical standards analysis and establishment of conformance testing infrastructure, so long as such activities are coordinated with the Office of the National Coordinator for Health Information Technology: *Provided further,* That $300,000,000 is to support regional or sub-national efforts toward health information exchange: *Provided further,* That 0.25 percent of the funds provided in this paragraph may be used for administration of such funds: *Provided further*, That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary

Operating plan.
Deadline.

Operating plans. Deadlines.

to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the fiscal year 2009 operating plan shall be provided not later than 90 days after enactment of this Act and that subsequent annual operating plans shall be provided not later than November 1 of each year: *Provided further*, That these operating plans shall describe how expenditures are aligned with the specific objectives, milestones, and metrics of the Federal Health Information Technology Strategic Plan, including any subsequent updates to the Plan; the allocation of resources within the Department of Health and Human Services and other Federal agencies; and the identification of programs and activities that are supported: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each major set of activities not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

Reports. Deadlines.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the "Office of Inspector General", $17,000,000 which shall remain available until September 30, 2012.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for "Public Health and Social Services Emergency Fund" to improve information technology security at the Department of Health and Human Services, $50,000,000.

PREVENTION AND WELLNESS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for a "Prevention and Wellness Fund" to be administered through the Department of Health and Human Services, Office of the Secretary, $1,000,000,000: *Provided,* That of the amount provided in this paragraph, $300,000,000 shall be transferred to the Centers for Disease Control and Prevention ("CDC") as an additional amount to carry out the immunization program ("section 317 immunization program") authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act ("PHS Act"): *Provided further,* That of the amount provided in this paragraph, $650,000,000 shall be to carry out evidence-based clinical and community-based prevention and wellness strategies authorized by the PHS Act, as determined by the Secretary, that deliver specific, measurable health outcomes that address chronic disease rates: *Provided further*, That funds appropriated in the preceding proviso may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate: *Provided further*, That of the amount appropriated in this paragraph, $50,000,000 shall be provided to States for an additional amount to carry out activities to implement healthcare associated infections reduction strategies: *Provided further,* That not more than 0.5 percent of funds made available in this paragraph may be used for management and oversight expenses in the office or division of the Department of Health and Human Services administering the funds: *Provided further*,

Contracts. Evaluations. Deadline.

That the Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out with funds provided under this heading in order to determine the quality and effectiveness of the programs: *Provided further*, That the Secretary shall, not later than 1 year after the date of enactment of this Act, submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report summarizing the annual evaluations of programs from the preceding proviso: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided in this paragraph (excluding funds to carry out the section 317 immunization program), but not later than 90 days after the date of enactment of this Act, that indicates the prevention priorities to be addressed; provides measurable goals for each prevention priority; details the allocation of resources within the Department of Health and Human Services; and identifies which programs or activities are supported, including descriptions of any new programs or activities: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

Reports. Deadline.

Operating plan. Deadline.

Reports. Deadlines.

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

Grants.

For an additional amount for "Education for the Disadvantaged" to carry out title I of the Elementary and Secondary Education Act of 1965 ("ESEA"), $13,000,000,000: *Provided*, That $5,000,000,000 shall be available for targeted grants under section 1125 of the ESEA: *Provided further*, That $5,000,000,000 shall be available for education finance incentive grants under section 1125A of the ESEA: *Provided further*, That $3,000,000,000 shall be for school improvement grants under section 1003(g) of the ESEA: *Provided further*, That each local educational agency receiving funds available under this paragraph shall be required to file with the State educational agency, no later than December 1, 2009, a school-by-school listing of per-pupil educational expenditures from State and local sources during the 2008–2009 academic year: *Provided further,* That each State educational agency shall report that information to the Secretary of Education by March 31, 2010.

Deadline. Expenditures.

Reports. Deadline.

IMPACT AID

For an additional amount for "Impact Aid" to carry out section 8007 of title VIII of the Elementary and Secondary Education Act of 1965, $100,000,000, which shall be expended pursuant to the requirements of section 805.

Grants.

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for "School Improvement Programs" to carry out subpart 1, part D of title II of the Elementary and Secondary Education Act of 1965 ("ESEA"), and subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, $720,000,000: *Provided*, That $650,000,000 shall be available for subpart 1, part D of title II of the ESEA: *Provided further,* That the Secretary shall allot $70,000,000 for grants under McKinney-Vento to each State in proportion to the number of homeless students identified by the State during the 2007–2008 school year relative to the number of such children identified nationally during that school year: *Provided further,* That State educational agencies shall subgrant the McKinney-Vento funds to local educational agencies on a competitive basis or according to a formula based on the number of homeless students identified by the local educational agencies in the State: *Provided further,* That the Secretary shall distribute the McKinney-Vento funds to the States not later than 60 days after the date of the enactment of this Act: *Provided further,* That each State shall subgrant the McKinney-Vento funds to local educational agencies not later than 120 days after receiving its grant from the Secretary.

Deadline.

Deadline.

INNOVATION AND IMPROVEMENT

For an additional amount for "Innovation and Improvement" to carry out subpart 1, part D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), $200,000,000: *Provided*, That these funds shall be expended as directed in the fifth, sixth, and seventh provisos under the heading "Innovation and Improvement" in the Department of Education Appropriations Act, 2008: *Provided further*, That a portion of these funds shall also be used for a rigorous national evaluation by the Institute of Education Sciences, utilizing randomized controlled methodology to the extent feasible, that assesses the impact of performance-based teacher and principal compensation systems supported by the funds provided in this Act on teacher and principal recruitment and retention in high-need schools and subjects: *Provided further,* That the Secretary may reserve up to 1 percent of the amount made available under this heading for management and oversight of the activities supported with those funds.

Evaluation.

SPECIAL EDUCATION

For an additional amount for "Special Education" for carrying out parts B and C of the Individuals with Disabilities Education Act ("IDEA"), $12,200,000,000, of which $11,300,000,000 shall be available for section 611 of the IDEA: *Provided,* That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: *Provided further,* That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further,* That the total amount for each of sections 611(b)(2) and 643(b)(1) of the IDEA, under this and all other Acts,

Deadline.
Grants.

for fiscal year 2009, whenever enacted, shall be equal to the amounts respectively available for these activities under these sections during fiscal year 2008 increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA: *Provided further,* That $400,000,000 shall be available for section 619 of the IDEA and $500,000,000 shall be available for part C of the IDEA.

REHABILITATION SERVICES AND DISABILITY RESEARCH

Grants.

For an additional amount for "Rehabilitation Services and Disability Research" for providing grants to States to carry out the Vocational Rehabilitation Services program under part B of title I and parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act of 1973, $680,000,000: *Provided*, That $540,000,000 shall be available for part B of title I of the Rehabilitation Act: *Provided further*, That funds provided herein shall not be considered in determining the amount required to be appropriated under section 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal year: *Provided further*, That, notwithstanding section 7(14)(A), the Federal share of the costs of vocational rehabilitation services provided with the funds provided herein shall be 100 percent: *Provided further*, That $140,000,000 shall be available for parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act: *Provided further*, That $18,200,000 shall be for State Grants, $87,500,000 shall be for independent living centers, and $34,300,000 shall be for services for older blind individuals.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student Financial Assistance" to carry out subpart 1 of part A and part C of title IV of the Higher Education Act of 1965 ("HEA"), $15,840,000,000, which shall remain available through September 30, 2011: *Provided*, That $15,640,000,000 shall be available for subpart 1 of part A of title IV of the HEA: *Provided further*, That $200,000,000 shall be available for part C of title IV of the HEA.

The maximum Pell Grant for which a student shall be eligible during award year 2009–2010 shall be $4,860.

20 USC 1070a note.

STUDENT AID ADMINISTRATION

For an additional amount for "Student Aid Administration" to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D, and E of title IV of the Higher Education Act of 1965, $60,000,000.

HIGHER EDUCATION

For an additional amount for "Higher Education" to carry out part A of title II of the Higher Education Act of 1965, $100,000,000.

INSTITUTE OF EDUCATION SCIENCES

For an additional amount for "Institute of Education Sciences" to carry out section 208 of the Educational Technical Assistance Act, $250,000,000, which may be used for Statewide data systems that include postsecondary and workforce information, of which

up to $5,000,000 may be used for State data coordinators and for awards to public or private organizations or agencies to improve data coordination.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the "Office of the Inspector General", $14,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, grants, and projects funded in this Act.

RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operating Expenses" to carry out the Domestic Volunteer Service Act of 1973 ("1973 Act") and the National and Community Service Act of 1990 ("1990 Act"), $160,000,000: *Provided,* That $89,000,000 of the funds made available in this paragraph shall be used to make additional awards to existing AmeriCorps grantees and may be used to provide adjustments to awards under subtitle C of title I of the 1990 Act made prior to September 30, 2010 for which the Chief Executive Officer of the Corporation for National and Community Service ("CEO") determines that a waiver of the Federal share limitation is warranted under section 2521.70 of title 45 of the Code of Federal Regulations: *Provided further,* That of the amount made available in this paragraph, not less than $6,000,000 shall be transferred to "Salaries and Expenses" for necessary expenses relating to information technology upgrades, of which up to $800,000 may be used to administer the funds provided in this paragraph: *Provided further,* That of the amount provided in this paragraph, not less than $65,000,000 shall be for programs under title I, part A of the 1973 Act: *Provided further,* That funds provided in the previous proviso shall not be made available in connection with cost-share agreements authorized under section 192A(g)(10) of the 1990 Act: *Provided further*, That of the funds available under this heading, up to 20 percent of funds allocated to grants authorized under section 124(b) of title I, subtitle C of the 1990 Act may be used to administer, reimburse, or support any national service program under section 129(d)(2) of the 1990 Act: *Provided further,* That, except as provided herein and in addition to requirements identified herein, funds provided in this paragraph shall be subject to the terms and conditions under which funds were appropriated in fiscal year 2008: *Provided further,* That the CEO shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated in this paragraph prior to making any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than

Operating plans. Deadlines.

November 1, 2009, that detail the allocation of resources and the increased number of members supported by the AmeriCorps programs: *Provided further,* That the CEO shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

Reports. Deadline.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the "Office of Inspector General", $1,000,000, which shall remain available until September 30, 2012.

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

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

Notification.

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Limitation on Administrative Expenses", $1,000,000,000 shall be available as follows:

(1) $500,000,000 shall remain available until expended for necessary expenses of the replacement of the National Computer Center and the information technology costs associated with such Center: *Provided,* That the Commissioner of Social Security shall notify the Committees on Appropriations of the House of Representatives and the Senate not later than 10 days prior to each public notice soliciting bids related to site selection and construction and prior to the lease or purchase of such site: *Provided further,* That the construction plan and site selection for such center shall be subject to review and approval by the Office of Management and Budget: *Provided further*, That such center shall continue to be a government-operated facility; and

Notification. Deadline.

(2) $500,000,000 for processing disability and retirement workloads, including information technology acquisitions and research in support of such activities: *Provided*, That up to

$40,000,000 may be used by the Commissioner of Social Security for health information technology research and activities to facilitate the adoption of electronic medical records in disability claims, including the transfer of funds to "Supplemental Security Income Program" to carry out activities under section 1110 of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For an additional amount for the "Office of Inspector General", $2,000,000, which shall remain available through September 30, 2012, for salaries and expenses necessary for oversight and audit of programs, projects, and activities funded in this Act.

GENERAL PROVISIONS—THIS TITLE

SEC. 801. (a) Up to 1 percent of the funds made available to the Department of Labor in this title may be used for the administration, management, and oversight of the programs, grants, and activities funded by such appropriation, including the evaluation of the use of such funds.

(b) Funds designated for these purposes may be available for obligation through September 30, 2010.

Deadline.
Operating plan.

(c) Not later than 30 days after enactment of this Act, the Secretary of Labor shall provide an operating plan describing the proposed use of funds for the purposes described in (a).

SEC. 802. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

29 USC 206 note.

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

Effective date.

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

"(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

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

"(b) REPORT.—No earlier than March 15, 2010, and not later than April 15, 2010, the Government Accountability Office shall transmit its first report to Congress concerning the findings of

the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

"(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands in its County Business Patterns data with the same regularity and to the same extent as each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands in such surveys and data compilations requires time to structure and implement, the Bureau of the Census shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim report shall describe the steps the Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act. 29 USC 206 note.

SEC. 803. ELIGIBLE EMPLOYEES IN THE RECREATIONAL MARINE INDUSTRY. Section 2(3)(F) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)(F)) is amended—

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

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

SEC. 804. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS RESEARCH. 42 USC 299b–8.

(a) ESTABLISHMENT.—There is hereby established a Federal Coordinating Council for Comparative Effectiveness Research (in this section referred to as the "Council").

(b) PURPOSE.—The Council shall foster optimum coordination of comparative effectiveness and related health services research conducted or supported by relevant Federal departments and agencies, with the goal of reducing duplicative efforts and encouraging coordinated and complementary use of resources.

(c) DUTIES.—The Council shall—

(1) assist the offices and agencies of the Federal Government, including the Departments of Health and Human Services, Veterans Affairs, and Defense, and other Federal departments or agencies, to coordinate the conduct or support of comparative effectiveness and related health services research; and

(2) advise the President and Congress on—

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

(B) organizational expenditures for comparative effectiveness research by relevant Federal departments and agencies.

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall be composed of not more than 15 members, all of whom are senior Federal officers or employees with responsibility for health-related programs, appointed by the President, acting through the Secretary of Health and Human Services (in this section referred to as the "Secretary"). Members shall first be appointed to the Council not later than 30 days after the date of the enactment of this Act.

Deadline.

(2) MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include one senior officer or employee from each of the following agencies:

(i) The Agency for Healthcare Research and Quality.

(ii) The Centers for Medicare and Medicaid Services.

(iii) The National Institutes of Health.

(iv) The Office of the National Coordinator for Health Information Technology.

(v) The Food and Drug Administration.

(vi) The Veterans Health Administration within the Department of Veterans Affairs.

(vii) The office within the Department of Defense responsible for management of the Department of Defense Military Health Care System.

(B) QUALIFICATIONS.—At least half of the members of the Council shall be physicians or other experts with clinical expertise.

(3) CHAIRMAN; VICE CHAIRMAN.—The Secretary shall serve as Chairman of the Council and shall designate a member to serve as Vice Chairman.

(e) REPORTS.—

(1) INITIAL REPORT.—Not later than June 30, 2009, the Council shall submit to the President and the Congress a report containing information describing current Federal activities on comparative effectiveness research and recommendations for such research conducted or supported from funds made available for allotment by the Secretary for comparative effectiveness research in this Act.

(2) ANNUAL REPORT.—The Council shall submit to the President and Congress an annual report regarding its activities and recommendations concerning the infrastructure needs, organizational expenditures and opportunities for better coordination of comparative effectiveness research by relevant Federal departments and agencies.

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

(g) RULES OF CONSTRUCTION.—

(1) COVERAGE.—Nothing in this section shall be construed to permit the Council to mandate coverage, reimbursement, or other policies for any public or private payer.

(2) REPORTS AND RECOMMENDATIONS.—None of the reports submitted under this section or recommendations made by the Council shall be construed as mandates or clinical guidelines for payment, coverage, or treatment.

SEC. 805. GRANTS FOR IMPACT AID CONSTRUCTION. (a) RESERVATION FOR MANAGEMENT AND OVERSIGHT.—From the funds appropriated to carry out this section, the Secretary may reserve up to 1 percent for management and oversight of the activities carried out with those funds.

(b) CONSTRUCTION PAYMENTS.—

(1) FORMULA GRANTS.—(A) IN GENERAL.—From 40 percent of the amount not reserved under subsection (a), the Secretary shall make payments in accordance with section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)), except that the amount of such payments shall be determined in accordance with subparagraph (B).

(B) AMOUNT OF PAYMENTS.—The Secretary shall make a payment to each local educational agency eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)) in an amount that bears the same relationship to the funds made available under subparagraph (A) as the number of children determined under subparagraphs (B), (C), and (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)(B), (C), and (D)(i)) who were in average daily attendance in the local educational agency for the most recent year for which such information is available bears to the number of such children in all the local educational agencies eligible for a payment under section 8007(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)).

(2) COMPETITIVE GRANTS.—From 60 percent of the amount not reserved under subsection (a), the Secretary—

(A) shall award emergency grants in accordance with section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(b)) to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

(B) may award modernization grants in accordance with section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(b)) to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

(3) PROVISIONS NOT TO APPLY.—Paragraphs (2), (3), (4), (5)(A)(i), and (5)(A)(vi) of section 8007(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(b)(2), (3), (4), (5)(A)(i), and (5)(A)(vi)) shall not apply to grants made under paragraph (2).

(4) ELIGIBILITY.—A local educational agency is eligible to receive a grant under paragraph (2) if the local educational agency—

(A) was eligible to receive a payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702 and 7703) for fiscal year 2008; and

(B) has—

(i) a total taxable assessed value of real property that may be taxed for school purposes of less than $100,000,000; or

(ii) an assessed value of real property per student that may be taxed for school purposes that is less

than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(5) CRITERIA FOR GRANTS.—In awarding grants under paragraph (2), the Secretary shall consider the following criteria:

(A) Whether the facility poses a health or safety threat to students and school personnel, including noncompliance with building codes and inaccessibility for persons with disabilities, or whether the existing building capacity meets the needs of the current enrollment and supports the provision of comprehensive educational services to meet current standards in the State in which the local educational agency is located.

(B) The extent to which the new design and proposed construction utilize energy efficient and recyclable materials.

(C) The extent to which the new design and proposed construction utilizes non-traditional or alternative building methods to expedite construction and project completion and maximize cost efficiency.

(D) The feasibility of project completion within 24 months from award.

(E) The availability of other resources for the proposed project.

SEC. 806. MANDATORY PELL GRANTS. Section 401(b)(9)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(9)(A)) is amended—

(1) in clause (ii), by striking "$2,090,000,000" and inserting "$2,733,000,000"; and

(2) in clause (iii), by striking "$3,030,000,000" and inserting "$3,861,000,000".

SEC. 807. (a) IN GENERAL.—Notwithstanding any other provision of law, and in order to begin expenditures and activities under this Act as quickly as possible consistent with prudent management, the Secretary of Education may—

(1) award fiscal year 2009 funds to States and local educational agencies on the basis of eligibility determinations made for the award of fiscal year 2008 funds; and

(2) require States to make prompt allocations to local educational agencies.

Time period.

(b) INTEREST NOT TO ACCRUE.—Notwithstanding sections 3335 and 6503 of title 31, United States Code, or any other provision of law, the United States shall not be liable to any State or other entity for any interest or fee with respect to any funds under this Act that are allocated by the Secretary of Education to the State or other entity within 30 days of the date on which they are available for obligation.

TITLE IX—LEGISLATIVE BRANCH

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" of the Government Accountability Office, $25,000,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

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

(1) IN GENERAL.—The Comptroller General shall conduct bimonthly reviews and prepare reports on such reviews on the use by selected States and localities of funds made available in this Act. Such reports, along with any audits conducted by the Comptroller General of such funds, shall be posted on the Internet and linked to the website established under this Act by the Recovery Accountability and Transparency Board.

Internet posting.

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

(b) EXAMINATION OF RECORDS.—The Comptroller General may examine any records related to obligations and use by any Federal, State, or local government agency of funds made available in this Act.

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

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

(2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $180,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design

and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $80,000,000 shall be for child development centers, and $100,000,000 shall be for warrior transition complexes: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for "Military Construction, Navy and Marine Corps", $280,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $100,000,000 shall be for troop housing, $80,000,000 shall be for child development centers, and $100,000,000 shall be for energy conservation and alternative energy projects: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force", $180,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That of the amount provided under this heading, $100,000,000 shall be for troop housing and $80,000,000 shall be for child development centers: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for "Military Construction, Defense-Wide", $1,450,000,000, to remain available until September 30, 2013: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further,* That of the amount provided under this heading, $1,330,000,000 shall be for the construction of hospitals and $120,000,000 shall be for the Energy Conservation Investment Program: *Provided further,* That not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military Construction, Army National Guard", $50,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Director of the Army National Guard, shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for "Military Construction, Air National Guard", $50,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further*, That not later than 30 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Director of the Air National Guard, shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

FAMILY HOUSING CONSTRUCTION, ARMY

For an additional amount for "Family Housing Construction, Army", $34,507,000, to remain available until September 30, 2013: *Provided,* That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects in the United States not otherwise authorized by law: *Provided further,* That within 30 days of enactment of this Act, the Secretary of Defense shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

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

FAMILY HOUSING CONSTRUCTION, AIR FORCE

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

Deadline. Expenditure plan.

Congress an expenditure plan for funds provided under this heading.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

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

HOMEOWNERS ASSISTANCE FUND

For an additional amount for "Homeowners Assistance Fund", established by section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $555,000,000, to remain available until expended: *Provided,* That the Secretary of Defense shall submit quarterly reports to the Committees on Appropriations of both Houses of Congress on the expenditure of funds made available under this heading in this or any other Act.

Reports. Deadlines.

ADMINISTRATIVE PROVISION

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

(1) in subsection (a)—

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

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

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

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

"(A) the Secretary determines—";

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

(E) by adding at the end the following:

"(B) the Secretary determines—

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

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

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

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

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

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

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

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

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

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

"(iii) is reassigned in furtherance of medical treatment or rehabilitation, or due to medical retirement in connection with such disability;

"(B) any civilian employee of the Department of Defense or the United States Coast Guard who—

"(i) was wounded, injured, or became ill in the performance of his or her duties during a forward deployment occurring on or after September 11, 2001, in support of the Armed Forces; and

"(ii) is reassigned in furtherance of medical treatment, rehabilitation, or due to medical retirement resulting from the sustained disability; or

"(C) the spouse of a member of the Armed Forces or a civilian employee of the Department of Defense or the United States Coast Guard if—

"(i) the member or employee was killed in the line of duty or in the performance of his or her duties during a deployment on or after September 11, 2001, in support of the Armed Forces or died from a wound, injury, or illness incurred in the line of duty during such a deployment; and

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

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

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

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

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

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

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

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

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

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

(3) in subsection (c)—

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

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

"(A) IN GENERAL.—Such persons";

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

"(i) to receive";

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

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

"(II) the fair market value";

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

"(ii) to receive";

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

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

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

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

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

"(i) to receive a cash payment as compensation for losses which may be or have been sustained in

a private sale, in an amount not to exceed the difference between—

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

"(II) the fair market value of such property (as such value is determined by the Secretary of Defense) at the time of sale; or

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

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

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

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

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

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

"(II) the fair market value of such property (as such value is determined by the Secretary of Defense) at the time of sale; or

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

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

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

(4) by striking subsection (g);

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

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

(7) in subsection (n)—

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

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

(8) in subsection (o)—

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

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

(C) by striking paragraph (4); and

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

"(p) DEFINITIONS.—In this section:

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

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

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

"(A) is in Medical Holdover status;

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

"(C) is in Medical Hold status;

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

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

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

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

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

"(B) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(b) CLERICAL AMENDMENT.—Such section is further amended in the section heading by inserting "and certain property owned by members of the Armed Forces, Department of Defense and United States Coast Guard civilian employees, and surviving spouses" after "ordered to be closed".

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

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL FACILITIES

For an additional amount for "Medical Facilities" for non-recurring maintenance, including energy projects, $1,000,000,000, to remain available until September 30, 2010: *Provided*, That not later than 30 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for "National Cemetery Administration" for monument and memorial repairs, including energy projects, $50,000,000, to remain available until September 30, 2010: *Provided*, That not later than 30 days after the date of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General Operating Expenses", $150,000,000, to remain available until September 30, 2010, for additional expenses related to hiring and training temporary surge claims processors.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for "Information Technology Systems", $50,000,000, to remain available until September 30, 2010, for the Veterans Benefits Administration: *Provided,* That not later than 30 days after the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline. Expenditure plan.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", $1,000,000, to remain available until September 30, 2011, for oversight and audit of programs, grants and projects funded under this title.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For an additional amount for "Grants for Construction of State Extended Care Facilities", $150,000,000, to remain available until September 30, 2010, for grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify, or alter existing hospital, nursing home, and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131 through 8137 of title 38, United States Code.

ADMINISTRATIVE PROVISION

38 USC 107 note.

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

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

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

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

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

(5) Filipino veterans who were granted benefits prior to the enactment of the so-called Rescissions Acts of 1946 (Public Laws 79–301 and 79–391) currently receive full benefits under laws administered by the Secretary of Veterans Affairs, but under section 107 of title 38, United States Code, the service of certain other Filipino veterans is deemed not to be active service for purposes of such laws.

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

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

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

(b) COMPENSATION FUND.—

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

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

(c) PAYMENTS.—

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

(2) PAYMENT TO SURVIVING SPOUSE.—If an eligible person who has filed a claim for benefits under this section dies before payment is made under this section, the payment under this section shall be made instead to the surviving spouse, if any, of the eligible person.

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

(1) served—

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) RELEASE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acceptance by an eligible person or surviving spouse, as applicable, of a payment under this section shall be final,

and shall constitute a complete release of any claim against the United States by reason of any service described in subsection (d).

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

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

(j) ADMINISTRATION.—

Applications. Instructions.

(1) The Secretary shall promptly issue application forms and instructions to ensure the prompt and efficient administration of the provisions of this section.

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

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

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

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

Deadline. Spending plan.

For an additional amount for "Diplomatic and Consular Programs" for urgent domestic facilities requirements for passport and training functions, $90,000,000: *Provided,* That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading: *Provided further,* That with respect to the funds made available for passport agencies, such plan shall be developed in consultation with the Department of Homeland Security and the General Services Administration and shall coordinate and co-locate, to the extent feasible, passport agencies with other Federal facilities.

CAPITAL INVESTMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Capital Investment Fund", $290,000,000, for information technology security and upgrades to support mission-critical operations, of which up to $38,000,000 shall be transferred to, and merged with, funds made available under the heading "Capital Investment Fund" of the United States Agency for International Development: *Provided,* That the Secretary of State and the Administrator of the United States Agency for International Development shall coordinate information technology systems, where appropriate, to increase efficiencies and eliminate redundancies, to include co-location of backup information management facilities, and shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

Deadline.
Spending plan.

OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General" for oversight requirements, $2,000,000.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Construction" for the water quantity program to meet immediate repair and rehabilitation requirements, $220,000,000: *Provided,* That up to $2,000,000 may be transferred to, and merged with, funds available under the heading "International Boundary and Water Commission, United States and Mexico—Salaries and Expenses": *Provided further,* That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

Deadline.
Spending plan.

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

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, $1,500,000,000, to remain available through September 30, 2011: *Provided,* That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area,

or a region: *Provided further,* That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement: *Provided further,* That of the amount made available under this paragraph, the Secretary may use an amount not to exceed $200,000,000 for the purpose of paying the subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: *Provided further,* That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities: *Provided further,* That a grant funded under this heading shall be not less than $20,000,000 and not greater than $300,000,000: *Provided further,* That the Secretary may waive the minimum grant size cited in the preceding proviso for the purpose of funding significant projects in smaller cities, regions, or States: *Provided further,* That not more than 20 percent of the funds made available under this paragraph may be awarded to projects in a single State: *Provided further,* That the Federal share of the costs for which an expenditure is made under this heading may be up to 100 percent: *Provided further,* That the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act: *Provided further,* That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 90 days after enactment of this Act: *Provided further,* That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after the publication of such criteria, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That the Secretary may retain up to $1,500,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this heading.

Waiver authority.

Publication.
Criteria.
Deadline.

Applications.
Deadlines.

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL FUNDING FOR FACILITIES AND EQUIPMENT

For an additional amount for necessary investments in Federal Aviation Administration infrastructure, $200,000,000, to remain available through September 30, 2010: *Provided,* That funding provided under this heading shall be used to make improvements to power systems, air route traffic control centers, air traffic control towers, terminal radar approach control facilities, and navigation and landing equipment: *Provided further,* That priority be given to such projects or activities that will be completed within 2 years of enactment of this Act: *Provided further,* That amounts made available under this heading may be provided through grants in addition to the other instruments authorized under section 106(l)(6) of title 49, United States Code: *Provided further,* That the Federal share of the costs for which an expenditure is made under this heading shall be 100 percent: *Provided further,* That amounts provided under this heading may be used for expenses the agency incurs in administering this program: *Provided further,* That not more than 60 days after enactment of this Act, the Administrator shall establish a process for applying, reviewing and awarding grants and cooperative and other transaction agreements, including the form and content of an application, and requirements for the maintenance of records that are necessary to facilitate an effective audit of the use of the funding provided: *Provided further,* That section 50101 of title 49, United States Code, shall apply to funds provided under this heading.

Deadline.
Procedures.

Applicability.

GRANTS-IN-AID FOR AIRPORTS

For an additional amount for "Grants-In-Aid for Airports", to enable the Secretary of Transportation to make grants for discretionary projects as authorized by subchapter 1 of chapter 471 and subchapter 1 of chapter 475 of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports of such title, $1,100,000,000, to remain available through September 30, 2010: *Provided*, That such funds shall not be subject to apportionment formulas, special apportionment categories, or minimum percentages under chapter 471: *Provided further,* That the Secretary shall distribute funds provided under this heading as discretionary grants to airports, with priority given to those projects that demonstrate to his satisfaction their ability to be completed within 2 years of enactment of this Act, and serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: *Provided further,* That the Secretary shall award grants totaling not less than 50 percent of the funds made available under this heading within 120 days of enactment of this Act, and award grants for the remaining amounts not later than 1 year after enactment of this Act: *Provided further,* That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for the Grants-in-Aid for Airports program set forth in any Act: *Provided further,* That the Administrator of the Federal Aviation Administration may retain up to 0.2 percent of the funds provided under this

Deadlines.

heading to fund the award and oversight by the Administrator of grants made under this heading.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under subsection 601(a)(8) of such title, $27,500,000,000, to remain available through September 30, 2010: *Provided,* That, after making the set-asides required under this heading, 50 percent of the funds made available under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of title 23, United States Code, and the remaining funds shall be apportioned to States 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: *Provided further,* That funds made available under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: *Provided further,* That in selecting projects to be carried out with funds apportioned under this heading, priority shall be given to projects that are projected for completion within a 3-year time frame, and are located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161): *Provided further,* That 120 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that State (excluding funds suballocated within the State) less the amount of funding obligated (excluding funds suballocated within the State), and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further,* That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds, and the Secretary shall redistribute such amounts to States that have had no funds withdrawn under this proviso (excluding funds suballocated within the State) in the manner described in section 120(c) of division K of Public Law 110–161: *Provided further,* That at the request of a State, the Secretary of Transportation may provide an extension of such 1-year period only to the extent that he feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: *Provided further,* That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further,* That 3 percent of the funds apportioned to a State under this heading shall be set aside for the purposes described in subsection 133(d)(2) of title 23, United States Code (without regard to the comparison to fiscal year 2005): *Provided further,* That 30 percent of the funds apportioned to a State under this heading shall be suballocated within the State in the manner and for the purposes described in the first sentence of subsection

Deadline.

Effective date.

Effective date.

Submission.

133(d)(3)(A), in subsection 133(d)(3)(B), and in subsection 133(d)(3)(D): *Provided further,* That such suballocation shall be conducted in every State: *Provided further,* That funds suballocated within a State to urbanized areas and other areas shall not be subject to the redistribution of amounts required 120 days following the date of apportionment of funds provided under this heading: *Provided further,* That of the funds provided under this heading, $105,000,000 shall be for the Puerto Rico highway program authorized under section 165 of title 23, United States Code, and $45,000,000 shall be for the territorial highway program authorized under section 215 of title 23, United States Code: *Provided further,* That of the funds provided under this heading, $60,000,000 shall be for capital expenditures eligible under section 147 of title 23, United States Code (without regard to subsection(d)): *Provided further,* That the Secretary of Transportation shall distribute such $60,000,000 as competitive discretionary grants to States, with priority given to those projects that demonstrate to his satisfaction their ability to be completed within 2 years of enactment of this Act: *Provided further,* That of the funds provided under this heading, $550,000,000 shall be for investments in transportation at Indian reservations and Federal lands: *Provided further,* That of the funds identified in the preceding proviso, $310,000,000 shall be for the Indian Reservation Roads program, $170,000,000 shall be for the Park Roads and Parkways program, $60,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program: *Provided further,* That for investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act: *Provided further,* That 1 year following the enactment of this Act, to ensure the prompt use of the $550,000,000 provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated: *Provided further,* That up to 4 percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses: *Provided further,* That section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds provided under this heading: *Provided further,* That of the funds made available under this heading, $20,000,000 shall be for highway surface transportation and technology training under section 140(b) of title 23, United States Code, and $20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: *Provided further,* That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for investments in transportation at Indian reservations and Federal lands, and for the territorial highway program, which shall be administered in accordance with chapter 2 of title 23, United States Code, and except for funds made available for disadvantaged business enterprises bonding assistance, which shall be administered in accordance with chapter 3 of title 49, 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, at the option of the recipient, up to 100 percent of the total cost thereof: *Provided further*, That

Grants.

Effective date.
Redistribution authority.

funds made available by this Act shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code: *Provided further,* That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2009 and 2010 in any other Act for "Federal-aid Highways" and shall not affect the distribution of funds provided for "Federal-aid Highways" in any other Act: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act: *Provided further,* That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: *Provided further,* That the Administrator of the Federal Highway Administration may retain up to $40,000,000 of the funds provided under this heading to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act, and such funds shall be available through September 30, 2012.

Applicability.

FEDERAL RAILROAD ADMINISTRATION

Grants.

CAPITAL ASSISTANCE FOR HIGH SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE

For an additional amount for section 501 of Public Law 110–432 and discretionary grants to States to pay for the cost of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, United States Code, subsection (b) of section 24105 of such title, $8,000,000,000, to remain available through September 30, 2012: *Provided,* That the Secretary of Transportation shall give priority to projects that support the development of intercity high speed rail service: *Provided further,* That within 60 days of the enactment of this Act, the Secretary shall submit to the House and Senate Committees on Appropriations a strategic plan that describes how the Secretary will use the funding provided under this heading to improve and deploy high speed passenger rail systems: *Provided further,* That within 120 days of enactment of this Act, the Secretary shall issue interim guidance to applicants covering grant terms, conditions, and procedures until final regulations are issued: *Provided further,* That such interim guidance shall provide separate instructions for the high speed rail corridor program, capital assistance for intercity passenger rail service grants, and congestion grants: *Provided further,* That the Secretary shall waive the requirement that a project conducted using funds provided under this heading be in a State rail plan developed under chapter 227 of title 49, United States Code: *Provided further,* That the Federal share payable of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further,* That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That section 24405 of title 49, United States Code, shall apply to funds provided under this heading: *Provided further,* That the Administrator of the Federal Railroad Administration may retain up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading, and funds retained for said purposes shall remain available through September 30, 2014.

Deadline.
Strategic plan.

Deadline.
Guidance.

Waiver authority.

Compliance.

Applicability.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the National Railroad Passenger Corporation (Amtrak) to enable the Secretary of Transportation to make capital grants to Amtrak as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432), $1,300,000,000, to remain available through September 30, 2010, of which $450,000,000 shall be used for capital security grants: *Provided,* That priority for the use of non-security funds shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure, and for capital projects that expand passenger rail capacity including the rehabilitation of rolling stock: *Provided further*, That none of the funds under this heading shall be used to subsidize the operating losses of Amtrak: *Provided further*, That funds provided under this heading shall be awarded not later than 30 days after the date of enactment of this Act: *Provided further,* That the Secretary shall take measures to ensure that projects funded under this heading shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further,* That the Secretary shall certify to the House and Senate Committees on Appropriations in writing compliance with the preceding proviso: *Provided further,* That not more than 60 percent of the funds provided for non-security activities under this heading may be used for capital projects along the Northeast Corridor: *Provided further,* That of the funding provided under this heading, $5,000,000 shall be made available for the Amtrak Office of Inspector General and made available through September 30, 2013.

Deadline.

Deadline.

Certification.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

Grants.

For an additional amount for transit capital assistance grants authorized under section 5302(a)(1) of title 49, United States Code, $6,900,000,000, to remain available through September 30, 2010: *Provided,* That the Secretary of Transportation shall provide 80 percent of the funds appropriated under this heading for grants under section 5307 of title 49, United States Code, and apportion such funds in accordance with section 5336 of such title (other than subsections (i)(1) and (j)): *Provided further,* That the Secretary shall apportion 10 percent of the funds appropriated under this heading in accordance with section 5340 of such title: *Provided further,* That the Secretary shall provide 10 percent of the funds appropriated under this heading for grants under section 5311 of title 49, United States Code, and apportion such funds in accordance with such section: *Provided further,* That funds apportioned under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: *Provided further,* That 180 days following the date of such apportionment, the Secretary shall withdraw from each urbanized area or State an amount equal to 50 percent of the funds apportioned to such urbanized areas or States less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds

Deadline.

Effective date.

Effective date.

redistributed under this proviso shall be utilized promptly: *Provided further,* That 1 year following the date of such apportionment, the Secretary shall withdraw from each urbanized area or State any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: *Provided further,* That at the request of an urbanized area or State, the Secretary of Transportation may provide an extension of such 1-year period if he feels satisfied that the urbanized area or State has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further,* That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further,* That of the funds provided for section 5311 of title 49, United States Code, 2.5 percent shall be made available for section 5311(c)(1): *Provided further,* That of the funding provided under this heading, $100,000,000 shall be distributed as discretionary grants to public transit agencies for capital investments that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems: *Provided further,* That for such grants on energy-related investments, priority shall be given to projects based on the total energy savings that are projected to result from the investment, and projected energy savings as a percentage of the total energy usage of the public transit agency: *Provided further,* That applicable chapter 53 requirements shall apply to funding provided under this heading, except that the Federal share of the costs for which any grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further,* That the amount made available under this heading shall not be subject to any limitation on obligations for transit programs set forth in any Act: *Provided further,* That section 1101(b) of Public Law 109–59 shall apply to funds appropriated under this heading: *Provided further,* That the funds appropriated under this heading shall not be comingled with any prior year funds: *Provided further,* That notwithstanding any other provision of law, three-quarters of 1 percent of the funds provided for grants under section 5307 and section 5340, and one-half of 1 percent of the funds provided for grants under section 5311, shall be available for administrative expenses and program management oversight, and such funds shall be available through September 30, 2012.

Submission.

Applicability.

Applicability.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, $750,000,000, to remain available through September 30, 2010: *Provided*, That the Secretary of Transportation shall apportion funds under this heading pursuant to the formula set forth in section 5337 of title 49, United States Code: *Provided further*, That the funds appropriated under this heading shall not be commingled with any prior year funds: *Provided further*, That funds made available under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: *Provided further*, That 180 days following the date of such apportionment, the Secretary shall

Deadline.

Effective date.

withdraw from each urbanized area an amount equal to 50 percent of the funds apportioned to such urbanized area less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: *Provided further*, That 1 year following the date of such apportionment, the Secretary shall withdraw from each urbanized area any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: *Provided further*, That at the request of an urbanized area, the Secretary of Transportation may provide an extension of such 1-year period if he or she feels satisfied that the urbanized area has encountered an unworkable bidding environment or other extenuating circumstances: *Provided further*, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: *Provided further*, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012.

Effective date.

Submission.

Applicability.

Applicability.

CAPITAL INVESTMENT GRANTS

For an additional amount for "Capital Investment Grants", as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $750,000,000, to remain available through September 30, 2010: *Provided*, That such amount shall be allocated without regard to the limitation under section 5309(m)(2)(A)(i): *Provided further*, That in selecting projects to be funded, priority shall be given to projects that are currently in construction or are able to obligate funds within 150 days of enactment of this Act: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That funds appropriated under this heading shall not be commingled with any prior year funds: *Provided further*, That applicable chapter 53 requirements shall apply, except that notwithstanding any other provision of law, up to 1 percent of the funds provided under this heading shall be available for administrative expenses and program management oversight, and shall remain available through September 30, 2012.

Applicability.

Applicability.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

To make grants to qualified shipyards as authorized under section 3508 of Public Law 110–417 or section 54101 of title 46, United States Code, $100,000,000, to remain available through September 30, 2010: *Provided,* That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their distribution: *Provided further,* That the Maritime Administrator may retain and transfer to "Maritime Administration, Operations and Training" up to 2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

Deadline.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $20,000,000, to remain available through September 30, 2013: *Provided,* That the funding made available under this heading shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Transportation: *Provided further,* That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the Government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department.

Audits.
Investigations.

Fraud.

GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

SEC. 1201. (a) MAINTENANCE OF EFFORT.—Not later than 30 days after the date of enactment of this Act, for each amount that is distributed to a State or agency thereof from an appropriation in this Act for a covered program, the Governor of the State shall certify to the Secretary of Transportation that the State will maintain its effort with regard to State funding for the types of projects that are funded by the appropriation. As part of this certification, the Governor shall submit to the Secretary of Transportation a statement identifying the amount of funds the State planned to expend from State sources as of the date of enactment of this Act during the period beginning on the date of enactment of this Act through September 30, 2010, for the types of projects that are funded by the appropriation.

Deadline.
Certification.

Submission.
Time period.

(b) FAILURE TO MAINTAIN EFFORT.—

If a State is unable to maintain the level of effort certified pursuant to subsection (a), the State will be prohibited by the Secretary of Transportation from receiving additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for fiscal year 2011.

(c) PERIODIC REPORTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each grant recipient shall submit to the covered agency from which they received funding periodic reports on the use of the funds appropriated in this Act for covered programs. Such reports shall be collected and compiled by the covered agency and transmitted to Congress. Covered agencies may develop such reports on behalf of grant recipients to ensure the accuracy and consistency of such reports.

(2) CONTENTS OF REPORTS.—For amounts received under each covered program by a grant recipient under this Act, the grant recipient shall include in the periodic reports information tracking-

(A) the amount of Federal funds appropriated, allocated, obligated, and outlayed under the appropriation;

(B) the number of projects that have been put out to bid under the appropriation and the amount of Federal funds associated with such projects;

(C) the number of projects for which contracts have been awarded under the appropriation and the amount of Federal funds associated with such contracts;

(D) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts;

(E) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts;

(F) the number of direct, on-project jobs created or sustained by the Federal funds provided for projects under the appropriation and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of job-years created and the total increase in employment since the date of enactment of this Act; and

(G) for each covered program report information tracking the actual aggregate expenditures by each grant recipient from State sources for projects eligible for funding under the program during the period beginning on the date of enactment of this Act through September 30, 2010, as compared to the level of such expenditures that were planned to occur during such period as of the date of enactment of this Act.

(3) TIMING OF REPORTS.—Each grant recipient shall submit the first of the periodic reports required under this subsection not later than 90 days after the date of enactment of this Act and shall submit updated reports not later than 180 days, 1 year, 2 years, and 3 years after such date of enactment.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED AGENCY.—The term "covered agency" means the Office of the Secretary of Transportation, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Federal Transit Administration and the Maritime Administration of the Department of Transportation.

(2) COVERED PROGRAM.—The term "covered program" means funds appropriated in this Act for "Supplemental Discretionary Grants for a National Surface Transportation System"

to the Office of the Secretary of Transportation, for "Supplemental Funding for Facilities and Equipment" and "Grants-in-Aid for Airports" to the Federal Aviation Administration; for "Highway Infrastructure Investment" to the Federal Highway Administration; for "Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service" and "Capital Grants to the National Railroad Passenger Corporation" to the Federal Railroad Administration; for "Transit Capital Assistance", "Fixed Guideway Infrastructure Investment", and "Capital Investment Grants" to the Federal Transit Administration; and "Supplemental Grants for Assistance to Small Shipyards" to the Maritime Administration.

(3) GRANT RECIPIENT.—The term "grant recipient" means a State or other recipient of assistance provided under a covered program in this Act. Such term does not include a Federal department or agency.

(e) Notwithstanding any other provision of law, sections 3501–3521 of title 44, United States Code, shall not apply to the provisions of this section.

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) (the "Act"), $4,000,000,000, to remain available until September 30, 2011: *Provided,* That the Secretary of Housing and Urban Development shall distribute $3,000,000,000 of this amount by the same formula used for amounts made available in fiscal year 2008, except that the Secretary may determine not to allocate funding to public housing agencies currently designated as troubled or to public housing agencies that elect not to accept such funding: *Provided further,* That the Secretary shall obligate funds allocated by formula within 30 days of enactment of this Act: *Provided further,* That the Secretary shall make available $1,000,000,000 by competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments: *Provided further,* That the Secretary shall obligate competitive funding by September 30, 2009: *Provided further,* That public housing authorities shall give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the public housing authorities: *Provided further,* That public housing agencies shall give priority consideration to the rehabilitation of vacant rental units: *Provided further,* That public housing agencies shall prioritize capital projects that are already underway or included in the 5-year capital fund plans required by the Act (42 U.S.C. 1437c–1(a)): *Provided further,* That notwithstanding any other provision of law, (1) funding provided under this heading may not be used for operating or rental assistance activities, and (2) any restriction of funding to replacement housing uses shall be inapplicable: *Provided further,* That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this heading

Deadline.

Deadline.
Contracts.

shall serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee: *Provided further,* That notwithstanding section 9(j), public housing agencies shall obligate 100 percent of the funds within 1 year of the date on which funds become available to the agency for obligation, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the agency for obligation, and shall expend 100 percent of the funds within 3 years of such date: *Provided further,* That if a public housing agency fails to comply with the 1-year obligation requirement, the Secretary shall recapture all remaining unobligated funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: *Provided further,* That if a public housing agency fails to comply with either the 2-year or the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: *Provided further,* That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: *Provided further,* That, in addition to waivers authorized under the previous proviso, the Secretary may direct that requirements relating to the procurement of goods and services arising under state and local laws and regulations shall not apply to amounts made available under this heading: *Provided further,* That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: *Provided further,* That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Personnel Compensation and Benefits, Office of Public and Indian Housing" and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to "Administration, Operations, and Management", for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funds made available under this heading used by the Secretary for technology shall be transferred to "Working Capital Fund".

Deadlines.

Waiver authority.

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for "Native American Housing Block Grants", as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 ("NAHASDA") (25

U.S.C. 4111 et seq.), $510,000,000 to remain available until September 30, 2011: *Provided,* That $255,000,000 of the amount provided under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further,* That the Secretary shall obligate funds allocated by formula within 30 days of enactment of this Act: *Provided further,* That the amounts distributed through the formula shall be used for new construction, acquisition, rehabilitation including energy efficiency and conservation, and infrastructure development: *Provided further,* That in selecting projects to be funded, recipients shall give priority to projects for which contracts can be awarded within 180 days from the date that funds are available to the recipients: *Provided further,* that the Secretary may obligate $255,000,000 of the amount provided under this heading for competitive grants to eligible entities that apply for funds authorized under NAHASDA: *Provided further,* That the Secretary shall obligate competitive funding by September 30, 2009: *Provided further,* That in awarding competitive funds, the Secretary shall give priority to projects that will spur construction and rehabilitation and will create employment opportunities for low-income and unemployed persons: *Provided further,* That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date funds are made available to a recipient, expend at least 50 percent of such funds within 2 years of the date on which funds become available to such recipients for obligation and expend 100 percent of such funds within 3 years of such date: *Provided further,* That if a recipient fails to comply with the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds through the funding formula to recipients that are in compliance with these requirements: *Provided further,* That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds originally awarded to the recipient: *Provided further,* That notwithstanding any other provision of law, the Secretary may set aside up to 2 percent of funds made available under this paragraph for a housing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.): *Provided further,* That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: *Provided further,* That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: *Provided further,* That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Personnel Compensation and Benefits, Office of Public and Indian Housing" and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the

Deadline.

Deadline.

Deadlines.

Waiver authority.

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

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for "Community Development Fund" $1,000,000,000, to remain available until September 30, 2010 to carry out the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): *Provided*, That the amount appropriated in this paragraph shall be distributed pursuant to 42 U.S.C. 5306 to grantees that received funding in fiscal year 2008: *Provided further*, That in administering the funds appropriated in this paragraph, the Secretary of Housing and Urban Development shall establish requirements to expedite the use of the funds: *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients: *Provided further*, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is necessary to expedite or facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute.

Requirements.

Waiver authority.

For the provision of emergency assistance for the redevelopment of abandoned and foreclosed homes, as authorized under division B, title III of the Housing and Economic Recovery Act of 2008 ("the Act") (Public Law 110–289) (42 U.S.C. 5301 note), $2,000,000,000, to remain available until September 30, 2010: *Provided,* That grantees shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the grantee for obligation, and 100 percent of such funds within 3 years of such date: *Provided further,* That unless otherwise noted herein, the provisions of the Act govern the use of the additional funds made available under this heading: *Provided further,* That notwithstanding the provisions of sections 2301(b) and (c)(1) and section 2302 of the Act, funding under this paragraph shall be allocated by competitions for which eligible entities shall be States, units of general local government, and nonprofit entities or consortia of nonprofit entities, which may submit proposals in partnership with for profit entities: *Provided further,* That in selecting grantees, the Secretary of Housing and Urban Development shall ensure that the grantees are in areas with the greatest number and percentage of foreclosures and can expend funding within the period allowed under this heading: *Provided further,* That additional award criteria for such competitions shall include demonstrated grantee

Deadlines.

Award criteria.

capacity to execute projects, leveraging potential, concentration of investment to achieve neighborhood stabilization, and any additional factors determined by the Secretary of Housing and Urban Development: *Provided further,* That the Secretary may establish a minimum grant size: *Provided further,* That the Secretary shall publish criteria on which to base competition for any grants awarded under this heading not later than 75 days after the enactment of this Act and applications shall be due to HUD not later than 150 days after the enactment of this Act: *Provided further,* That the Secretary shall obligate all funding within 1 year of enactment of this Act: *Provided further,* That section 2301(d)(4) of the Act is repealed: *Provided further,* That section 2301(c)(3)(C) of the Act is amended to read "establish and operate land banks for homes and residential properties that have been foreclosed upon": *Provided further,* That funding used for section 2301(c)(3)(E) of the Act shall be available only for the redevelopment of demolished or vacant properties as housing: *Provided further,* That no amounts made available from a grant under this heading may be used to demolish any public housing (as such term is defined in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a)): *Provided further,* That a grantee may not use more than 10 percent of its grant under this heading for demolition activities under section 2301(c)(3)(C) and (D) unless the Secretary determines that such use represents an appropriate response to local market conditions: *Provided further,* That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment under division B, title III of the Housing and Economic Recovery Act of 2008, may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) because of the status of the prospective tenant as such a participant: *Provided further,* That in addition to the eligible uses in section 2301, the Secretary may also use up to 10 percent of the funds provided under this heading for grantees for the provision of capacity building of and support for local communities receiving funding under section 2301 of the Act or under this heading: *Provided further,* That in administering funds appropriated or otherwise made available under this section, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of funds except for requirements related to fair housing, nondiscrimination, labor standards and the environment, upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: *Provided further*, That in the case of any acquisition of a foreclosed upon dwelling or residential real property acquired after the date of enactment with any amounts made available under this heading or under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), the initial successor in interest in such property pursuant to the foreclosure shall assume such interest subject to: (1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure: (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on

Publication. Criteria. Deadlines.

Deadline.

42 USC 5301 note.

42 USC 5301 note.

Waiver authority.

Foreclosure. Notice. 42 USC 5301 note.

the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: *Provided further*, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if: (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property: *Provided further*, That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: *Provided further*, That in the case of any qualified foreclosed housing for which funds made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: *Provided further*, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: *Provided further*, That if a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosures, due to (1) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C.1437f) or (2) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(i) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (ii) for the family's reasonable moving costs, including security deposit costs: *Provided further,* That this paragraph shall not preempt any Federal, State or local law that provides more protections for tenants: *Provided further,* That of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel,

Contracts.

42 USC 5301 note.

enforcement, research and evaluation activities: *Provided further*, That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further*, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Personnel Compensation and Benefits, Community Planning and Development" and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further*, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to "Administration, Operations, and Management" for non-personnel expenses of the Department of Housing and Urban Development: *Provided further*, That any funds made available under this heading used by the Secretary for technology shall be transferred to "Working Capital Fund".

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for capital investments in low-income housing tax credit projects, $2,250,000,000, to remain available until September 30, 2011: *Provided,* That such funds shall be made available to State housing credit agencies, as defined in section 42(h) of the Internal Revenue Code of 1986, and shall be apportioned among the States based on the percentage of HOME funds apportioned to each State and the participating jurisdictions therein for Fiscal Year 2008: *Provided further,* That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under section 42(h) of the Internal Revenue Code of 1986: *Provided further,* That housing credit agencies in each State shall commit not less than 75 percent of such funds within one year of the date of enactment of this Act, and shall demonstrate that the project owners shall have expended 75 percent of the funds made available under this heading within two years of the date of enactment of this Act, and shall have expended 100 percent of the funds within 3 years of the date of enactment of this Act: *Provided further,* That failure by an owner to expend funds within the parameters required within the previous proviso shall result in a redistribution of these funds by a housing credit agency to a more deserving project in such State, except any funds not expended after 3 years from enactment shall be redistributed by the Secretary to other States that have fully utilized the funds made available to them: *Provided further,* That projects awarded low income housing tax credits under section 42(h) of the IRC of 1986 in fiscal years 2007, 2008, or 2009 shall be eligible for funding under this heading: *Provided further,* That housing credit agencies shall give priority to projects that are expected to be completed within 3 years of enactment: *Provided further,* That any assistance provided to an eligible low income housing tax credit project under this heading shall be made in the same manner and be subject to the same limitations (including rent, income, and use restrictions, in lieu of corresponding limitations under the HOME program) as required by the state housing

Deadlines.

credit agency with respect to an award of low income housing credits under section 42 of the IRC of 1986: *Provided further,* That the housing credit agency shall perform asset management functions, or shall contract for the performance of such services, in either case, at the owner's expense, to ensure compliance with section 42 of the IRC of 1986, and the long term viability of buildings funded by assistance under this heading: *Provided further,* That the term eligible basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: *Provided further,* That the Secretary shall be given access upon reasonable notice to a State housing credit agency to information related to the award of Federal funds from such housing credit agency pursuant to this heading and shall establish an Internet site that shall identify all projects selected for an award, including the amount of the award and such site shall provide linkage to the housing credit agency allocation plan which describes the process that was used to make the award decision: *Provided further,* That in administering funds under this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, non-discrimination, labor standards and the environment, upon a finding that such waiver is required to expedite the use of such funds: *Provided further,* That for purposes of environmental compliance review, funds under this heading that are made available to State housing credit agencies for distribution to projects awarded low income housing tax credits shall be treated as funds under the HOME program and shall be subject to Section 288 of the HOME Investment Partnership Act.

Contracts.

Web site.

Waiver authority.

HOMELESSNESS PREVENTION FUND

For homelessness prevention and rapid re-housing activities, $1,500,000,000, to remain available until September 30, 2011: *Provided,* That funds provided under this heading shall be used for the provision of short-term or medium-term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, moving cost assistance, and case management; or other appropriate activities for homelessness prevention and rapid re-housing of persons who have become homeless: *Provided further,* That grantees receiving such assistance shall collect data on the use of the funds awarded and persons served with this assistance in the HUD Homeless Management Information System ("HMIS") or other comparable database: *Provided further,* That grantees may use up to 5 percent of any grant for administrative costs: *Provided further,* That funding made available under this heading shall be allocated to eligible grantees (as defined and designated in sections 411 and 412 of subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, (the "Act")) pursuant to the formula authorized by section 413 of the Act: *Provided further,* That the Secretary may establish a minimum grant size: *Provided further,* That grantees shall expend at least 60 percent

Deadlines.

of funds within 2 years of the date that funds became available to them for obligation, and 100 percent of funds within 3 years of such date, and the Secretary may recapture unexpended funds in violation of the 2-year expenditure requirement and reallocate such funds to grantees in compliance with that requirement: *Provided further,* That the Secretary may waive statutory or regulatory provisions (except provisions for fair housing, nondiscrimination, labor standards, and the environment) necessary to facilitate the timely expenditure of funds: *Provided further,* That the Secretary shall publish a notice to establish such requirements as may be necessary to carry out the provisions of this section within 30 days of enactment of this Act and that this notice shall take effect upon issuance: *Provided further,* That of the funds provided under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That funds set aside under the previous proviso shall remain available until September 30, 2012: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Community Planning and Development Personnel Compensation and Benefits" and shall retain the terms and conditions of this account including reprogramming provisions except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to "Administration, Operations, and Management" for non-personnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funding made available under this heading used by the Secretary for technology shall be transferred to "Working Capital Fund."

Waiver authority.

Publication.
Notice.
Deadline.
Effective date.

HOUSING PROGRAMS

ASSISTED HOUSING STABILITY AND ENERGY AND GREEN RETROFIT INVESTMENTS

For assistance to owners of properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 17012), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), or section 8 of the United States Housing Act of 1937 as amended (42 U.S.C. 1437f), $2,250,000,000, of which $2,000,000,000 shall be for an additional amount for paragraph (1) under the heading "Project-Based Rental Assistance" in Public Law 110–161 for payments to owners for 12-month periods, and of which $250,000,000 shall be for grants or loans for energy retrofit and green investments in such assisted housing: *Provided,* That projects funded with grants or loans provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further,* That such grants or loans shall be provided through the policies, procedures, contracts, and transactional infrastructure of the authorized programs administered by the Office of Affordable Housing Preservation of the Department of Housing and Urban Development, on such terms and conditions as the Secretary of Housing and Urban Development deems appropriate to ensure the

maintenance and preservation of the property, the continued operation and maintenance of energy efficiency technologies, and the timely expenditure of funds: *Provided further,* That the Secretary may provide incentives to owners to undertake energy or green retrofits as a part of such grant or loan terms, including, but not limited to, fees to cover investment oversight and implementation by said owner, or to encourage job creation for low-income or very low-income individuals: *Provided further,* That the Secretary may share in a portion of future property utility savings resulting from improvements made by grants or loans made available under this heading: *Provided further,* That the grants or loans shall include a financial assessment and physical inspection of such property: *Provided further,* That eligible owners must have at least a satisfactory management review rating, be in substantial compliance with applicable performance standards and legal requirements, and commit to an additional period of affordability determined by the Secretary, but of not fewer than 15 years: *Provided further,* That the Secretary shall undertake appropriate underwriting and oversight with respect to grant and loan transactions and may set aside up to 5 percent of the funds made available under this heading for grants or loans for such purpose: *Provided further,* That the Secretary shall take steps necessary to ensure that owners receiving funding for energy and green retrofit investments under this heading shall expend such funding within 2 years of the date they received the funding: *Provided further,* That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: *Provided further,* That of the funds provided under this heading for grants and loans, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: *Provided further,* That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further,* That funding made available under this heading and used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Housing Personnel Compensation and Benefits" and shall retain the terms and conditions of this account including reprogramming provisos except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further,* That any funding made available under this heading used by the Secretary for training and other administrative expenses shall be transferred to "Administration, Operations and Management" for nonpersonnel expenses of the Department of Housing and Urban Development: *Provided further,* That any funding made available under this heading used by the Secretary for technology shall be transferred to "Working Capital Fund."

Waiver authority.

OFFICE OF LEAD HAZARD CONTROL AND HEALTHY HOMES

For an additional amount for the "Lead Hazard Reduction Program", as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and by sections 501

and 502 of the Housing and Urban Development Act of 1974, $100,000,000, to remain available until September 30, 2011: *Provided,* That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(e) of the Multifamily Housing Property Disposition Reform Act of 1994: *Provided further,* That funds shall be awarded first to applicants which had applied under the Lead Hazard Reduction Program Notices of Funding Availability for fiscal year 2008, and were found in the application review to be qualified for award, but were not awarded because of funding limitations, and that any funds which remain after reservation of funds for such grants shall be added to the amount of funds to be awarded under the Lead Hazard Reduction Program Notices of Funding Availability for fiscal year 2009: *Provided further,* That each applicant for the Lead Hazard Program Notices of Funding Availability for fiscal year 2009 shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds: *Provided further,* That recipients of funds under this heading shall expend at least 50 percent of such funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years of such date: *Provided further,* That if a recipient fails to comply with the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are in compliance with those requirements: *Provided further,* That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the recipient: *Provided further,* That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: *Provided further,* That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: *Provided further,* That funds set aside in the previous proviso shall remain available until September 30, 2012: *Provided further,* That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to "Personnel Compensation and Benefits, Office of Lead Hazard Control and Healthy Homes" and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: *Provided further,* That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred

Plans.
Strategy.

Deadlines.

Waiver authority.

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

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $15,000,000, to remain available until September 30, 2013: *Provided,* That the Inspector General shall have independent authority over all personnel issues within this office.

GENERAL PROVISIONS—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 1202. FHA LOAN LIMITS FOR 2009. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), notwithstanding any other provision of law, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

SEC. 1203. GSE CONFORMING LOAN LIMITS FOR 2009. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2009, if the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C.

1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)), respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during 2009, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

SEC. 1204. FHA REVERSE MORTGAGE LOAN LIMITS FOR 2009. For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150 percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

Health Information Technology for Economic and Clinical Health Act.

42 USC 201 note.

SEC. 13001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title (and title IV of division B) may be cited as the "Health Information Technology for Economic and Clinical Health Act" or the "HITECH Act".

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

Sec. 13001. Short title; table of contents of title.

Subtitle A—Promotion of Health Information Technology

PART 1—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

Sec. 13101. ONCHIT; standards development and adoption.

"TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

"Sec. 3000. Definitions.

"Subtitle A—Promotion of Health Information Technology

"Sec. 3001. Office of the National Coordinator for Health Information Technology.
"Sec. 3002. HIT Policy Committee.
"Sec. 3003. HIT Standards Committee.
"Sec. 3004. Process for adoption of endorsed recommendations; adoption of initial set of standards, implementation specifications, and certification criteria.
"Sec. 3005. Application and use of adopted standards and implementation specifications by Federal agencies.
"Sec. 3006. Voluntary application and use of adopted standards and implementation specifications by private entities.
"Sec. 3007. Federal health information technology.
"Sec. 3008. Transitions.
"Sec. 3009. Miscellaneous provisions.
Sec. 13102. Technical amendment.

PART 2—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

Sec. 13111. Coordination of Federal activities with adopted standards and implementation specifications.
Sec. 13112. Application to private entities.
Sec. 13113. Study and reports.

Subtitle B—Testing of Health Information Technology

Sec. 13201. National Institute for Standards and Technology testing.
Sec. 13202. Research and development programs.

Subtitle C—Grants and Loans Funding

Sec. 13301. Grant, loan, and demonstration programs.

"Subtitle B—Incentives for the Use of Health Information Technology

"Sec. 3011. Immediate funding to strengthen the health information technology infrastructure.
"Sec. 3012. Health information technology implementation assistance.
"Sec. 3013. State grants to promote health information technology.
"Sec. 3014. Competitive grants to States and Indian tribes for the development of loan programs to facilitate the widespread adoption of certified EHR technology.
"Sec. 3015. Demonstration program to integrate information technology into clinical education.
"Sec. 3016. Information technology professionals in health care.
"Sec. 3017. General grant and loan provisions.
"Sec. 3018. Authorization for appropriations.

Subtitle D—Privacy

Sec. 13400. Definitions.

PART 1—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

Sec. 13401. Application of security provisions and penalties to business associates of covered entities; annual guidance on security provisions.
Sec. 13402. Notification in the case of breach.
Sec. 13403. Education on health information privacy.
Sec. 13404. Application of privacy provisions and penalties to business associates of covered entities.
Sec. 13405. Restrictions on certain disclosures and sales of health information; accounting of certain protected health information disclosures; access to certain information in electronic format.
Sec. 13406. Conditions on certain contacts as part of health care operations.
Sec. 13407. Temporary breach notification requirement for vendors of personal health records and other non-HIPAA covered entities.
Sec. 13408. Business associate contracts required for certain entities.
Sec. 13409. Clarification of application of wrongful disclosures criminal penalties.
Sec. 13410. Improved enforcement.
Sec. 13411. Audits.

PART 2—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

Sec. 13421. Relationship to other laws.

Sec. 13422. Regulatory references.
Sec. 13423. Effective date.
Sec. 13424. Studies, reports, guidance.

Subtitle A—Promotion of Health Information Technology

PART 1—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

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

"TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

42 USC 300jj.

"SEC. 3000. DEFINITIONS.

"In this title:

"(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

"(2) ENTERPRISE INTEGRATION.—The term 'enterprise integration' means the electronic linkage of health care providers, health plans, the government, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infrastructure in accordance with applicable law, and such term includes related application protocols and other related standards.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, health care clinic, community mental health center (as defined in section 1913(b)(1)), renal dialysis facility, blood center, ambulatory surgical center described in section 1833(i) of the Social Security Act, emergency medical services provider, Federally qualified health center, group practice, a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, an ambulatory surgical center described in section 1833(i) of the Social Security Act, a therapist (as defined in section 1848(k)(3)(B)(iii) of the Social Security Act), and any other category of health care facility, entity,

practitioner, or clinician determined appropriate by the Secretary.

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

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

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

"(7) HIT POLICY COMMITTEE.—The term 'HIT Policy Committee' means such Committee established under section 3002(a).

"(8) HIT STANDARDS COMMITTEE.—The term 'HIT Standards Committee' means such Committee established under section 3003(a).

"(9) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171(6) of the Social Security Act.

"(10) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353(a).

"(11) NATIONAL COORDINATOR.—The term 'National Coordinator' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

"(12) PHARMACIST.—The term 'pharmacist' has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

"(13) QUALIFIED ELECTRONIC HEALTH RECORD.—The term 'qualified electronic health record' means an electronic record of health-related information on an individual that—

"(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

"(B) has the capacity—

"(i) to provide clinical decision support;

"(ii) to support physician order entry;

"(iii) to capture and query information relevant to health care quality; and

"(iv) to exchange electronic health information with, and integrate such information from other sources.

"(14) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"Subtitle A—Promotion of Health Information Technology

42 USC 300jj–11.

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

"(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of the National Coordinator for Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary and shall report directly to the Secretary.

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

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

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

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

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

"(5) ensures the inclusion of meaningful public input in such development of such infrastructure;

"(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information;

"(7) improves public health activities and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;

"(8) facilitates health and clinical research and health care quality;

"(9) promotes early detection, prevention, and management of chronic diseases;

"(10) promotes a more effective marketplace, greater competition, greater systems analysis, increased consumer choice, and improved outcomes in health care services; and

"(11) improves efforts to reduce health disparities.

"(c) DUTIES OF THE NATIONAL COORDINATOR.—

"(1) STANDARDS.—The National Coordinator shall—

"(A) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004;

Reports.
Deadline.

"(B) make such determinations under subparagraph (A), and report to the Secretary such determinations, not later than 45 days after the date the recommendation is received by the Coordinator; and

"(C) review Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published under paragraph (3).

"(2) HIT POLICY COORDINATION.—

"(A) IN GENERAL.—The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

"(B) HIT POLICY AND STANDARDS COMMITTEES.—The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

"(3) STRATEGIC PLAN.—

"(A) IN GENERAL.—The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific objectives, milestones, and metrics with respect to the following:

"(i) The electronic exchange and use of health information and the enterprise integration of such information.

"(ii) The utilization of an electronic health record for each person in the United States by 2014.

"(iii) The incorporation of privacy and security protections for the electronic exchange of an individual's individually identifiable health information.

"(iv) Ensuring security methods to ensure appropriate authorization and electronic authentication of health information and specifying technologies or methodologies for rendering health information unusable, unreadable, or indecipherable.

"(v) Specifying a framework for coordination and flow of recommendations and policies under this subtitle among the Secretary, the National Coordinator, the HIT Policy Committee, the HIT Standards Committee, and other health information exchanges and other relevant entities.

"(vi) Methods to foster the public understanding of health information technology.

"(vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, increasing prevention and coordination with community resources, and improving the continuity of care among health care settings.

"(viii) Specific plans for ensuring that populations with unique needs, such as children, are appropriately

addressed in the technology design, as appropriate, which may include technology that automates enrollment and retention for eligible individuals.

"(B) COLLABORATION.—The strategic plan shall be updated through collaboration of public and private entities.

"(C) MEASURABLE OUTCOME GOALS.—The strategic plan update shall include measurable outcome goals.

"(D) PUBLICATION.—The National Coordinator shall republish the strategic plan, including all updates.

"(4) WEBSITE.—The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall keep or recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 13201(b) of the Health Information Technology for Economic and Clinical Health Act.

"(B) CERTIFICATION CRITERIA DESCRIBED.—In this title, the term 'certification criteria' means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.

"(6) REPORTS AND PUBLICATIONS.—

"(A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED.—Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

"(B) IMPLEMENTATION REPORT.—The National Coordinator shall prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology, including information on whether the technologies and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers.

"(C) ASSESSMENT OF IMPACT OF HIT ON COMMUNITIES WITH HEALTH DISPARITIES AND UNINSURED, UNDERINSURED, AND MEDICALLY UNDERSERVED AREAS.—The National Coordinator shall assess and publish the impact of health

information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved individuals (including urban and rural areas) and identify practices to increase the adoption of such technology by health care providers in such communities, and the use of health information technology to reduce and better manage chronic diseases.

"(D) EVALUATION OF BENEFITS AND COSTS OF THE ELECTRONIC USE AND EXCHANGE OF HEALTH INFORMATION.—The National Coordinator shall evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue.

"(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including—

"(i) the required level of Federal funding;

"(ii) expectations for regional, State, and private investment;

"(iii) the expected contributions by volunteers to activities for the utilization of such records; and

"(iv) the resources needed to establish a health information technology workforce sufficient to support this effort (including education programs in medical informatics and health information management).

"(7) ASSISTANCE.—The National Coordinator may provide financial assistance to consumer advocacy groups and not-for-profit entities that work in the public interest for purposes of defraying the cost to such groups and entities to participate under, whether in whole or in part, the National Technology Transfer Act of 1995 (15 U.S.C. 272 note).

"(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall establish a governance mechanism for the nationwide health information network. Establishment.

"(d) DETAIL OF FEDERAL EMPLOYEES.—

"(1) IN GENERAL.—Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

"(2) EFFECT OF DETAIL.—Any detail of personnel under paragraph (1) shall—

"(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

"(B) be in addition to any other staff of the Department employed by the National Coordinator.

"(3) ACCEPTANCE OF DETAILEES.—Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

"(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF THE NATIONAL COORDINATOR.—Not later than 12 months after the date of the enactment of this title, the Secretary shall appoint a Chief Privacy Officer of the Office of the National Coordinator, whose duty it Deadline.

shall be to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other Federal agencies (and similar privacy officers in such agencies), with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

42 USC 300jj–12.

"SEC. 3002. HIT POLICY COMMITTEE.

"(a) ESTABLISHMENT.—There is established a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementation of the strategic plan described in section 3001(c)(3).

"(b) DUTIES.—

"(1) RECOMMENDATIONS ON HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.—The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Committee shall update such recommendations and make new recommendations as appropriate.

Recommendations.

"(2) SPECIFIC AREAS OF STANDARD DEVELOPMENT.—

"(A) IN GENERAL.—The HIT Policy Committee shall recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information for purposes of adoption under section 3004 and shall recommend an order of priority for the development, harmonization, and recognition of such standards, specifications, and certification criteria among the areas so recommended. Such standards and implementation specifications shall include named standards, architectures, and software schemes for the authentication and security of individually identifiable health information and other information as needed to ensure the reproducible development of common solutions across disparate entities.

"(B) AREAS REQUIRED FOR CONSIDERATION.—For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas:

"(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law, and for the use and disclosure of limited data sets of such information.

"(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.

"(iii) The utilization of a certified electronic health record for each person in the United States by 2014.

"(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

"(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, by reducing health disparities, by reducing chronic disease, and by advancing research and education.

"(vi) Technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in the nationwide health information network or physically transported outside of the secured, physical perimeter of a health care provider, health plan, or health care clearinghouse.

"(vii) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and gender information.

"(viii) Technologies that address the needs of children and other vulnerable populations.

"(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

"(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

"(I) the collection of quality data and public reporting;

"(II) biosurveillance and public health;

"(III) medical and clinical research; and

"(IV) drug safety.

"(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

"(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

"(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

"(v) Technologies that help reduce medical errors.

"(vi) Technologies that facilitate the continuity of care among health settings.

"(vii) Technologies that meet the needs of diverse populations.

"(viii) Methods to facilitate secure access by an individual to such individual's protected health information.

"(ix) Methods, guidelines, and safeguards to facilitate secure access to patient information by a family

member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia.

"(x) Any other technology that the HIT Policy Committee finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

"(3) FORUM.—The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

"(4) CONSISTENCY WITH EVALUATION CONDUCTED UNDER MIPPA.—

"(A) REQUIREMENT FOR CONSISTENCY.—The HIT Policy Committee shall ensure that recommendations made under paragraph (2)(B)(vi) are consistent with the evaluation conducted under section 1809(a) of the Social Security Act.

"(B) SCOPE.—Nothing in subparagraph (A) shall be construed to limit the recommendations under paragraph (2)(B)(vi) to the elements described in section 1809(a)(3) of the Social Security Act.

Applicability.

"(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.

"(c) MEMBERSHIP AND OPERATIONS.—

"(1) IN GENERAL.—The National Coordinator shall take a leading position in the establishment and operations of the HIT Policy Committee.

"(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

"(A) 3 members shall be appointed by the Secretary, 1 of whom shall be appointed to represent the Department of Health and Human Services and 1 of whom shall be a public health official.

"(B) 1 member shall be appointed by the majority leader of the Senate.

"(C) 1 member shall be appointed by the minority leader of the Senate.

"(D) 1 member shall be appointed by the Speaker of the House of Representatives.

"(E) 1 member shall be appointed by the minority leader of the House of Representatives.

President.

"(F) Such other members as shall be appointed by the President as representatives of other relevant Federal agencies.

"(G) 13 members shall be appointed by the Comptroller General of the United States of whom—

"(i) 3 members shall advocates for patients or consumers;

"(ii) 2 members shall represent health care providers, one of which shall be a physician;

"(iii) 1 member shall be from a labor organization representing health care workers;

"(iv) 1 member shall have expertise in health information privacy and security;

"(v) 1 member shall have expertise in improving the health of vulnerable populations;

"(vi) 1 member shall be from the research community;

"(vii) 1 member shall represent health plans or other third-party payers;

"(viii) 1 member shall represent information technology vendors;

"(ix) 1 member shall represent purchasers or employers; and

"(x) 1 member shall have expertise in health care quality measurement and reporting.

"(3) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

"(4) TERMS.—

"(A) IN GENERAL.—The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

"(5) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of policies for the electronic exchange and use of health information, including in the areas of health information privacy and security.

"(6) QUORUM.—A majority of the member of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

"(7) FAILURE OF INITIAL APPOINTMENT.—If, on the date that is 45 days after the date of enactment of this title, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint, the Secretary is authorized to appoint such members. Deadline.

"(8) CONSIDERATION.—The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

"(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

"(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Federal Register, publication. Web posting.

Technology of all policy recommendations made by the HIT Policy Committee under this section.

42 USC 300jj–13.

"SEC. 3003. HIT STANDARDS COMMITTEE.

"(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

"(b) DUTIES.—

"(1) STANDARDS DEVELOPMENT.—

Recommendations.

"(A) IN GENERAL.—The HIT Standards Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection (a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 3004(a)(2)(B). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

"(B) HARMONIZATION.—The HIT Standards Committee recognize harmonized or updated standards from an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

"(C) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 13201(a) of the Health Information Technology for Economic and Clinical Health Act.

"(D) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

"(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

Deadline.

"(3) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under

section 3002. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

Deadline.
Federal Register, publication.

"(4) PUBLIC INPUT.—The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

"(5) CONSIDERATION.—The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

"(c) MEMBERSHIP AND OPERATIONS.—

"(1) IN GENERAL.—The National Coordinator shall take a leading position in the establishment and operations of the HIT Standards Committee.

"(2) MEMBERSHIP.—The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

"(3) PARTICIPATION.—The members of the HIT Standards Committee appointed under this subsection shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of such Committee.

"(4) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of standards for the electronic exchange and use of health information, including in the areas of health information privacy and security.

"(5) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

"(6) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

"(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

"(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

Federal Register, publication.
Web posting.

42 USC 300jj–14.

"SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS; ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.

"(a) PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS.—

Deadline.

"(1) REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

"(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—If the Secretary determines—

"(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation under section 553 of title 5, United States Code, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

Notification.

"(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

Federal Register, publication.

"(3) PUBLICATION.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

"(b) ADOPTION OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

Deadline.

"(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall, through the rulemaking process consistent with subsection (a)(2)(A), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B). The rulemaking for the initial set of standards, implementation specifications, and certification criteria may be issued on an interim, final basis.

"(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

"(3) SUBSEQUENT STANDARDS ACTIVITY.—The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 3003(b)(2).

"SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES. 42 USC 300jj–15.

"For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 13111 of the Health Information Technology for Economic and Clinical Health Act.

"SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES. 42 USC 300jj–16.

"(a) IN GENERAL.—Except as provided under section 13112 of the HITECH Act, nothing in such Act or in the amendments made by such Act shall be construed—

"(1) to require a private entity to adopt or comply with a standard or implementation specification adopted under section 3004; or

"(2) to provide a Federal agency authority, other than the authority such agency may have under other provisions of law, to require a private entity to comply with such a standard or implementation specification.

"(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

"SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY. 42 USC 300jj–17.

"(a) IN GENERAL.—The National Coordinator shall support the development and routine updating of qualified electronic health record technology (as defined in section 3000) consistent with subsections (b) and (c) and make available such qualified electronic health record technology unless the Secretary determines through an assessment that the needs and demands of providers are being substantially and adequately met through the marketplace.

"(b) CERTIFICATION.—In making such electronic health record technology publicly available, the National Coordinator shall ensure that the qualified electronic health record technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

"(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

"SEC. 3008. TRANSITIONS. 42 USC 300jj–18.

"(a) ONCHIT.—To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order No. 13335 or the Office of such National Coordinator on the date before the

date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

"(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 so as to allow the Secretary to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

"(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

42 USC 300jj–19.

"SEC. 3009. MISCELLANEOUS PROVISIONS.

"(a) RELATION TO HIPAA PRIVACY AND SECURITY LAW.—

"(1) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

"(A) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

"(B) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.

"(2) DEFINITION.—For purposes of this section, the term 'HIPAA privacy and security law' means—

"(A) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of title IV of the Health Information Technology for Economic and Clinical Health Act; and

"(B) regulations under such provisions.

"(b) FLEXIBILITY.—In administering the provisions of this title, the Secretary shall have flexibility in applying the definition of health care provider under section 3000(3), including the authority to omit certain entities listed in such definition when applying such definition under this title, where appropriate.".

SEC. 13102. TECHNICAL AMENDMENT.

Section 1171(5) of the Social Security Act (42 U.S.C. 1320d) is amended by striking "or C" and inserting "C, or D".

PART 2—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

42 USC 17901.

SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined by the Director of the Office of Management and Budget, in consultation with the Secretary

of Health and Human Services) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 13101.

(b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation specification adopted under section 3004 of the Public Health Service Act, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) APPLICATION OF DEFINITIONS.—The definitions contained in section 3000 of the Public Health Service Act, as added by section 13101, shall apply for purposes of this part.

SEC. 13112. APPLICATION TO PRIVATE ENTITIES. 42 USC 17902.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 13101.

SEC. 13113. STUDY AND REPORTS. 42 USC 17903.

(a) REPORT ON ADOPTION OF NATIONWIDE SYSTEM.—Not later than 2 years after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that—

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

(2) describes barriers to the adoption of such a nationwide system; and

(3) contains recommendations to achieve full implementation of such a nationwide system.

(b) REIMBURSEMENT INCENTIVE STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) AGING SERVICES TECHNOLOGY STUDY AND REPORT.—

Contracts.

(1) IN GENERAL.—The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) MATTERS TO BE STUDIED.—The study under paragraph (1) shall include—

(A) an evaluation of—

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection:

(A) AGING SERVICES TECHNOLOGY.—The term "aging services technology" means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) SENIOR.—The term "senior" has such meaning as specified by the Secretary.

Subtitle B—Testing of Health Information Technology

42 USC 17911.

SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) VOLUNTARY TESTING PROGRAM.—In coordination with the HIT Standards Committee established under section 3003 of the

Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS. 42 USC 17912.

(a) HEALTH CARE INFORMATION ENTERPRISE INTEGRATION RESEARCH CENTERS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration. Establishment.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis. Grants.

(3) PURPOSE.—The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS.—Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) NATIONAL INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) shall include Federal research and development programs related to health information technology.

Subtitle C—Grants and Loans Funding

SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following new subtitle:

"Subtitle B—Incentives for the Use of Health Information Technology

42 USC 300jj–31.

"SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

"(a) IN GENERAL.—The Secretary shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 3001. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

"(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

"(2) Development and adoption of appropriate certified electronic health records for categories of health care providers not eligible for support under title XVIII or XIX of the Social Security Act for the adoption of such records.

"(3) Training on and dissemination of information on best practices to integrate health information technology, including

electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012(b), including community health centers receiving assistance under section 330, covered entities under section 340B, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

"(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

"(5) Promotion of the interoperability of clinical data repositories or registries.

"(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

"(7) Improvement and expansion of the use of health information technology by public health departments.

"(b) COORDINATION.—The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

"(c) ADDITIONAL USE OF FUNDS.—In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out health information technology activities that are provided for under laws in effect on the date of the enactment of this title.

"(d) STANDARDS FOR ACQUISITION OF HEALTH INFORMATION TECHNOLOGY.—To the greatest extent practicable, the Secretary shall ensure that where funds are expended under this section for the acquisition of health information technology, such funds shall be used to acquire health information technology that meets applicable standards adopted under section 3004. Where it is not practicable to expend funds on health information technology that meets such applicable standards, the Secretary shall ensure that such health information technology meets applicable standards otherwise adopted by the Secretary.

"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE. 42 USC 300jj–32.

"(a) HEALTH INFORMATION TECHNOLOGY EXTENSION PROGRAM.—To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services. The National Coordinator shall consult with other Federal agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program. Consultation.

"(b) HEALTH INFORMATION TECHNOLOGY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall create a Health Information Technology Research Center (in this section referred to as the 'Center') to provide technical assistance and develop or recognize best practices to support and accelerate Establishment.

efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004.

"(2) INPUT.—The Center shall incorporate input from—

"(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

"(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

"(C) others as appropriate.

"(3) PURPOSES.—The purposes of the Center are to—

"(A) provide a forum for the exchange of knowledge and experience;

"(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

"(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of health information technology that allows for the electronic exchange and use of information including through the regional centers described in subsection (c);

"(D) provide technical assistance for the establishment and evaluation of regional and local health information networks to facilitate the electronic exchange of information across health care settings and improve the quality of health care;

"(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

"(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

"(c) HEALTH INFORMATION TECHNOLOGY REGIONAL EXTENSION CENTERS.—

"(1) IN GENERAL.—The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as 'regional centers') to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001.

"(2) AFFILIATION.—Regional centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

"(3) OBJECTIVE.—The objective of the regional centers is to enhance and promote the adoption of health information technology through—

"(A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to healthcare providers nationwide;

"(B) broad participation of individuals from industry, universities, and State governments;

"(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

"(D) participation, to the extent practicable, in health information exchanges;

"(E) utilization, when appropriate, of the expertise and capability that exists in Federal agencies other than the Department; and

"(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

"(4) REGIONAL ASSISTANCE.—Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

"(A) Public or not-for-profit hospitals or critical access hospitals.

"(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

"(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

"(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

"(5) FINANCIAL SUPPORT.—The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

"(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this title, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

Federal Register, publication. Deadline.

"(A) A detailed explanation of the program and the programs goals.

Procedures.
Criteria.

"(B) Procedures to be followed by the applicants.

"(C) Criteria for determining qualified applicants.

"(D) Maximum support levels expected to be available to centers under the program.

"(7) APPLICATION REVIEW.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

"(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

"(B) the types of service to be provided to health care providers;

"(C) geographical diversity and extent of service area; and

"(D) the percentage of funding and amount of in-kind commitment from other sources.

"(8) BIENNIAL EVALUATION.—Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

"(9) CONTINUING SUPPORT.—After the second year of assistance under this subsection, a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

42 USC 300jj–33.

"SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

"(a) IN GENERAL.—The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

"(b) PLANNING GRANTS.—The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (f)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (d).

"(c) IMPLEMENTATION GRANTS.—The Secretary may award a grant to a State or qualified State designated entity that—

"(1) has submitted, and the Secretary has approved, a plan described in subsection (e) (regardless of whether such plan was prepared using amounts awarded under subsection (b); and

"(2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

"(d) USE OF FUNDS.—Amounts received under a grant under subsection (c) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include—

"(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

"(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

"(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

"(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

"(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

"(6) assisting patients in utilizing health information technology;

"(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and valuable;

"(8) supporting public health agencies' authorized use of and access to electronic health information;

"(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

"(10) such other activities as the Secretary may specify.

"(e) PLAN.—

"(1) IN GENERAL.—A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

"(2) REQUIRED ELEMENTS.—A plan described in paragraph (1) shall—

"(A) be pursued in the public interest;

"(B) be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001;

"(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

"(D) contain such elements as the Secretary may require.

"(f) QUALIFIED STATE-DESIGNATED ENTITY.—For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall—

"(1) be designated by the State as eligible to receive awards under this section;

"(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

"(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

"(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

"(5) conform to such other requirements as the Secretary may establish.

"(g) REQUIRED CONSULTATION.—In carrying out activities described in subsections (b) and (c), a State or qualified State-designated entity shall consult with and consider the recommendations of—

"(1) health care providers (including providers that provide services to low income and underserved populations);

"(2) health plans;

"(3) patient or consumer organizations that represent the population to be served;

"(4) health information technology vendors;

"(5) health care purchasers and employers;

"(6) public health agencies;

"(7) health professions schools, universities and colleges;

"(8) clinical researchers;

"(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

"(10) such other entities, as may be determined appropriate by the Secretary.

Deadline.
Evaluation.

"(h) CONTINUOUS IMPROVEMENT.—The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

"(i) REQUIRED MATCH.—

"(1) IN GENERAL.—For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under this section to a State unless the State agrees to make available non-Federal contributions (which may include in-kind contributions) toward the costs of a grant awarded under subsection (c) in an amount equal to—

"(A) for fiscal year 2011, not less than $1 for each $10 of Federal funds provided under the grant;

"(B) for fiscal year 2012, not less than $1 for each $7 of Federal funds provided under the grant; and

"(C) for fiscal year 2013 and each subsequent fiscal year, not less than $1 for each $3 of Federal funds provided under the grant.

"(2) AUTHORITY TO REQUIRE STATE MATCH FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.

"SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

42 USC 300jj–34.

"(a) IN GENERAL.—The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

"(b) ELIGIBLE ENTITY DEFINED.—For purposes of this subsection, the term 'eligible entity' means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that—

"(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

"(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

"(3) provides assurances to the National Coordinator that the entity will establish a Loan Fund in accordance with subsection (c);

"(4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to—

"(A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to—

Reports. Deadline.

"(i) the Administrator of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act; or

"(ii) the Secretary in the case of other entities;

"(B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR technology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 3004) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination; and

"(C) comply with such other requirements as the entity or the Secretary may require;

"(D) include a plan on how health care providers involved intend to maintain and support the certified EHR technology over time;

"(E) include a plan on how the health care providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian Tribe, respectively, may require; and

"(5) agrees to provide matching funds in accordance with subsection (h).

"(c) ESTABLISHMENT OF FUND.—For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a 'Loan Fund') and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

"(d) STRATEGIC PLAN.—

"(1) IN GENERAL.—For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

"(2) CONTENTS.—A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

"(A) A list of the projects to be assisted through the Loan Fund during such year.

"(B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.

"(C) A description of the financial status of the Loan Fund as of the date of submission of the plan.

"(D) The short-term and long-term goals of the Loan Fund.

"(e) USE OF FUNDS.—Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (c). Loans under this section may be used by a health care provider to—

"(1) facilitate the purchase of certified EHR technology;

"(2) enhance the utilization of certified EHR technology (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);

"(3) train personnel in the use of such technology; or

"(4) improve the secure electronic exchange of health information.

"(f) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

"(1) To award loans that comply with the following:

"(A) The interest rate for each loan shall not exceed the market interest rate.

"(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

"(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

"(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible

for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

"(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

"(4) To earn interest on the amounts deposited into the Loan Fund.

"(5) To make reimbursements described in subsection (g)(4)(A).

"(g) ADMINISTRATION OF LOAN FUNDS.—

"(1) COMBINED FINANCIAL ADMINISTRATION.—An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

"(2) COST OF ADMINISTERING FUND.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

"(3) GUIDANCE AND REGULATIONS.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including— Publication.

"(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this section as efficiently as possible in accordance with this title and applicable State laws; and

"(B) guidance to prevent waste, fraud, and abuse.

"(4) PRIVATE SECTOR CONTRIBUTIONS.—

"(A) IN GENERAL.—A Loan Fund established under this section may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

"(B) AVAILABILITY OF INFORMATION.—An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

"(h) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the

grant is awarded in an amount equal to not less than $1 for each $5 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

"(i) EFFECTIVE DATE.—The Secretary may not make an award under this section prior to January 1, 2010.

42 USC 300jj–35.

"SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

"(a) IN GENERAL.—The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

Strategic plan.

"(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors, increase access to prevention, reduce chronic diseases, and enhance health care quality;

"(3) be—

"(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

"(B) a graduate school of nursing or physician assistant studies;

"(C) a consortium of two or more schools described in subparagraph (A) or (B); or

"(D) an institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies;

"(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

"(5) provide matching funds in accordance with subsection (d).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

"(A) use grant funds in collaboration with 2 or more disciplines; and

"(B) use grant funds to integrate certified EHR technology into community-based clinical education.

"(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

"(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

"(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable. Publication.

"(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that—

"(1) describes the specific projects established under this section; and

"(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

"SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS IN HEALTH CARE. 42 USC 300jj–36.

"(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

"(b) ACTIVITIES.—Activities for which assistance may be provided under subsection (a) may include the following:

"(1) Developing and revising curricula in medical health informatics and related disciplines.

"(2) Recruiting and retaining students to the program involved.

"(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

"(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.

"(c) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give preference to the following:

"(1) Existing education and training programs.

"(2) Programs designed to be completed in less than six months.

"SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS. 42 USC 300jj–37.

"(a) REPORTS.—The Secretary may require that an entity receiving assistance under this subtitle shall submit to the Secretary, not later than the date that is 1 year after the date of receipt of such assistance, a report that includes—

"(1) an analysis of the effectiveness of the activities for which the entity receives such assistance, as compared to the goals for such activities; and

"(2) an analysis of the impact of the project on health care quality and safety.

Evaluation. Deadline.

"(b) REQUIREMENT TO IMPROVE QUALITY OF CARE AND DECREASE IN COSTS.—The National Coordinator shall annually evaluate the activities conducted under this subtitle and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

42 USC 300jj–38.

"SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

"For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013.".

Subtitle D—Privacy

42 USC 17921.

SEC. 13400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—

(A) IN GENERAL.—The term "breach" means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information.

(B) EXCEPTIONS.—The term "breach" does not include—

(i) any unintentional acquisition, access, or use of protected health information by an employee or individual acting under the authority of a covered entity or business associate if—

(I) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate; and

(II) such information is not further acquired, accessed, used, or disclosed by any person; or

(ii) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and

(iii) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

(2) BUSINESS ASSOCIATE.—The term "business associate" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(3) COVERED ENTITY.—The term "covered entity" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(4) DISCLOSE.—The terms "disclose" and "disclosure" have the meaning given the term "disclosure" in section 160.103 of title 45, Code of Federal Regulations.

(5) ELECTRONIC HEALTH RECORD.—The term "electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(6) HEALTH CARE OPERATIONS.—The term "health care operation" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) HEALTH CARE PROVIDER.—The term "health care provider" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) HEALTH PLAN.—The term "health plan" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(9) NATIONAL COORDINATOR.—The term "National Coordinator" means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a) of the Public Health Service Act, as added by section 13101.

(10) PAYMENT.—The term "payment" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) PERSONAL HEALTH RECORD.—The term "personal health record" means an electronic record of PHR identifiable health information (as defined in section 13407(f)(2)) on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or primarily for the individual.

(12) PROTECTED HEALTH INFORMATION.—The term "protected health information" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(14) SECURITY.—The term "security" has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) TREATMENT.—The term "treatment" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) USE.—The term "use" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) VENDOR OF PERSONAL HEALTH RECORDS.—The term "vendor of personal health records" means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

PART 1—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

42 USC 17931.

SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) APPLICATION OF SECURITY PROVISIONS.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision.

(c) ANNUAL GUIDANCE.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall, after consultation with stakeholders, annually issue guidance on the most effective and appropriate technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, including the use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 13101 of this Act, as such provisions are in effect as of the date before the enactment of this Act.

42 USC 17932.

SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.

(a) IN GENERAL.—A covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in subsection (h)(1)) shall, in the case of a breach of such information that is discovered by the covered entity, notify each individual whose unsecured protected health information has been, or is reasonably believed by the covered entity to have been, accessed, acquired, or disclosed as a result of such breach.

(b) NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE.—A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c) BREACHES TREATED AS DISCOVERED.—For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any

person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)). Deadline.

(2) BURDEN OF PROOF.—The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) METHODS OF NOTICE.—

(1) INDIVIDUAL NOTICE.—Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach. Web posting.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) MEDIA NOTICE.—Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(3) NOTICE TO SECRETARY.—Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than such notice must be provided immediately. If the breach was with respect to less than 500 individuals, the covered entity may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

List.

(4) POSTING ON HHS PUBLIC WEBSITE.—The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) DEFINITION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the term "unsecured protected health information" means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term "unsecured protected health information" shall mean protected health information that is not secured by a technology standard that renders protected health information unusable,

unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 13407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals, including the use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 13101 of this Act. Deadlines.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations. Applicability.

SEC. 13403. EDUCATION ON HEALTH INFORMATION PRIVACY. 42 USC 17933.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information. Deadline. Designation.

(b) EDUCATION INITIATIVE ON USES OF HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this Act, the Office for Civil Rights within the Department of Health and Human Services shall develop and maintain a multi-faceted national education initiative to enhance public transparency regarding the uses of protected health information, including programs to educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. Such programs shall be conducted in a variety of languages and present information in a clear and understandable manner. Deadline.

42 USC 17934.

SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES.

(a) APPLICATION OF CONTRACT REQUIREMENTS.—In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF KNOWLEDGE ELEMENTS ASSOCIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

42 USC 17935.

SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND SALES OF HEALTH INFORMATION; ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES; ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.

(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLOSURES OF HEALTH INFORMATION.—In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE LIMITED DATA SET OR THE MINIMUM NECESSARY.—

(1) IN GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), a covered entity shall be treated as being in compliance with

section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) GUIDANCE.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue guidance on what constitutes "minimum necessary" for purposes of subpart E of part 164 of title 45, Code of Federal Regulation. In issuing such guidance the Secretary shall take into consideration the guidance under section 13424(c) and the information necessary to improve patient outcomes and to detect, prevent, and manage chronic disease. Deadline.

(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—

"(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

"(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

"(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

"(2) REGULATIONS.—The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1), not later than 6 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section Deadline.

3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 13101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of the individuals in learning the circumstances under which their protected health information is being disclosed and takes into account the administrative burden of accounting for such disclosures.

"(3) PROCESS.—In response to an request from an individual for an accounting, a covered entity shall elect to provide either an—

"(A) accounting, as specified under paragraph (1), for disclosures of protected health information that are made by such covered entity and by a business associate acting on behalf of the covered entity; or

"(B) accounting, as specified under paragraph (1), for disclosures that are made by such covered entity and provide a list of all business associates acting on behalf of the covered entity, including contact information for such associates (such as mailing address, phone, and email address).

A business associate included on a list under subparagraph (B) shall provide an accounting of disclosures (as required under paragraph (1) for a covered entity) made by the business associate upon a request made by an individual directly to the business associate for such an accounting.

Applicability.

"(4) EFFECTIVE DATE.—

"(A) CURRENT USERS OF ELECTRONIC RECORDS.—In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

"(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

"(i) January 1, 2011; or

"(ii) the date that it acquires an electronic health record.

"(C) LATER DATE.—The Secretary may set an effective date that is later that the date specified under subparagraph (A) or (B) if the Secretary determines that such later date is necessary, but in no case may the date specified under—

"(i) subparagraph (A) be later than 2016; or

"(ii) subparagraph (B) be later than 2013."

(d) PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification

of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in the following cases:

(A) The purpose of the exchange is for public health activities (as described in section 164.512(b) of title 45, Code of Federal Regulations).

(B) The purpose of the exchange is for research (as described in sections 164.501 and 164.512(i) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is for the treatment of the individual, subject to any regulation that the Secretary may promulgate to prevent protected health information from inappropriate access, use, or disclosure.

(D) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.

(E) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(F) The purpose of the exchange is to provide an individual with a copy of the individual's protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(G) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (F).

(3) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Secretary shall promulgate regulations to carry out this subsection. In promulgating such regulations, the Secretary— Deadline.

(A) shall evaluate the impact of restricting the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, on research or public health activities, including those conducted by or for the use of the Food and Drug Administration; and

(B) may further restrict the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, if the Secretary finds that such further restriction will not impede such research or public health activities.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(e) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format and, if the individual chooses, to direct the covered entity to transmit such copy directly to an entity or person designated by the individual, provided that any such choice is clear, conspicuous, and specific; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

42 USC 17936.

SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART OF HEALTH CARE OPERATIONS.

(a) MARKETING.—

(1) IN GENERAL.—A communication by a covered entity or business associate that is about a product or service and that encourages recipients of the communication to purchase or use the product or service shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations, unless the communication is made as described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of such title.

(2) PAYMENT FOR CERTAIN COMMUNICATIONS.—A communication by a covered entity or business associate that is described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations if the covered entity receives or has received direct or indirect payment in exchange for making such communication, except where—

(A)(i) such communication describes only a drug or biologic that is currently being prescribed for the recipient of the communication; and

(ii) any payment received by such covered entity in exchange for making a communication described in clause (i) is reasonable in amount;

(B) each of the following conditions apply—

(i) the communication is made by the covered entity; and

(ii) the covered entity making such communication obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; or

(C) each of the following conditions apply—

(i) the communication is made by a business associate on behalf of the covered entity; and

(ii) the communication is consistent with the written contract (or other written arrangement described in section 164.502(e)(2) of such title) between such business associate and covered entity.

(3) REASONABLE IN AMOUNT DEFINED.—For purposes of paragraph (2), the term "reasonable in amount" shall have the meaning given such term by the Secretary by regulation.

(4) DIRECT OR INDIRECT PAYMENT.—For purposes of paragraph (2), the term "direct or indirect payment" shall not include any payment for treatment (as defined in section 164.501 of title 45, Code of Federal Regulations) of an individual.

(b) OPPORTUNITY TO OPT OUT OF FUNDRAISING.—The Secretary shall by rule provide that any written fundraising communication that is a healthcare operation as defined under section 164.501 of title 45, Code of Federal Regulations, shall, in a clear and conspicuous manner, provide an opportunity for the recipient of the communications to elect not to receive any further such communication. When an individual elects not to receive any further such communication, such election shall be treated as a revocation of authorization under section 164.508 of title 45, Code of Federal Regulations. Regulations.

(c) EFFECTIVE DATE.—This section shall apply to written communications occurring on or after the effective date specified under section 13423.

SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES. 42 USC 17937.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii), (iii), or (iv) of section 13424(b)(1)(A), following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such a breach of security; and

(2) notify the Federal Trade Commission.

(b) NOTIFICATION BY THIRD PARTY SERVICE PROVIDERS.—A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii), (iii). or (iv) of section 13424(b)(1)(A) in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information

has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) APPLICATION OF REQUIREMENTS FOR TIMELINESS, METHOD, AND CONTENT OF NOTIFICATIONS.—Subsections (c), (d), (e), and (f) of section 13402 shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described in subsection (a) and a third party service provider described in subsection (b), with respect to a breach of security under subsection (a) of unsecured PHR identifiable health information in such records maintained or offered by such vendor, in a manner specified by the Federal Trade Commission.

(d) NOTIFICATION OF THE SECRETARY.—Upon receipt of a notification of a breach of security under subsection (a)(2), the Federal Trade Commission shall notify the Secretary of such breach.

(e) ENFORCEMENT.—A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57*a*(a)(1)(B)) regarding unfair or deceptive acts or practices.

(f) DEFINITIONS.—For purposes of this section:

(1) BREACH OF SECURITY.—The term "breach of security" means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR IDENTIFIABLE HEALTH INFORMATION.—The term "PHR identifiable health information" means individually identifiable health information, as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) UNSECURED PHR IDENTIFIABLE HEALTH INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "unsecured PHR identifiable health information" means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 13402(h)(2) by the date specified in such section, for purposes of this section, the term "unsecured PHR identifiable health information" shall mean PHR identifiable health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Federal Trade Commission shall promulgate interim final regulations by not later than the date that is 180 days

after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

Applicability.

(2) SUNSET.—If Congress enacts new legislation establishing requirements for notification in the case of a breach of security, that apply to entities that are not covered entities or business associates, the provisions of this section shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

42 USC 17938.

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this title.

SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: "For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.".

SEC. 13410. IMPROVED ENFORCEMENT.

42 USC 17939.

(a) IN GENERAL.—

(1) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(A) in subsection (b)(1), by striking "the act constitutes an offense punishable under section 1177" and inserting "a penalty has been imposed under section 1177 with respect to such act"; and

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

"(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

"(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

"(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of

a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.".

(2) ENFORCEMENT UNDER SOCIAL SECURITY ACT.—Any violation by a covered entity under thus subtitle is subject to enforcement and penalties under section 1176 and 1177 of the Social Security Act.

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

Deadline.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subtitle or section 1176 of the Social Security Act (42 U.S.C. 1320d–5) insofar as such section relates to privacy or security shall be transferred to the Office for Civil Rights of the Department of Health and Human Services to be used for purposes of enforcing the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act.

(2) GAO REPORT.—Not later than 18 months after the date of the enactment of this title, the Comptroller General shall submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) ESTABLISHMENT OF METHODOLOGY TO DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO HARMED INDIVIDUALS.—

Deadline.

Not later than 3 years after the date of the enactment of this title, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) APPLICATION OF METHODOLOGY.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) TIERED INCREASE IN AMOUNT OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d–5(a)(1)) is amended by striking "who violates a provision of this part a penalty of not more than" and all that follows and inserting the following: "who violates a provision of this part—

"(A) in the case of a violation of such provision in which it is established that the person did not know (and

by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not to exceed the amount described in paragraph (3)(D);

"(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

"(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

"(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

"(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and extent of the violation and the nature and extent of the harm resulting from such violation.".

(2) TIERS OF PENALTIES DESCRIBED.—Section 1176(a) of such Act (42 U.S.C. 1320d–5(a)) is further amended by adding at the end the following new paragraph:

"(3) TIERS OF PENALTIES DESCRIBED.—For purposes of paragraph (1), with respect to a violation by a person of a provision of this part—

"(A) the amount described in this subparagraph is $100 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $25,000;

"(B) the amount described in this subparagraph is $1,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $100,000;

"(C) the amount described in this subparagraph is $10,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $250,000; and

"(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.".

(3) CONFORMING AMENDMENTS.—Section 1176(b) of such Act (42 U.S.C. 1320d–5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking "in subparagraph (B), a penalty may not be imposed under subsection (a) if" and all that follows through "the failure to comply is corrected" and inserting "in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected"; and

(ii) in subparagraph (B), by striking "(A)(ii)" and inserting "(A)" each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

"(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

"(A) to enjoin further such violation by the defendant; or

"(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

"(2) STATUTORY DAMAGES.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

"(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

"(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

"(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

Records.

"(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not

feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

"(6) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) maintains a physical place of business.

"(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

"(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).".

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking "A penalty may not be imposed under subsection (a)" and inserting "No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)";

(B) in paragraph (2)(A)—

(i) after "subsection (a)(1)(C),", by striking "a penalty may not be imposed under subsection (a)" and inserting "no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)"; and

(ii) in clause (ii), by inserting "or damages" after "the penalty";

(C) in paragraph (2)(B)(i), by striking "The period" and inserting "With respect to the imposition of a penalty by the Secretary under subsection (a), the period"; and

(D) in paragraph (3), by inserting "and any damages under subsection (d)" after "any penalty under subsection (a)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Such section is further amended by adding at the end the following new subsection:

"(e) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office for Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.".

42 USC 17940.

SEC. 13411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.

PART 2—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

42 USC 17951.

SEC. 13421. RELATIONSHIP TO OTHER LAWS.

(a) APPLICATION OF HIPAA STATE PREEMPTION.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle.

(c) CONSTRUCTION.—Nothing in this subtitle shall constitute a waiver of any privilege otherwise applicable to an individual with respect to the protected health information of such individual.

42 USC 17952.

SEC. 13422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

42 USC 17953.

SEC. 13423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

42 USC 17954.

SEC. 13424. STUDIES, REPORTS, GUIDANCE.

(a) REPORT ON COMPLIANCE.—

(1) IN GENERAL.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subtitle as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as such provisions are in effect as of the date of enactment of this Act) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services. Web posting.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

(d) GAO REPORT ON TREATMENT DISCLOSURES.—Not later than one year after the date of the enactment of this title, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.

(e) REPORT REQUIRED.—Not later than 5 years after the date of enactment of this section, the Government Accountability Office shall submit to Congress and the Secretary of Health and Human Services a report on the impact of any of the provisions of this

Act on health insurance premiums, overall health care costs, adoption of electronic health records by providers, and reduction in medical errors and other quality improvements.

(f) STUDY.—The Secretary shall study the definition of "psychotherapy notes" in section 164.501 of title 45, Code of Federal Regulations, with regard to including test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation in such definitions and may, based on such study, issue regulations to revise such definition.

TITLE XIV—STATE FISCAL STABILIZATION FUND

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $53,600,000,000, which shall be administered by the Department of Education.

GENERAL PROVISIONS—THIS TITLE

SEC. 14001. ALLOCATIONS.

(a) OUTLYING AREAS.—From the amount appropriated to carry out this title, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $14,000,000 for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $5,000,000,000 for grants under sections 14006 and 14007. Grants.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 14002. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 14001(d) for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) RESTORING STATE SUPPORT FOR EDUCATION.—

(A) IN GENERAL.—The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's primary elementary and secondary funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) FISCAL YEAR.—For purposes of this paragraph, the term "fiscal year" shall have the meaning given such term under State law.

(3) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.—After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) OTHER GOVERNMENT SERVICES.—

(1) IN GENERAL.—The Governor shall use 18.2 percent of the State's allocation under section 14001 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) AVAILABILITY TO ALL INSTITUTIONS OF HIGHER EDUCATION.—A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection 14013(3); and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14003. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) ("ESEA"), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) ("IDEA"), the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) ("the Perkins Act") or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—A local educational agency may not use funds received under this title for—

(1) payment of maintenance costs;

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

(3) purchase or upgrade of vehicles; or

(4) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—No funds awarded under this title may be used for—

(1) the maintenance of systems, equipment, or facilities;

(2) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

(A) used for sectarian instruction or religious worship; or

(B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

SEC. 14005. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 14001 shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) APPLICATION.—In such application, the Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

(c) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 14006 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;

(3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and

(5) include a plan for evaluating the State's progress in closing achievement gaps.

(d) ASSURANCES.—An application under subsection (b) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development

or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

(3) IMPROVING COLLECTION AND USE OF DATA.—The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) STANDARDS AND ASSESSMENTS.—The State—

(A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(9)(A)(ii) of the America COMPETES Act.

(5) SUPPORTING STRUGGLING SCHOOLS.—The State will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) of the ESEA with respect to schools identified under such sections.

SEC. 14006. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—

(1) RESERVATION.—From the total amount reserved under section 14001(c) that is not used for section 14007, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(2) REMAINDER.—Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 14005 and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs (2), (3), (4), and (5) of section 14005(d).

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 14007. INNOVATION FUND.

(a) IN GENERAL.—

(1) ELIGIBLE ENTITIES.—For the purposes of this section, the term "eligible entity" means—

(A) a local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies; or

(ii) a consortium of schools.

(2) PROGRAM ESTABLISHED.—From the total amount reserved under section 14001(c), the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) BASIS FOR AWARDS.—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such eligible entities to expand their work and serve as models for best practices;

(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of the ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

(c) SPECIAL RULE.—In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements.

SEC. 14008. STATE REPORTS.

For each year of the program under this title, a State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this title within the State;

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this title;

(5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases;

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and

(8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

SEC. 14009. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 14006 and 14007 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 14010. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 14008 and the information required by section 14005(b)(3) including State-by-State information.

SEC. 14011. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.

SEC. 14012. FISCAL RELIEF.

Waiver authority.

(a) IN GENERAL.—For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced

a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this title relating to maintaining fiscal effort.

(b) DURATION.—A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

(c) CRITERIA.—The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year.

(d) MAINTENANCE OF EFFORT.—Upon prior approval from the Secretary, a State or local educational agency that receives funds under this title may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

(e) SUBSEQUENT LEVEL OF EFFORT.—Notwithstanding (d), the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

SEC. 14013. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the terms "elementary education" and "secondary education" have the meaning given such terms under State law;

(2) the term "high-need local educational agency" means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;

(3) the term "institution of higher education" has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term "Secretary" means the Secretary of Education;

(5) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) any other term used that is defined in section 9101 of the ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term "agency" has the meaning given under section 551 of title 5, United States Code.

(2) BOARD.—The term "Board" means the Recovery Accountability and Transparency Board established in section 1521.

(3) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Board.

(4) COVERED FUNDS.—The term "covered funds" means any funds that are expended or obligated from appropriations made under this Act.

(5) PANEL.—The term "Panel" means the Recovery Independent Advisory Panel established in section 1541.

Subtitle A—Transparency and Oversight Requirements

SEC. 1511. CERTIFICATIONS.

With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the website established by section 1526. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

Web posting.

SEC. 1512. REPORTS ON USE OF FUNDS.

Jobs Accountability Act.

(a) SHORT TITLE.—This section may be cited as the "Jobs Accountability Act".

(b) DEFINITIONS.—In this section:

(1) RECIPIENT.—The term "recipient"—

(A) means any entity that receives recovery funds directly from the Federal Government (including recovery funds received through grant, loan, or contract) other than an individual; and

(B) includes a State that receives recovery funds.

(2) RECOVERY FUNDS.—The term "recovery funds" means any funds that are made available from appropriations made under this Act.

(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

(1) the total amount of recovery funds received from that agency;

(2) the amount of recovery funds received that were expended or obligated to projects or activities; and

(3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

(A) the name of the project or activity;

(B) a description of the project or activity;

(C) an evaluation of the completion status of the project or activity;

(D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and

(E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

(d) AGENCY REPORTS.—Not later than 30 days after the end of each calendar quarter, each agency that made recovery funds available to any recipient shall make the information in reports submitted under subsection (c) publicly available by posting the information on a website.

(e) OTHER REPORTS.—The Congressional Budget Office and the Government Accountability Office shall comment on the information described in subsection (c)(3)(D) for any reports submitted under subsection (c). Such comments shall be due within 45 days after such reports are submitted.

(f) COMPLIANCE.—Within 180 days of enactment, as a condition of receipt of funds under this Act, Federal agencies shall require any recipient of such funds to provide the information required under subsection (c).

(g) GUIDANCE.—Federal agencies, in coordination with the Director of the Office of Management and Budget, shall provide for user-friendly means for recipients of covered funds to meet the requirements of this section.

(h) REGISTRATION.—Funding recipients required to report information per subsection (c)(4) must register with the Central Contractor Registration database or complete other registration requirements as determined by the Director of the Office of Management and Budget.

SEC. 1513. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of Economic Advisers shall submit quarterly reports to the Committees on Appropriations of the Senate and House of Representatives that detail the impact of programs funded through covered funds on employment, estimated economic growth, and other key economic indicators.

(b) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted not later than 45 days after the end of the first full quarter following the date of enactment of this Act.

Applicability.

(2) LAST REPORT.—The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1530.

SEC. 1514. INSPECTOR GENERAL REVIEWS.

(a) REVIEWS.—Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using funds made available in this Act. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the inspector general's website and linked to the website established by section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

Web posting.

SEC. 1515. ACCESS OF OFFICES OF INSPECTOR GENERAL TO CERTAIN RECORDS AND EMPLOYEES.

(a) ACCESS.—With respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized—

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

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

Subtitle B—Recovery Accountability and Transparency Board

SEC. 1521. ESTABLISHMENT OF THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

SEC. 1522. COMPOSITION OF BOARD.

(a) CHAIRPERSON.—

(1) DESIGNATION OR APPOINTMENT.—The President shall—

President.

(A) designate the Deputy Director for Management of the Office of Management and Budget to serve as Chairperson of the Board;

(B) designate another Federal officer who was appointed by the President to a position that required the advice and consent of the Senate, to serve as Chairperson of the Board; or

(C) appoint an individual as the Chairperson of the Board, by and with the advice and consent of the Senate.

(2) COMPENSATION.—

(A) DESIGNATION OF FEDERAL OFFICER.—If the President designates a Federal officer under paragraph (1)(A)

or (B) to serve as Chairperson, that Federal officer may not receive additional compensation for services performed as Chairperson.

(B) APPOINTMENT OF NON-FEDERAL OFFICER.—If the President appoints an individual as Chairperson under paragraph (1)(C), that individual shall be compensated at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) MEMBERS.—The members of the Board shall include—

(1) the Inspectors General of the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and

(2) any other Inspector General as designated by the President from any agency that expends or obligates covered funds.

SEC. 1523. FUNCTIONS OF THE BOARD.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Board shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse.

(2) SPECIFIC FUNCTIONS.—The functions of the Board shall include—

(A) reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(B) reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(C) auditing or reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters it considers appropriate for investigation to the inspector general for the agency that disbursed the covered funds;

(D) reviewing whether there are sufficient qualified acquisition and grant personnel overseeing covered funds;

(E) reviewing whether personnel whose duties involve acquisitions or grants made with covered funds receive adequate training; and

(F) reviewing whether there are appropriate mechanisms for interagency collaboration relating to covered funds, including coordinating and collaborating to the extent practicable with the Inspectors General Council on Integrity and Efficiency established by the Inspector General Reform Act of 2008 (Public Law 110–409).

(b) REPORTS.—

(1) FLASH AND OTHER REPORTS.—The Board shall submit to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, reports, to be known as "flash reports", on potential management and funding problems that require immediate attention. The Board also shall submit to Congress such other reports as the Board considers appropriate on the use and benefits of funds made available in this Act.

(2) QUARTERLY REPORTS.—The Board shall submit quarterly reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, summarizing the findings of the Board and the findings of inspectors general of agencies. The Board may submit additional reports as appropriate.

(3) ANNUAL REPORTS.—The Board shall submit annual reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, consolidating applicable quarterly reports on the use of covered funds.

(4) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—All reports submitted under this subsection shall be made publicly available and posted on the website established by section 1526. Web posting.

(B) REDACTIONS.—Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The Board shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) RESPONSIVE REPORTS.—Not later than 30 days after receipt of a recommendation under paragraph (1), an agency shall submit a report to the President, the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, and the Board on—

(A) whether the agency agrees or disagrees with the recommendations; and

(B) any actions the agency will take to implement the recommendations.

SEC. 1524. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board shall conduct audits and reviews of spending of covered funds and coordinate on such activities with the inspectors general of the relevant agency to avoid duplication and overlap of work. Audits.

(b) AUDITS AND REVIEWS.—The Board may—

(1) conduct its own independent audits and reviews relating to covered funds; and

(2) collaborate on audits and reviews relating to covered funds with any inspector general of an agency.

(c) AUTHORITIES.—

(1) AUDITS AND REVIEWS.—In conducting audits and reviews, the Board shall have the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.). Additionally, the Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees and may enforce such subpoenas in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) STANDARDS AND GUIDELINES.—The Board shall carry out the powers under subsections (a) and (b) in accordance

with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) PUBLIC HEARINGS.—The Board may hold public hearings and Board personnel may conduct necessary inquiries. The head of each agency shall make all officers and employees of that agency available to provide testimony to the Board and Board personnel. The Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees at such public hearings. Any such subpoenas may be enforced in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under this subtitle, including contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Board.

(f) TRANSFER OF FUNDS.—The Board may transfer funds appropriated to the Board for expenses to support administrative support services and audits, reviews, or other activities related to oversight by the Board of covered funds to any office of inspector general, the Office of Management and Budget, the General Services Administration, and the Panel.

SEC. 1525. EMPLOYMENT, PERSONNEL, AND RELATED AUTHORITIES.

(a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES.—Subject to paragraph (2), the Board may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(B) APPLICATION.—For purposes of exercising the authorities described under subparagraph (A), the term "Chairperson of the Board" shall be substituted for the term "head of a temporary organization".

(C) CONSULTATION.—In exercising the authorities described under subparagraph (A), the Chairperson shall consult with members of the Board.

(2) EMPLOYMENT AUTHORITIES.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under paragraph (1) of this subsection—

(A) paragraph (2) of subsection (b) of section 3161 of that title (relating to periods of appointments) shall not apply; and

(B) no period of appointment may exceed the date on which the Board terminates under section 1530.

(b) INFORMATION AND ASSISTANCE.—

(1) IN GENERAL.—Upon request of the Board for information or assistance from any agency or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Board, or an authorized designee.

(2) REPORT OF REFUSALS.—Whenever information or assistance requested by the Board is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report

the circumstances to the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, without delay.

(c) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1526. BOARD WEBSITE.

Deadline. Public information.

(a) ESTABLISHMENT.—The Board shall establish and maintain, no later than 30 days after enactment of this Act, a user-friendly, public-facing website to foster greater accountability and transparency in the use of covered funds.

(b) PURPOSE.—The website established and maintained under subsection (a) shall be a portal or gateway to key information relating to this Act and provide connections to other Government websites with related information.

Contracts. Grants.

(c) CONTENT AND FUNCTION.—In establishing the website established and maintained under subsection (a), the Board shall ensure the following:

(1) The website shall provide materials explaining what this Act means for citizens. The materials shall be easy to understand and regularly updated.

(2) The website shall provide accountability information, including findings from audits, inspectors general, and the Government Accountability Office.

(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds.

(4) The website shall provide detailed data on contracts awarded by the Federal Government that expend covered funds, including information about the competitiveness of the contracting process, information about the process that was used for the award of contracts, and for contracts over $500,000 a summary of the contract.

(5) The website shall include printable reports on covered funds obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts that expend covered funds.

(7) The website shall include detailed information on Federal Government contracts and grants that expend covered funds, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

(8) The website shall provide a link to estimates of the jobs sustained or created by the Act.

(9) The website shall provide a link to information about announcements of grant competitions and solicitations for contracts to be awarded.

(10) The website shall include appropriate links to other government websites with information concerning covered funds, including Federal agency and State websites.

Plan.

(11) The website shall include a plan from each Federal agency for using funds made available in this Act to the agency.

(12) The website shall provide information on Federal allocations of formula grants and awards of competitive grants using covered funds.

(13) The website shall provide information on Federal allocations of mandatory and other entitlement programs by State, county, or other appropriate geographical unit.

(14) To the extent practical, the website shall provide, organized by the location of the job opportunities involved, links to and information about how to access job opportunities, including, if possible, links to or information about local employment agencies, job banks operated by State workforce agencies, the Department of Labor's CareerOneStop website, State, local and other public agencies receiving Federal funding, and private firms contracted to perform work with Federal funding, in order to direct job seekers to job opportunities created by this Act.

(15) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

SEC. 1527. INDEPENDENCE OF INSPECTORS GENERAL.

(a) INDEPENDENT AUTHORITY.—Nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds.

Deadline.
Reports.

(b) REQUESTS BY BOARD.—If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, not later than 30 days after rejecting the request, submit a report to the Board, the head of the applicable agency, and the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives. The report shall state the reasons that the inspector general has rejected the request in whole or in part. The inspector general's decision shall be final.

SEC. 1528. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditors.

SEC. 1529. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

SEC. 1530. TERMINATION OF THE BOARD.

The Board shall terminate on September 30, 2013.

Subtitle C—Recovery Independent Advisory Panel

SEC. 1541. ESTABLISHMENT OF RECOVERY INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established the Recovery Independent Advisory Panel.

(b) MEMBERSHIP.—The Panel shall be composed of 5 members who shall be appointed by the President.

President.

(c) QUALIFICATIONS.—Members shall be appointed on the basis of expertise in economics, public finance, contracting, accounting, or any other relevant field.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

Deadline.

(e) MEETINGS.—The Panel shall meet at the call of the Chairperson of the Panel.

(f) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1542. DUTIES OF THE PANEL.

The Panel shall make recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds.

Recommendations.

SEC. 1543. POWERS OF THE PANEL.

(a) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any agency such information as the Panel considers necessary to carry out this subtitle. Upon request of the Chairperson of the Panel, the head of such agency shall furnish such information to the Panel.

(c) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as agencies of the Federal Government.

(d) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

SEC. 1544. PANEL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel. All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Panel with administrative support services, including the provision of office space and facilities.

SEC. 1545. TERMINATION OF THE PANEL.

The Panel shall terminate on September 30, 2013.

SEC. 1546. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

Subtitle D—Additional Accountability and Transparency Requirements

SEC. 1551. AUTHORITY TO ESTABLISH SEPARATE FUNDING ACCOUNTS.

Waiver authority.

Although this Act provides supplemental appropriations for programs, projects, and activities in existing Treasury accounts,

to facilitate tracking these funds through Treasury and agency accounting systems, the Secretary of the Treasury shall ensure that all funds appropriated in this Act shall be established in separate Treasury accounts, unless a waiver from this provision is approved by the Director of the Office of Management and Budget.

SEC. 1552. SET-ASIDE FOR STATE AND LOCAL GOVERNMENT REPORTING AND RECORDKEEPING.

Federal agencies receiving funds under this Act, may, after following the notice and comment rulemaking requirements under the Administrative Procedures Act (5 U.S.C. 500), reasonably adjust applicable limits on administrative expenditures for Federal awards to help award recipients defray the costs of data collection requirements initiated pursuant to this Act.

SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;

(4) an abuse of authority related to the implementation or use of covered funds; or

(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Except as provided under paragraph (3), unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)— Deadline.

Determination.

(i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or

Reports.

(ii) submit a report under paragraph (1).

(B) EXTENSIONS.—

(i) VOLUNTARY EXTENSION AGREED TO BETWEEN INSPECTOR GENERAL AND COMPLAINANT.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(ii) EXTENSION GRANTED BY INSPECTOR GENERAL.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A), the inspector general may extend the period for not more than 180 days without agreeing with the person submitting the complaint to such extension, provided that the inspector general provides a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for the decision, which shall be provided to both the person submitting the complaint and the non-Federal employer.

(iii) SEMI-ANNUAL REPORT ON EXTENSIONS.—The inspector general shall include in semi-annual reports to Congress a list of those investigations for which the inspector general received an extension.

(3) DISCRETION NOT TO INVESTIGATE COMPLAINTS.—

(A) IN GENERAL.—The inspector general may decide not to conduct or continue an investigation under this section upon providing to the person submitting the complaint and the non-Federal employer a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for such decision.

(B) ASSUMPTION OF RIGHTS TO CIVIL REMEDY.—Upon receipt of an explanation of a decision not to conduct or continue an investigation under subparagraph (A), the person submitting a complaint shall immediately assume the right to a civil remedy under subsection (c)(3) as if the 210-day period specified under such subsection has already passed.

(C) SEMI-ANNUAL REPORT.—The inspector general shall include in semi-annual reports to Congress a list of those investigations the inspector general decided not to conduct or continue under this paragraph.

(4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.—

(A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the investigation file of

the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the "Privacy Act"). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction.

(B) CIVIL ACTION.—In the event the person alleging the reprisal brings suit under subsection (c)(3), the person alleging the reprisal and the non-Federal employer shall have access to the investigative file of the inspector general in accordance with the Privacy Act.

(C) EXCEPTION.—The inspector general may exclude from disclosure—

(i) information protected from disclosure by a provision of law; and

(ii) any additional information the inspector general determines disclosure of which would impede a continuing investigation, provided that such information is disclosed once such disclosure would no longer impede such investigation, unless the inspector general determines that disclosure of law enforcement techniques, procedures, or information could reasonably be expected to risk circumvention of the law or disclose the identity of a confidential source.

(5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) BURDEN OF PROOF.—

(A) DISCLOSURE AS CONTRIBUTING FACTOR IN REPRISAL.—

(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal.

(ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including—

(I) evidence that the official undertaking the reprisal knew of the disclosure; or

(II) evidence that the reprisal occurred within a period of time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal.

(B) OPPORTUNITY FOR REBUTTAL.—The head of an agency may not find the occurrence of a reprisal with respect to a reprisal that is affirmatively established under subparagraph (A) if the non-Federal employer demonstrates by clear and convincing evidence that the non-Federal employer would have taken the action constituting the reprisal in the absence of the disclosure.

Deadline.
Determination.
Relief orders.

(2) AGENCY ACTION.—Not later than 30 days after receiving an inspector general report under subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief in whole or in part or shall take 1 or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency or a court of competent jurisdiction.

Deadlines.

(3) CIVIL ACTION.—If the head of an agency issues an order denying relief in whole or in part under paragraph (1), has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B)(i), within 30 days after the expiration of the extension of time, or decides under subsection (b)(3) not to investigate or to discontinue an investigation, and there is no showing that such delay or decision is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(4) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (2), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys fees and costs.

(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

Deadline.

(d) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—Except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—Except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.

(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.

(e) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.—Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.

(f) RULES OF CONSTRUCTION.—

(1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(2) RELATIONSHIP TO STATE LAWS.—Nothing in this section may be construed to preempt, preclude, or limit the protections provided for public or private employees under State whistleblower laws.

(g) DEFINITIONS.—In this section:

(1) ABUSE OF AUTHORITY.—The term "abuse of authority" means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons.

(2) COVERED FUNDS.—The term "covered funds" means any contract, grant, or other payment received by any non-Federal employer if—

(A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

(B) at least some of the funds are appropriated or otherwise made available by this Act.

(3) EMPLOYEE.—The term "employee"—

(A) except as provided under subparagraph (B), means an individual performing services on behalf of an employer; and

(B) does not include any Federal employee or member of the uniformed services (as that term is defined in section 101(a)(5) of title 10, United States Code).

(4) NON-FEDERAL EMPLOYER.—The term "non-Federal employer"—

(A) means any employer—

(i) with respect to covered funds—

(I) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor,

subcontractor, grantee, or recipient is an employer; and

(II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or

(ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and

(B) does not mean any department, agency, or other entity of the Federal Government.

(5) STATE OR LOCAL GOVERNMENT.—The term "State or local government" means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

SEC. 1554. SPECIAL CONTRACTING PROVISIONS.

To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526.

TITLE XVI—GENERAL PROVISIONS—THIS ACT

RELATIONSHIP TO OTHER APPROPRIATIONS

SEC. 1601. Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

PREFERENCE FOR QUICK-START ACTIVITIES

SEC. 1602. In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

PERIOD OF AVAILABILITY

SEC. 1603. All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act.

LIMIT ON FUNDS

SEC. 1604. None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

BUY AMERICAN

SEC. 1605. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

Waiver authority.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

Federal Register, publication.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

Applicability.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

WAGE RATE REQUIREMENTS

Contracts.

SEC. 1606. Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF APPROPRIATE USE OF FUNDS

Deadline.

SEC. 1607. (a) CERTIFICATION BY GOVERNOR.—Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that: (1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth.

(b) ACCEPTANCE BY STATE LEGISLATURE.—If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) DISTRIBUTION.—After the adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

ECONOMIC STABILIZATION CONTRACTING

SEC. 1608. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting "and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term 'individual with disability' has the same meaning as the term 'handicapped individual' as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f))," after "(12 U.S.C. 1441a(r)(4)),".

SEC. 1609. (a) FINDINGS.—

(1) The National Environmental Policy Act protects public health, safety and environmental quality: by ensuring transparency, accountability and public involvement in federal actions and in the use of public funds;

(2) When President Nixon signed the National Environmental Policy Act into law on January 1, 1970, he said that the Act provided the "direction" for the country to "regain a productive harmony between man and nature";

(3) The National Environmental Policy Act helps to provide an orderly process for considering federal actions and funding decisions and prevents ligation and delay that would otherwise be inevitable and existed prior to the establishment of the National Environmental Policy Act.

(b) Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.

President. Reports. Deadlines.

(c) The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation.

SEC. 1610. (a) None of the funds appropriated or otherwise made available by this Act, for projects initiated after the effective date of this Act, may be used by an executive agency to enter into any Federal contract unless such contract is entered into in accordance with the Federal Property and Administrative Services Act (41 U.S.C. 253) or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

(b) All projects to be conducted under the authority of the Indian Self-Determination and Education Assistance Act, the Tribally-Controlled Schools Act, the Sanitation and Facilities Act, the

Native American Housing and Self-Determination Assistance Act and the Buy-Indian Act shall be identified by the appropriate Secretary and the appropriate Secretary shall incorporate provisions to ensure that the agreement conforms with the provisions of this Act regarding the timing for use of funds and transparency, oversight, reporting, and accountability, including review by the Inspectors General, the Accountability and Transparency Board, and Government Accountability Office, consistent with the objectives of this Act.

Employ American Workers Act.

SEC. 1611. HIRING AMERICAN WORKERS IN COMPANIES RECEIVING TARP FUNDING. (a) SHORT TITLE.—This section may be cited as the "Employ American Workers Act".

(b) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be unlawful for any recipient of funding under title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343) or section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)) unless the recipient is in compliance with the requirements for an H–1B dependent employer (as defined in section 212(n)(3) of such Act (8 U.S.C. 1182(n)(3))), except that the second sentence of section 212(n)(1)(E)(ii) of such Act shall not apply.

(2) DEFINED TERM.—In this subsection, the term "hire" means to permit a new employee to commence a period of employment.

(c) SUNSET PROVISION.—This section shall be effective during the 2-year period beginning on the date of the enactment of this Act.

SEC. 1612. During the current fiscal year not to exceed 1 percent of any appropriation made available by this Act may be transferred by an agency head between such appropriations funded in this Act of that department or agency: *Provided,* That such appropriations shall be merged with and available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided further,* That the agency head shall notify the Committees on Appropriations of the Senate and House of Representatives of the transfer 15 days in advance: *Provided further,* That notice of any transfer made pursuant to this authority be posted on the website established by the Recovery Act Accountability and Transparency Board 15 days following such transfer: *Provided further,* That the authority contained in this section is in addition to transfer authorities otherwise available under current law: *Provided further,* That the authority provided in this section shall not apply to any appropriation that is subject to transfer provisions included elsewhere in this Act.

Notification. Deadline.

Notification. Web posting. Deadline.

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

TITLE I—TAX PROVISIONS

American Recovery and Reinvestment Tax Act of 2009.

26 USC 1 note.

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "American Recovery and Reinvestment Tax Act of 2009".

26 USC 1 *et seq*.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

TITLE I—TAX PROVISIONS

Sec. 1000. Short title, etc.

Subtitle A—Tax Relief for Individuals and Families

PART I—GENERAL TAX RELIEF

Sec. 1001. Making work pay credit.
Sec. 1002. Temporary increase in earned income tax credit.
Sec. 1003. Temporary increase of refundable portion of child credit.
Sec. 1004. American opportunity tax credit.
Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010.
Sec. 1006. Extension of and increase in first-time homebuyer credit; waiver of requirement to repay.
Sec. 1007. Suspension of tax on portion of unemployment compensation.
Sec. 1008. Additional deduction for State sales tax and excise tax on the purchase of certain motor vehicles.

PART II—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.
Sec. 1012. Extension of increased alternative minimum tax exemption amount.

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

Sec. 1101. Extension of credit for electricity produced from certain renewable resources.
Sec. 1102. Election of investment credit in lieu of production credit.
Sec. 1103. Repeal of certain limitations on credit for renewable energy property.
Sec. 1104. Coordination with renewable energy grants.

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds.
Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds.

PART III—ENERGY CONSERVATION INCENTIVES

Sec. 1121. Extension and modification of credit for nonbusiness energy property.
Sec. 1122. Modification of credit for residential energy efficient property.
Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property.

PART IV—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

Sec. 1131. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

PART V—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

Sec. 1141. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 1142. Credit for certain plug-in electric vehicles.
Sec. 1143. Conversion kits.
Sec. 1144. Treatment of alternative motor vehicle credit as a personal credit allowed against AMT.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

Sec. 1151. Increased exclusion amount for commuter transit benefits and transit passes.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

Sec. 1201. Special allowance for certain property acquired during 2009.
Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets.

PART II—SMALL BUSINESS PROVISIONS

Sec. 1211. 5-year carryback of operating losses of small businesses.
Sec. 1212. Decreased required estimated tax payments in 2009 for certain small businesses.

PART III—INCENTIVES FOR NEW JOBS

Sec. 1221. Incentives to hire unemployed veterans and disconnected youth.

PART IV—RULES RELATING TO DEBT INSTRUMENTS

Sec. 1231. Deferral and ratable inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument.
Sec. 1232. Modifications of rules for original issue discount on certain high yield obligations.

PART V—QUALIFIED SMALL BUSINESS STOCK

Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010.

PART VI—S CORPORATIONS

Sec. 1251. Temporary reduction in recognition period for built-in gains tax.

PART VII—RULES RELATING TO OWNERSHIP CHANGES

Sec. 1261. Clarification of regulations related to limitations on certain built-in losses following an ownership change.
Sec. 1262. Treatment of certain ownership changes for purposes of limitations on net operating loss carryforwards and certain built-in losses.

Subtitle D—Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property.
Sec. 1302. Credit for investment in advanced energy facilities.

Subtitle E—Economic Recovery Tools

Sec. 1401. Recovery zone bonds.
Sec. 1402. Tribal economic development bonds.
Sec. 1403. Increase in new markets tax credit.
Sec. 1404. Coordination of low-income housing credit and low-income housing grants.

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions.
Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.
Sec. 1503. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.
Sec. 1504. Modification to high speed intercity rail facility bonds.

PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

Sec. 1511. Delay in application of withholding tax on government contractors.

PART III—TAX CREDIT BONDS FOR SCHOOLS

Sec. 1521. Qualified school construction bonds.
Sec. 1522. Extension and expansion of qualified zone academy bonds.

PART IV—BUILD AMERICA BONDS

Sec. 1531. Build America bonds.

PART V—REGULATED INVESTMENT COMPANIES ALLOWED TO PASS-THRU TAX CREDIT BOND CREDITS

Sec. 1541. Regulated investment companies allowed to pass-thru tax credit bond credits.

Subtitle G—Other Provisions

Sec. 1601. Application of certain labor standards to projects financed with certain tax-favored bonds.
Sec. 1602. Grants to States for low-income housing projects in lieu of low-income housing credit allocations for 2009.
Sec. 1603. Grants for specified energy property in lieu of tax credits.
Sec. 1604. Increase in public debt limit.

Subtitle H—Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

Sec. 1701. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000.

Subtitle I—Trade Adjustment Assistance

Sec. 1800. Short title.

PART I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

SUBPART A—TRADE ADJUSTMENT ASSISTANCE FOR SERVICE SECTOR WORKERS

Sec. 1801. Extension of trade adjustment assistance to service sector and public agency workers; shifts in production.
Sec. 1802. Separate basis for certification.
Sec. 1803. Determinations by Secretary of Labor.
Sec. 1804. Monitoring and reporting relating to service sector.

SUBPART B—INDUSTRY NOTIFICATIONS FOLLOWING CERTAIN AFFIRMATIVE DETERMINATIONS

Sec. 1811. Notifications following certain affirmative determinations.
Sec. 1812. Notification to Secretary of Commerce.

SUBPART C—PROGRAM BENEFITS

Sec. 1821. Qualifying Requirements for Workers.
Sec. 1822. Weekly amounts.
Sec. 1823. Limitations on trade readjustment allowances; allowances for extended training and breaks in training.
Sec. 1824. Special rules for calculation of eligibility period.
Sec. 1825. Application of State laws and regulations on good cause for waiver of time limits or late filing of claims.
Sec. 1826. Employment and case management services.
Sec. 1827. Administrative expenses and employment and case management services.
Sec. 1828. Training funding.
Sec. 1829. Prerequisite education; approved training programs.
Sec. 1830. Pre-layoff and part-time training.
Sec. 1831. On-the-job training.
Sec. 1832. Eligibility for unemployment insurance and program benefits while in training.
Sec. 1833. Job search and relocation allowances.

SUBPART D—REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE PROGRAM

Sec. 1841. Reemployment trade adjustment assistance program.

SUBPART E—OTHER MATTERS

Sec. 1851. Office of Trade Adjustment Assistance.
Sec. 1852. Accountability of State agencies; collection and publication of program data; agreements with States.

Sec. 1853. Verification of eligibility for program benefits.
Sec. 1854. Collection of data and reports; information to workers.
Sec. 1855. Fraud and recovery of overpayments.
Sec. 1856. Sense of Congress on application of trade adjustment assistance.
Sec. 1857. Consultations in promulgation of regulations.
Sec. 1858. Technical corrections.

PART II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 1861. Expansion to service sector firms.
Sec. 1862. Modification of requirements for certification.
Sec. 1863. Basis for determinations.
Sec. 1864. Oversight and administration; authorization of appropriations.
Sec. 1865. Increased penalties for false statements.
Sec. 1866. Annual report on trade adjustment assistance for firms.
Sec. 1867. Technical corrections.

PART III—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

Sec. 1871. Purpose.
Sec. 1872. Trade adjustment assistance for communities.
Sec. 1873. Conforming amendments.

PART IV—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec. 1881. Definitions.
Sec. 1882. Eligibility.
Sec. 1883. Benefits.
Sec. 1884. Report.
Sec. 1885. Fraud and recovery of overpayments.
Sec. 1886. Determination of increases of imports for certain fishermen.
Sec. 1887. Extension of trade adjustment assistance for farmers.

PART V—GENERAL PROVISIONS

Sec. 1891. Effective date.
Sec. 1892. Extension of trade adjustment assistance programs.
Sec. 1893. Termination; related provisions.
Sec. 1894. Government Accountability Office report.
Sec. 1895. Emergency designation.

PART VI—HEALTH COVERAGE IMPROVEMENT

Sec. 1899. Short title.
Sec. 1899A. Improvement of the affordability of the credit.
Sec. 1899B. Payment for monthly premiums paid prior to commencement of advance payments of credit.
Sec. 1899C. TAA recipients not enrolled in training programs eligible for credit.
Sec. 1899D. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.
Sec. 1899E. Continued qualification of family members after certain events.
Sec. 1899F. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.
Sec. 1899G. Addition of coverage through voluntary employees' beneficiary associations.
Sec. 1899H. Notice requirements.
Sec. 1899I. Survey and report on enhanced health coverage tax credit program.
Sec. 1899J. Authorization of appropriations.
Sec. 1899K. Extension of national emergency grants.
Sec. 1899L. GAO study and report.

Subtitle A—Tax Relief for Individuals and Families

PART I—GENERAL TAX RELIEF

SEC. 1001. MAKING WORK PAY CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

"SEC. 36A. MAKING WORK PAY CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed

by this subtitle for the taxable year an amount equal to the lesser of—

"(1) 6.2 percent of earned income of the taxpayer, or

"(2) $400 ($800 in the case of a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph and subsection (c)) for the taxable year shall be reduced (but not below zero) by 2 percent of so much of the taxpayer's modified adjusted gross income as exceeds $75,000 ($150,000 in the case of a joint return).

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) REDUCTION FOR CERTAIN OTHER PAYMENTS.—The credit allowed under subsection (a) for any taxable year shall be reduced by the amount of any payments received by the taxpayer during such taxable year under section 2201, and any credit allowed to the taxpayer under section 2202, of the American Recovery and Reinvestment Tax Act of 2009.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual other than—

"(i) any nonresident alien individual,

"(ii) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

"(iii) an estate or trust.

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

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

"(ii) 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 issued by the Internal Revenue Service.

"(2) EARNED INCOME.—The term 'earned income' has the meaning given such term by section 32(c)(2), except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

"(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2010.".

26 USC 36A note.

(b) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSION.—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 the amendments made by this section with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession. Effective dates.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession. Effective dates.

(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 section 36A of the Internal Revenue Code of 1986 (as added by this section) to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term "possession of the United States" includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

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

(c) REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, 26 USC 36A note.

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.

26 USC 6213.

(d) AUTHORITY RELATING TO CLERICAL ERRORS.—Section 6213(g)(2) is amended by striking "and" at the end of subparagraph (L)(ii), by striking the period at the end of subparagraph (M) and inserting ", and", and by adding at the end the following new subparagraph:

"(N) an omission of the reduction required under section 36A(c) with respect to the credit allowed under section 36A or an omission of the correct social security account number required under section 36A(d)(1)(B).".

(e) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting "36A," after "36,".

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36A," after "36,".

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36 the following new item:

"Sec. 36A. Making work pay credit.".

26 USC 36A note.

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.

SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX CREDIT.

26 USC 32.

(a) IN GENERAL.—Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

"(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN.—In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

"(B) REDUCTION OF MARRIAGE PENALTY.—

"(i) IN GENERAL.—The dollar amount in effect under paragraph (2)(B) shall be $5,000.

"(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in 2010, the $5,000 amount in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

Applicability.

"(iii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).".

26 USC 32 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 24(d) is amended to read as follows: 26 USC 24.

"(4) SPECIAL RULE FOR 2009 AND 2010.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $3,000.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 24 note.

SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) AMERICAN OPPORTUNITY TAX CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

"(1) INCREASE IN CREDIT.—The Hope Scholarship Credit shall be an amount equal to the sum of—

"(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed $2,000, plus

"(B) 25 percent of such expenses so paid as exceeds $2,000 but does not exceed $4,000.

"(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION.—Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'. Applicability.

"(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS.—Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

"(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT.—In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

"(ii) $80,000 ($160,000 in the case of a joint return), bears to

"(B) $10,000 ($20,000 in the case of a joint return).

"(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

"(6) PORTION OF CREDIT MADE REFUNDABLE.—40 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

"(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS.—In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.".

(b) CONFORMING AMENDMENTS.—

26 USC 24.

(1) Section 24(b)(3)(B) is amended by inserting "25A(i)," after "23,".

(2) Section 25(e)(1)(C)(ii) is amended by inserting "25A(i)," after "24,".

(3) Section 26(a)(1) is amended by inserting "25A(i)," after "24,".

(4) Section 25B(g)(2) is amended by inserting "25A(i)," after "23,".

(5) Section 904(i) is amended by inserting "25A(i)," after "24,".

(6) Section 1400C(d)(2) is amended by inserting "25A(i)," after "24,".

(7) Section 6211(b)(4)(A) is amended by inserting "25A by reason of subsection (i)(6) thereof," after "24(d),".

(8) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "25A," before "35".

26 USC 25A note.

(c) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

Effective dates.

(A) MIRROR CODE POSSESSION.—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 the application of section 25A(i)(6) of the Internal Revenue Code of 1986 (as added by this section) with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

Effective dates.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of section 25A(i)(6) of such Code (as so added) for taxable years beginning in 2009 and 2010 if a mirror code tax

system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—Section 25A(i)(6) of such Code (as added by this section) shall not apply to a bona fide resident of any possession of the United States.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term "possession of the United States" includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 25A of the Internal Revenue Code of 1986 by reason of subsection (i)(6) of such section (as added by this section).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 24 note.

(e) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates. 26 USC 24 note.

(f) TREASURY STUDIES REGARDING EDUCATION INCENTIVES.—

(1) STUDY REGARDING COORDINATION WITH NON-TAX STUDENT FINANCIAL ASSISTANCE.—The Secretary of the Treasury and the Secretary of Education, or their delegates, shall—

(A) study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965 to maximize their effectiveness at promoting college affordability, and

(B) examine ways to expedite the delivery of the tax credit.

(2) STUDY REGARDING INCLUSION OF COMMUNITY SERVICE REQUIREMENTS.—The Secretary of the Treasury and the Secretary of Education, or their delegates, shall study the feasibility of requiring including community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT ALLOWED AS A QUALIFIED HIGHER EDUCATION EXPENSE FOR SECTION 529 ACCOUNTS IN 2009 AND 2010.

26 USC 529.

(a) IN GENERAL.—Section 529(e)(3)(A) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii), and by adding at the end the following:

"(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.".

26 USC 529 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after December 31, 2008.

SEC. 1006. EXTENSION OF AND INCREASE IN FIRST-TIME HOMEBUYER CREDIT; WAIVER OF REQUIREMENT TO REPAY.

(a) EXTENSION.—

(1) IN GENERAL.—Section 36(h) is amended by striking "July 1, 2009" and inserting "December 1, 2009".

(2) CONFORMING AMENDMENT.—Section 36(g) is amended by striking "July 1, 2009" and inserting "December 1, 2009".

(b) INCREASE.—

(1) IN GENERAL.—Section 36(b) is amended by striking "$7,500" each place it appears and inserting "$8,000".

(2) CONFORMING AMENDMENT.—Section 36(b)(1)(B) is amended by striking "$3,750" and inserting "$4,000".

(c) WAIVER OF RECAPTURE.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

Time period.

"(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009.—In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before December 1, 2009—

Applicability.

"(i) paragraph (1) shall not apply, and

"(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.".

(2) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking "subsection (c)" and inserting "subsections (c) and (f)(4)(D)".

(d) COORDINATION WITH FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—Subsection (e) of section 1400C is amended by adding at the end the following new paragraph:

Time period.

"(4) COORDINATION WITH NATIONAL FIRST-TIME HOMEBUYERS CREDIT.—No credit shall be allowed under this section to any taxpayer with respect to the purchase of a residence after December 31, 2008, and before December 1, 2009, if a credit

under section 36 is allowable to such taxpayer (or the taxpayer's spouse) with respect to such purchase.".

(2) CONFORMING AMENDMENT.—Section 36(d) is amended by striking paragraph (1). 26 USC 36.

(e) REMOVAL OF PROHIBITION ON FINANCING BY MORTGAGE REVENUE BONDS.—Section 36(d), as amended by subsection (c)(2), is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after December 31, 2008. 26 USC 36 note.

SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR 2009.—In the case of any taxable year beginning in 2009, gross income shall not include so much of the unemployment compensation received by an individual as does not exceed $2,400.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 85 note.

SEC. 1008. ADDITIONAL DEDUCTION FOR STATE SALES TAX AND EXCISE TAX ON THE PURCHASE OF CERTAIN MOTOR VEHICLES.

(a) IN GENERAL.—Subsection (a) of section 164 is amended by inserting after paragraph (5) the following new paragraph:

"(6) Qualified motor vehicle taxes.".

(b) QUALIFIED MOTOR VEHICLE TAXES.—Subsection (b) of section 164 is amended by adding at the end the following new paragraph:

"(6) QUALIFIED MOTOR VEHICLE TAXES.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified motor vehicle taxes' means any State or local sales or excise tax imposed on the purchase of a qualified motor vehicle.

"(B) LIMITATION BASED ON VEHICLE PRICE.—The amount of any State or local sales or excise tax imposed on the purchase of a qualified motor vehicle taken into account under subparagraph (A) shall not exceed the portion of such tax attributable to so much of the purchase price as does not exceed $49,500.

"(C) INCOME LIMITATION.—The amount otherwise taken into account under subparagraph (A) (after the application of subparagraph (B)) for any taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so treated as—

"(i) the excess (if any) of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $125,000 ($250,000 in the case of a joint return), bears to

"(ii) $10,000.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year (determined without regard to sections 911, 931, and 933).

"(D) QUALIFIED MOTOR VEHICLE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified motor vehicle' means—

"(I) a passenger automobile or light truck which is treated as a motor vehicle for purposes of title II of the Clean Air Act, the gross vehicle weight rating of which is not more than 8,500 pounds, and the original use of which commences with the taxpayer,

"(II) a motorcycle the gross vehicle weight rating of which is not more than 8,500 pounds and the original use of which commences with the taxpayer, and

"(III) a motor home the original use of which commences with the taxpayer.

"(ii) OTHER TERMS.—The terms 'motorcycle' and 'motor home' have the meanings given such terms under section 571.3 of title 49, Code of Federal Regulations (as in effect on the date of the enactment of this paragraph).

"(E) QUALIFIED MOTOR VEHICLE TAXES NOT INCLUDED IN COST OF ACQUIRED PROPERTY.—The last sentence of subsection (a) shall not apply to any qualified motor vehicle taxes.

"(F) COORDINATION WITH GENERAL SALES TAX.—This paragraph shall not apply in the case of a taxpayer who makes an election under paragraph (5) for the taxable year.

"(G) TERMINATION.—This paragraph shall not apply to purchases after December 31, 2009.".

(c) DEDUCTION ALLOWED TO NONITEMIZERS.—

26 USC 63.

(1) IN GENERAL.—Paragraph (1) of section 63(c) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) the motor vehicle sales tax deduction.".

(2) DEFINITION.—Section 63(c) is amended by adding at the end the following new paragraph:

"(9) MOTOR VEHICLE SALES TAX DEDUCTION.—For purposes of paragraph (1), the term 'motor vehicle sales tax deduction' means the amount allowable as a deduction under section 164(a)(6). Such term shall not include any amount taken into account under section 62(a).".

(d) TREATMENT OF DEDUCTION UNDER ALTERNATIVE MINIMUM TAX.—The last sentence of section 56(b)(1)(E) is amended by striking "section 63(c)(1)(D)" and inserting "subparagraphs (D) and (E) of section 63(c)(1)".

26 USC 56 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases on or after the date of the enactment of this Act in taxable years ending after such date.

PART II—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended— 26 USC 26.

(1) by striking "or 2008" and inserting "2008, or 2009", and

(2) by striking "**2008**" in the heading thereof and inserting "**2009**".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 26 note.

SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking "($69,950 in the case of taxable years beginning in 2008)" in subparagraph (A) and inserting "($70,950 in the case of taxable years beginning in 2009)", and

(2) by striking "($46,200 in the case of taxable years beginning in 2008)" in subparagraph (B) and inserting "($46,700 in the case of taxable years beginning in 2009)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 55 note.

Subtitle B—Energy Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking "2010" in paragraph (1) and inserting "2013",

(2) by striking "2011" each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting "2014", and

(3) by striking "2012" in paragraph (11)(B) and inserting "2014".

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 45(d) is amended by striking "and before" and all that follows and inserting " and before October 3, 2008.".

(c) EFFECTIVE DATE.— 26 USC 45 note.

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Subsection (a) of section 48 is amended by adding at the end the following new paragraph:

"(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—

"(A) IN GENERAL.—In the case of any qualified property which is part of a qualified investment credit facility—

"(i) such property shall be treated as energy property for purposes of this section, and

"(ii) the energy percentage with respect to such property shall be 30 percent.

"(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

"(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term 'qualified investment credit facility' means any of the following facilities if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility:

"(i) WIND FACILITIES.—Any qualified facility (within the meaning of section 45) described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, or 2012.

"(ii) OTHER FACILITIES.—Any qualified facility (within the meaning of section 45) described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013.

"(D) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' means property—

"(i) which is—

"(I) tangible personal property, or

"(II) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified investment credit facility, and

"(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.".

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

26 USC 48.

(a) REPEAL OF LIMITATION ON CREDIT FOR QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).

(b) REPEAL OF LIMITATION ON PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

(1) IN GENERAL.—Section 48(a)(4) is amended by adding at the end the following new subparagraph:

"(D) TERMINATION.—This paragraph shall not apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).".

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(1) is amended by striking "(8), and (9)" and inserting "and (8)".

(B) Section 25D(e) is amended by striking paragraph (9).

(C) Section 48A(b)(2) is amended by inserting "(without regard to subparagraph (D) thereof)" after "section 48(a)(4)". 26 USC 48A.

(D) Section 48B(b)(2) is amended by inserting "(without regard to subparagraph (D) thereof)" after "section 48(a)(4)".

(c) EFFECTIVE DATE.— Applicability. 26 USC 25C.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS.—The amendments made by subparagraphs (A) and (B) of subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

SEC. 1104. COORDINATION WITH RENEWABLE ENERGY GRANTS.

Section 48 is amended by adding at the end the following new subsection:

"(d) COORDINATION WITH DEPARTMENT OF TREASURY GRANTS.—In the case of any property with respect to which the Secretary makes a grant under section 1603 of the American Recovery and Reinvestment Tax Act of 2009—

"(1) DENIAL OF PRODUCTION AND INVESTMENT CREDITS.—No credit shall be determined under this section or section 45 with respect to such property for the taxable year in which such grant is made or any subsequent taxable year.

"(2) RECAPTURE OF CREDITS FOR PROGRESS EXPENDITURES MADE BEFORE GRANT.—If a credit was determined under this section with respect to such property for any taxable year ending before such grant is made—

"(A) the tax imposed under subtitle A on the taxpayer for the taxable year in which such grant is made shall be increased by so much of such credit as was allowed under section 38,

"(B) the general business carryforwards under section 39 shall be adjusted so as to recapture the portion of such credit which was not so allowed, and

"(C) the amount of such grant shall be determined without regard to any reduction in the basis of such property by reason of such credit.

"(3) TREATMENT OF GRANTS.—Any such grant shall—

"(A) not be includible in the gross income of the taxpayer, but

"(B) shall be taken into account in determining the basis of the property to which such grant relates, except that the basis of such property shall be reduced under section 50(c) in the same manner as a credit allowed under subsection (a).".

PART II—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

26 USC 54C.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL LIMITATION.—The national new clean renewable energy bond limitation shall be increased by $1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).".

SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Section 54D(d) is amended by striking "$800,000,000" and inserting "$3,200,000,000".

(b) CLARIFICATION WITH RESPECT TO GREEN COMMUNITY PROGRAMS.—

(1) IN GENERAL.—Clause (ii) of section 54D(f)(1)(A) is amended by inserting "(including the use of loans, grants, or other repayment mechanisms to implement such programs)" after "green community programs".

(2) SPECIAL RULES FOR BONDS FOR IMPLEMENTING GREEN COMMUNITY PROGRAMS.—Subsection (e) of section 54D is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR BONDS TO IMPLEMENT GREEN COMMUNITY PROGRAMS.—In the case of any bond issued for the purpose of providing loans, grants, or other repayment mechanisms for capital expenditures to implement green community programs, such bond shall not be treated as a private activity bond for purposes of paragraph (3).".

PART III—ENERGY CONSERVATION INCENTIVES

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

"(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

"(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATION.—The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed $1,500.".

(b) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

26 USC 25C.

"(B) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2009.".

(2) CENTRAL AIR CONDITIONERS.—Subparagraph (C) of section 25C(d)(3) is amended by striking "2006" and inserting "2009".

(3) WATER HEATERS.—Subparagraph (D) of section 25C(d)(3) is amended to read as follows:

"(D) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.82 or a thermal efficiency of at least 90 percent.".

(4) WOOD STOVES.—Subparagraph (E) of section 25C(d)(3) is amended by inserting ", as measured using a lower heating value" after "75 percent".

(c) MODIFICATIONS OF STANDARDS FOR OIL FURNACES AND HOT WATER BOILERS.—

(1) IN GENERAL.—Paragraph (4) of section 25C(d) is amended to read as follows:

"(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

"(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

"(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

"(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

"(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

"(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

"(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

"(ii) any qualified natural gas furnace, qualified propane furnace, qualified oil furnace, qualified natural gas hot water boiler, qualified propane hot water boiler, or qualified oil hot water boiler, or".

(d) MODIFICATIONS OF STANDARDS FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Subsection (c) of section 25C is amended by adding at the end the following new paragraph:

"(4) QUALIFICATIONS FOR EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—Such term shall not include any component described in subparagraph (B) or (C) of paragraph (2) unless such component is equal to or below a U factor of 0.30 and SHGC of 0.30.".

26 USC 25C.

(2) ADDITIONAL QUALIFICATION FOR INSULATION.—Subparagraph (A) of section 25C(c)(2) is amended by inserting "and meets the prescriptive criteria for such material or system established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009" after "such dwelling unit".

(e) EXTENSION.—Section 25C(g)(2) is amended by striking "December 31, 2009" and inserting "December 31, 2010".

Applicability.
26 USC 25C note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) EFFICIENCY STANDARDS.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) and subsections (c) and (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) REMOVAL OF CREDIT LIMITATION FOR PROPERTY PLACED IN SERVICE.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended to read as follows:

"(1) MAXIMUM CREDIT FOR FUEL CELLS.—In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 25D(e) is amended—

(A) by striking all that precedes subparagraph (B) and inserting the following:

Regulations.
Applicability.

"(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals, the following rules shall apply:

"(A) MAXIMUM EXPENDITURES FOR FUEL CELLS.—The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.", and

(B) by striking subparagraph (C).

26 USC 25D note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(e) is amended by adding at the end the following new paragraph: 26 USC 30C.

"(6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010.—In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011—

"(A) in the case of any such property which does not relate to hydrogen— Applicability.

"(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

"(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

"(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000', and

"(B) in the case of any such property which relates to hydrogen, subsection (b)(1) shall be applied by substituting '$200,000' for '$30,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 30C note.

PART IV—MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

SEC. 1131. APPLICATION OF MONITORING REQUIREMENTS TO CARBON DIOXIDE USED AS A TERTIARY INJECTANT.

(a) IN GENERAL.—Section 45Q(a)(2) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) disposed of by the taxpayer in secure geological storage.".

(b) CONFORMING AMENDMENTS.—

(1) Section 45Q(d)(2) is amended—

(A) by striking "subsection (a)(1)(B)" and inserting "paragraph (1)(B) or (2)(C) of subsection (a)",

(B) by striking "and unminable coal seems" and inserting ", oil and gas reservoirs, and unminable coal seams", and

(C) by inserting "the Secretary of Energy, and the Secretary of the Interior," after "Environmental Protection Agency".

(2) Section 45Q(a)(1)(B) is amended by inserting "and not used by the taxpayer as described in paragraph (2)(B)" after "storage".

(3) Section 45Q(e) is amended by striking "captured and disposed of or used as a tertiary injectant" and inserting "taken into account in accordance with subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act. 26 USC 45Q note.

PART V—PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

SEC. 1141. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

26 USC 30D.

(a) IN GENERAL.—Section 30D is amended to read as follows:

"SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE DOLLAR LIMITATION.—

"(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

"(2) BASE AMOUNT.—The amount determined under this paragraph is $2,500.

"(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $417, plus $417 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $5,000.

"(c) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—

"(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

"(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

"(A) the original use of which commences with the taxpayer,

"(B) which is acquired for use or lease by the taxpayer and not for resale,

"(C) which is made by a manufacturer,

"(D) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

"(E) which has a gross vehicle weight rating of less than 14,000 pounds, and

"(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

"(i) has a capacity of not less than 4 kilowatt hours, and

"(ii) is capable of being recharged from an external source of electricity.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

"(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

"(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

"(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after December 31, 2009, is at least 200,000.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) 50 percent for the first 2 calendar quarters of the phaseout period,

"(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

"(C) 0 percent for each calendar quarter thereafter.

"(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection. Regulations. Applicability.

"(f) SPECIAL RULES.—

"(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under

subsection (a) shall be reduced by the amount of such credit so allowed.

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle.

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

"(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

Regulations.

"(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.".

(b) CONFORMING AMENDMENTS.—

26 USC 30B.

(1) Section 30B(d)(3)(D) is amended by striking "subsection (d) thereof" and inserting "subsection (c) thereof".

(2) Section 38(b)(35) is amended by striking "30D(d)(1)" and inserting "30D(c)(1)".

(3) Section 1016(a)(25) is amended by striking "section 30D(e)(4)" and inserting "section 30D(f)(1)".

(4) Section 6501(m) is amended by striking "section 30D(e)(9)" and inserting "section 30D(e)(4)".

26 USC 30B note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after December 31, 2009.

SEC. 1142. CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended to read as follows:

"SEC. 30. CERTAIN PLUG-IN ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the cost of any qualified plug-in electric vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE DOLLAR LIMITATION.—The amount of the credit allowed under subsection (a) with respect to any vehicle shall not exceed $2,500.

"(c) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.—

"(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, and 30D) and section 27 for the taxable year.

"(d) QUALIFIED PLUG-IN ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified plug-in electric vehicle' means a specified vehicle—

"(A) the original use of which commences with the taxpayer,

"(B) which is acquired for use or lease by the taxpayer and not for resale,

"(C) which is made by a manufacturer,

"(D) which is manufactured primarily for use on public streets, roads, and highways,

"(E) which has a gross vehicle weight rating of less than 14,000 pounds, and

"(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

"(i) has a capacity of not less than 4 kilowatt hours (2.5 kilowatt hours in the case of a vehicle with 2 or 3 wheels), and

"(ii) is capable of being recharged from an external source of electricity.

"(2) SPECIFIED VEHICLE.—The term 'specified vehicle' means any vehicle which—

"(A) is a low speed vehicle within the meaning of section 571.3 of title 49, Code of Federal Regulations (as in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009), or

"(B) has 2 or 3 wheels.

"(3) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

"(e) SPECIAL RULES.—

"(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

"(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowable under subsection (a) for such vehicle.

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

"(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

Regulations.

"(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(f) TERMINATION.—This section shall not apply to any vehicle acquired after December 31, 2011.".

(b) CONFORMING AMENDMENTS.—

26 USC 24.

(1)(A) Section 24(b)(3)(B) is amended by inserting "30," after "25D,".

(B) Section 25(e)(1)(C)(ii) is amended by inserting "30," after "25D,".

(C) Section 25B(g)(2) is amended by inserting "30," after "25D,".

(D) Section 26(a)(1) is amended by inserting "30," after "25D,".

(E) Section 904(i) is amended by striking "and 25B" and inserting "25B, 30, and 30D".

(F) Section 1400C(d)(2) is amended by striking "and 25D" and inserting "25D, and 30".

(2) Paragraph (1) of section 30B(h) is amended to read as follows:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public

streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.".

(3) Section 30C(d)(2)(A) is amended by striking ", 30,". 26 USC 30C.

(4)(A) Section 53(d)(1)(B) is amended by striking clause (iii) and redesignating clause (iv) as clause (iii).

(B) Subclause (II) of section 53(d)(1)(B)(iii), as so redesignated, is amended by striking "increased in the manner provided in clause (iii)".

(5) Section 55(c)(3) is amended by striking "30(b)(3),".

(6) Section 1016(a)(25) is amended by striking "section 30(d)(1)" and inserting "section 30(e)(1)".

(7) Section 6501(m) is amended by striking "section 30(d)(4)" and inserting "section 30(e)(6)".

(8) The item in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

"Sec. 30. Certain plug-in electric vehicles.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after the date of the enactment of this Act. 26 USC 24 note.

(d) TRANSITIONAL RULE.—In the case of a vehicle acquired after the date of the enactment of this Act and before January 1, 2010, no credit shall be allowed under section 30 of the Internal Revenue Code of 1986, as added by this section, if credit is allowable under section 30D of such Code with respect to such vehicle. Time period. 26 USC 30 note.

(e) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates. 26 USC 24 note.

SEC. 1143. CONVERSION KITS.

(a) IN GENERAL.—Section 30B (relating to alternative motor vehicle credit) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) PLUG-IN CONVERSION CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle is 10 percent of so much of the cost of the converting such vehicle as does not exceed $40,000.

"(2) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this subsection, the term 'qualified plug-in electric drive motor vehicle' means any new qualified plug-in electric drive motor vehicle (as defined in section 30D, determined without regard to whether such vehicle is made by a manufacturer or whether the original use of such vehicle commences with the taxpayer).

"(3) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS.—The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.

"(4) TERMINATION.—This subsection shall not apply to conversions made after December 31, 2011.".

(b) CREDIT TREATED AS PART OF ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(a) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following new paragraph:

26 USC 30B.

"(5) the plug-in conversion credit determined under subsection (i).".

(c) NO RECAPTURE FOR VEHICLES CONVERTED TO QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—Paragraph (8) of section 30B(h) is amended by adding at the end the following: ", except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle.".

26 USC 30B note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1144. TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT ALLOWED AGAINST AMT.

(a) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

"(2) PERSONAL CREDIT.—

"(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, and 30D) and section 27 for the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by this Act, is amended by inserting "30B," after "30,".

(B) Section 25(e)(1)(C)(ii), as amended by this Act, is amended by inserting "30B," after "30,".

(C) Section 25B(g)(2), as amended by this Act, is amended by inserting "30B," after "30,".

(D) Section 26(a)(1), as amended by this Act, is amended by inserting "30B," after "30,".

(E) Section 904(i), as amended by this Act, is amended by inserting "30B," after "30".

(F) Section 1400C(d)(2), as amended by this Act, is amended by striking "and 30" and inserting "30, and 30B".

(2) Section 30C(d)(2)(A), as amended by this Act, is amended by striking "sections 27 and 30B" and inserting "section 27".

(3) Section 55(c)(3) is amended by striking "30B(g)(2),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 24 note.

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates. 26 USC 24 note.

PART VI—PARITY FOR TRANSPORTATION FRINGE BENEFITS

SEC. 1151. INCREASED EXCLUSION AMOUNT FOR COMMUTER TRANSIT BENEFITS AND TRANSIT PASSES.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by adding at the end the following flush sentence: 26 USC 132.

"In the case of any month beginning on or after the date of the enactment of this sentence and before January 1, 2011, subparagraph (A) shall be applied as if the dollar amount therein were the same as the dollar amount in effect for such month under subparagraph (B).". Applicability.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months beginning on or after the date of the enactment of this section. 26 USC 132 note.

Subtitle C—Tax Incentives for Business

PART I—TEMPORARY INVESTMENT INCENTIVES

SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) EXTENSION OF SPECIAL ALLOWANCE.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(A) by striking "January 1, 2010" and inserting "January 1, 2011", and

(B) by striking "January 1, 2009" each place it appears and inserting "January 1, 2010".

(2) CONFORMING AMENDMENTS.—

(A) The heading for subsection (k) of section 168 is amended by striking "JANUARY 1, 2009" and inserting "JANUARY 1, 2010".

(B) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking "PRE-JANUARY 1, 2009" and inserting "PRE-JANUARY 1, 2010".

(C) Subparagraph (B) of section 168(l)(5) is amended by striking "January 1, 2009" and inserting "January 1, 2010".

(D) Subparagraph (C) of section 168(n)(2) is amended by striking "January 1, 2009" and inserting "January 1, 2010".

(E) Subparagraph (B) of section 1400N(d)(3) is amended by striking "January 1, 2009" and inserting "January 1, 2010".

(3) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 168(k)(4) is amended—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as clause (iii), and

(iii) by inserting after clause (i) the following new clause:

"(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and".

26 USC 6211.

(B) Subparagraph (A) of section 6211(b)(4) is amended by inserting "168(k)(4)," after "53(e),".

(b) EXTENSION OF ELECTION TO ACCELERATE THE AMT AND RESEARCH CREDITS IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Section 168(k)(4) (relating to election to accelerate the AMT and research credits in lieu of bonus depreciation) is amended—

(A) by striking "2009" and inserting "2010"in subparagraph (D)(iii) (as redesignated by subsection (a)(3)), and

(B) by adding at the end the following new subparagraph:

"(H) SPECIAL RULES FOR EXTENSION PROPERTY.—

"(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

"(I) the taxpayer may elect not to have this paragraph apply to extension property, but

"(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

"(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008—

"(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

"(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

"(iii) EXTENSION PROPERTY.—For purposes of this subparagraph, the term 'extension property' means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).".

(2) TECHNICAL AMENDMENT.—Section 6211(b)(4)(A) is amended by inserting "168(k)(4)," after "53(e),".

Applicability.
26 USC 168 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (a)(3) and (b)(2) shall apply to taxable years ending after March 31, 2008.

SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended— 26 USC 179.

(1) by striking "2008" and inserting "2008, or 2009", and

(2) by striking "2008" in the heading thereof and inserting "2008, AND 2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008. 26 USC 179 note.

PART II—SMALL BUSINESS PROVISIONS

SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

"(H) CARRYBACK FOR 2008 NET OPERATING LOSSES OF SMALL BUSINESSES.—

"(i) IN GENERAL.—If an eligible small business elects the application of this subparagraph with respect to an applicable 2008 net operating loss— Applicability.

"(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

"(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (I) for '2', and

"(III) subparagraph (F) shall not apply.

"(ii) APPLICABLE 2008 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 net operating loss' means—

"(I) the taxpayer's net operating loss for any taxable year ending in 2008, or

"(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008.

"(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable. Any election under this subparagraph may be made only with respect to 1 taxable year.

"(iv) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' has the meaning given such term by subparagraph Applicability.

(F)(iii), except that in applying such subparagraph, section 448(c) shall be applied by substituting '$15,000,000' for '$5,000,000' each place it appears.".

26 USC 172.

(b) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

26 USC 172 note.

(c) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

26 USC 172 note.

Applicability.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) TRANSITIONAL RULE.—In the case of a net operating loss for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

Definition.

For purposes of this paragraph, the term "applicable date" means the date which is 60 days after the date of the enactment of this Act.

SEC. 1212. DECREASED REQUIRED ESTIMATED TAX PAYMENTS IN 2009 FOR CERTAIN SMALL BUSINESSES.

Paragraph (1) of section 6654(d) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR 2009.—

Applicability.

"(i) IN GENERAL.—Notwithstanding subparagraph (C), in the case of any taxable year beginning in 2009, clause (ii) of subparagraph (B) shall be applied to any qualified individual by substituting '90 percent' for '100 percent'.

"(ii) QUALIFIED INDIVIDUAL.—For purposes of this subparagraph, the term 'qualified individual' means any individual if—

"(I) the adjusted gross income shown on the return of such individual for the preceding taxable year is less than $500,000, and

Certification.

"(II) such individual certifies that more than 50 percent of the gross income shown on the return of such individual for the preceding taxable year was income from a small business.

A certification under subclause (II) shall be in such form and manner and filed at such time as the Secretary may by regulations prescribe.

"(iii) INCOME FROM A SMALL BUSINESS.—For purposes of clause (ii), income from a small business means, with respect to any individual, income from a trade or business the average number of employees of which was less than 500 employees for the calendar year ending with or within the preceding taxable year of the individual.

"(iv) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (ii)(I) shall be applied by substituting '$250,000' for '$500,000'.

"(v) ESTATES AND TRUSTS.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).".

PART III—INCENTIVES FOR NEW JOBS

SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph: 26 USC 51.

"(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

"(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) UNEMPLOYED VETERAN.—The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

"(I) having been discharged or released from active duty in the Armed Forces at any time during the 5-year period ending on the hiring date, and

"(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

"(ii) DISCONNECTED YOUTH.—The term 'disconnected youth' means any individual who is certified by the designated local agency—

"(I) as having attained age 16 but not age 25 on the hiring date,

"(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

"(III) as not regularly employed during such 6-month period, and

"(IV) as not readily employable by reason of lacking a sufficient number of basic skills.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART IV—RULES RELATING TO DEBT INSTRUMENTS

SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM BUSINESS INDEBTEDNESS DISCHARGED BY THE REACQUISITION OF A DEBT INSTRUMENT.

26 USC 108.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

"(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM BUSINESS INDEBTEDNESS DISCHARGED BY THE REACQUISITION OF A DEBT INSTRUMENT.—

Time periods.

"(1) IN GENERAL.—At the election of the taxpayer, income from the discharge of indebtedness in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument shall be includible in gross income ratably over the 5-taxable-year period beginning with—

"(A) in the case of a reacquisition occurring in 2009, the fifth taxable year following the taxable year in which the reacquisition occurs, and

"(B) in the case of a reacquisition occurring in 2010, the fourth taxable year following the taxable year in which the reacquisition occurs.

"(2) DEFERRAL OF DEDUCTION FOR ORIGINAL ISSUE DISCOUNT IN DEBT FOR DEBT EXCHANGES.—

"(A) IN GENERAL.—If, as part of a reacquisition to which paragraph (1) applies, any debt instrument is issued for the applicable debt instrument being reacquired (or is treated as so issued under subsection (e)(4) and the regulations thereunder) and there is any original issue discount determined under subpart A of part V of subchapter P of this chapter with respect to the debt instrument so issued—

"(i) except as provided in clause (ii), no deduction otherwise allowable under this chapter shall be allowed to the issuer of such debt instrument with respect to the portion of such original issue discount which—

"(I) accrues before the 1st taxable year in the 5-taxable-year period in which income from the discharge of indebtedness attributable to the reacquisition of the debt instrument is includible under paragraph (1), and

"(II) does not exceed the income from the discharge of indebtedness with respect to the debt instrument being reacquired, and

"(ii) the aggregate amount of deductions disallowed under clause (i) shall be allowed as a deduction ratably over the 5-taxable-year period described in clause (i)(I).

If the amount of the original issue discount accruing before such 1st taxable year exceeds the income from the discharge of indebtedness with respect to the applicable debt

instrument being reacquired, the deductions shall be disallowed in the order in which the original issue discount is accrued.

"(B) DEEMED DEBT FOR DEBT EXCHANGES.—For purposes of subparagraph (A), if any debt instrument is issued by an issuer and the proceeds of such debt instrument are used directly or indirectly by the issuer to reacquire an applicable debt instrument of the issuer, the debt instrument so issued shall be treated as issued for the debt instrument being reacquired. If only a portion of the proceeds from a debt instrument are so used, the rules of subparagraph (A) shall apply to the portion of any original issue discount on the newly issued debt instrument which is equal to the portion of the proceeds from such instrument used to reacquire the outstanding instrument.

Regulations. Applicability.

"(3) APPLICABLE DEBT INSTRUMENT.—For purposes of this subsection—

"(A) APPLICABLE DEBT INSTRUMENT.—The term 'applicable debt instrument' means any debt instrument which was issued by—

"(i) a C corporation, or

"(ii) any other person in connection with the conduct of a trade or business by such person.

"(B) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

"(4) REACQUISITION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reacquisition' means, with respect to any applicable debt instrument, any acquisition of the debt instrument by—

"(i) the debtor which issued (or is otherwise the obligor under) the debt instrument, or

"(ii) a related person to such debtor.

"(B) ACQUISITION.—The term 'acquisition' shall, with respect to any applicable debt instrument, include an acquisition of the debt instrument for cash, the exchange of the debt instrument for another debt instrument (including an exchange resulting from a modification of the debt instrument), the exchange of the debt instrument for corporate stock or a partnership interest, and the contribution of the debt instrument to capital. Such term shall also include the complete forgiveness of the indebtedness by the holder of the debt instrument.

"(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) RELATED PERSON.—The determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this subsection with respect to any applicable debt instrument shall be made by including with the return of tax imposed by chapter 1 for the taxable year in which the reacquisition of the debt instrument occurs a statement which—

"(I) clearly identifies such instrument, and

"(II) includes the amount of income to which paragraph (1) applies and such other information as the Secretary may prescribe.

"(ii) ELECTION IRREVOCABLE.—Such election, once made, is irrevocable.

"(iii) PASS-THRU ENTITIES.—In the case of a partnership, S corporation, or other pass-thru entity, the election under this subsection shall be made by the partnership, the S corporation, or other entity involved.

"(C) COORDINATION WITH OTHER EXCLUSIONS.—If a taxpayer elects to have this subsection apply to an applicable debt instrument, subparagraphs (A), (B), (C), and (D) of subsection (a)(1) shall not apply to the income from the discharge of such indebtedness for the taxable year of the election or any subsequent taxable year.

"(D) ACCELERATION OF DEFERRED ITEMS.—

"(i) IN GENERAL.—In the case of the death of the taxpayer, the liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or similar case), the cessation of business by the taxpayer, or similar circumstances, any item of income or deduction which is deferred under this subsection (and has not previously been taken into account) shall be taken into account in the taxable year in which such event occurs (or in the case of a title 11 or similar case, the day before the petition is filed).

Applicability.

"(ii) SPECIAL RULE FOR PASS-THRU ENTITIES.—The rule of clause (i) shall also apply in the case of the sale or exchange or redemption of an interest in a partnership, S corporation, or other pass- thru entity by a partner, shareholder, or other person holding an ownership interest in such entity.

"(6) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, any income deferred under this subsection shall be allocated to the partners in the partnership immediately before the discharge in the manner such amounts would have been included in the distributive shares of such partners under section 704 if such income were recognized at such time. Any decrease in a partner's share of partnership liabilities as a result of such discharge shall not be taken into account for purposes of section 752 at the time of the discharge to the extent it would cause the partner to recognize gain under section 731. Any decrease in partnership liabilities deferred under the preceding sentence shall be taken into account by such partner at the same time, and to the extent remaining in the same amount, as income deferred under this subsection is recognized.

"(7) SECRETARIAL AUTHORITY.—The Secretary may prescribe such regulations, rules, or other guidance as may be necessary or appropriate for purposes of applying this subsection, including—

"(A) extending the application of the rules of paragraph (5)(D) to other circumstances where appropriate,

"(B) requiring reporting of the election (and such other information as the Secretary may require) on returns of tax for subsequent taxable years, and

"(C) rules for the application of this subsection to partnerships, S corporations, and other pass-thru entities, including for the allocation of deferred deductions.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008. 26 USC 108 note.

SEC. 1232. MODIFICATIONS OF RULES FOR ORIGINAL ISSUE DISCOUNT ON CERTAIN HIGH YIELD OBLIGATIONS.

(a) SUSPENSION OF SPECIAL RULES.—Section 163(e)(5) (relating to special rules for original issue discount on certain high yield obligations) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph: 26 USC 163.

"(F) SUSPENSION OF APPLICATION OF PARAGRAPH.—

"(i) TEMPORARY SUSPENSION.—This paragraph shall not apply to any applicable high yield discount obligation issued during the period beginning on September 1, 2008, and ending on December 31, 2009, in exchange (including an exchange resulting from a modification of the debt instrument) for an obligation which is not an applicable high yield discount obligation and the issuer (or obligor) of which is the same as the issuer (or obligor) of such applicable high yield discount obligation. The preceding sentence shall not apply to any obligation the interest on which is interest described in section 871(h)(4) (without regard to subparagraph (D) thereof) or to any obligation issued to a related person (within the meaning of section 108(e)(4)). Time period.

"(ii) SUCCESSIVE APPLICATION.—Any obligation to which clause (i) applies shall not be treated as an applicable high yield discount obligation for purposes of applying this subparagraph to any other obligation issued in exchange for such obligation.

"(iii) SECRETARIAL AUTHORITY TO SUSPEND APPLICATION.—The Secretary may apply this paragraph with respect to debt instruments issued in periods following the period described in clause (i) if the Secretary determines that such application is appropriate in light of distressed conditions in the debt capital markets.".

(b) INTEREST RATE USED IN DETERMINING HIGH YIELD OBLIGATIONS.—The last sentence of section 163(i)(1) is amended—

(1) by inserting "(i)" after "regulation", and

(2) by inserting ", or (ii) permit, on a temporary basis, a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the Secretary determines that such rate is appropriate in light of distressed conditions in the debt capital markets" before the period at the end.

(c) EFFECTIVE DATE.— 26 USC 163 note.

(1) SUSPENSION.—The amendments made by subsection (a) shall apply to obligations issued after August 31, 2008, in taxable years ending after such date.

(2) INTEREST RATE AUTHORITY.—The amendments made by subsection (b) shall apply to obligations issued after December 31, 2009, in taxable years ending after such date.

PART V—QUALIFIED SMALL BUSINESS STOCK

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK FOR 2009 AND 2010.

(a) IN GENERAL.—Section 1202(a) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011—

"(A) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

"(B) paragraph (2) shall not apply.".

26 USC 1202 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act.

PART VI—S CORPORATIONS

SEC. 1251. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

26 USC 1374.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:

"(7) RECOGNITION PERIOD.—

"(A) IN GENERAL.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(B) SPECIAL RULE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net recognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.

Applicability.

"(C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS.—For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)—

Applicability.

"(i) subparagraph (A) shall be applied without regard to the phrase '10-year', and

"(ii) subparagraph (B) shall not apply.".

26 USC 1374 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART VII—RULES RELATING TO OWNERSHIP CHANGES

26 USC 382 note.

SEC. 1261. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

(2) Internal Revenue Service Notice 2008–83 is inconsistent with the congressional intent in enacting such section 382(m).

(3) The legal authority to prescribe Internal Revenue Service Notice 2008–83 is doubtful.

(4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008–83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation on built-in losses following an ownership change of a bank.

(b) DETERMINATION OF FORCE AND EFFECT OF INTERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING BANKS FROM LIMITATION ON CERTAIN BUILT–IN LOSSES FOLLOWING OWNERSHIP CHANGE.—

(1) IN GENERAL.—Internal Revenue Service Notice 2008–83—

(A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and

(B) shall have no force or effect with respect to any ownership change after such date.

(2) BINDING CONTRACTS.—Notwithstanding paragraph (1), Internal Revenue Service Notice 2008–83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009, if such change—

(A) is pursuant to a written binding contract entered into on or before such date, or

(B) is pursuant to a written agreement entered into on or before such date and such agreement was described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required by reason of such ownership change.

SEC. 1262. TREATMENT OF CERTAIN OWNERSHIP CHANGES FOR PURPOSES OF LIMITATIONS ON NET OPERATING LOSS CARRYFORWARDS AND CERTAIN BUILT-IN LOSSES.

(a) IN GENERAL.—Section 382 is amended by adding at the end the following new subsection: 26 USC 382.

"(n) SPECIAL RULE FOR CERTAIN OWNERSHIP CHANGES.—

"(1) IN GENERAL.—The limitation contained in subsection (a) shall not apply in the case of an ownership change which is pursuant to a restructuring plan of a taxpayer which—

"(A) is required under a loan agreement or a commitment for a line of credit entered into with the Department of the Treasury under the Emergency Economic Stabilization Act of 2008, and

"(B) is intended to result in a rationalization of the costs, capitalization, and capacity with respect to the manufacturing workforce of, and suppliers to, the taxpayer and its subsidiaries.

"(2) SUBSEQUENT ACQUISITIONS.—Paragraph (1) shall not apply in the case of any subsequent ownership change unless such ownership change is described in such paragraph.

"(3) LIMITATION BASED ON CONTROL IN CORPORATION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply in the case of any ownership change if, immediately after such ownership change, any person (other than a voluntary employees' beneficiary association under section 501(c)(9)) owns stock of the new loss corporation possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or of the total value of the stock of such corporation.

"(B) TREATMENT OF RELATED PERSONS.—

"(i) IN GENERAL.—Related persons shall be treated as a single person for purposes of this paragraph.

"(ii) RELATED PERSONS.—For purposes of clause (i), a person shall be treated as related to another person if—

"(I) such person bears a relationship to such other person described in section 267(b) or 707(b), or

"(II) such persons are members of a group of persons acting in concert.".

26 USC 382 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to ownership changes after the date of the enactment of this Act.

Subtitle D—Manufacturing Recovery Provisions

SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS TO FACILITIES MANUFACTURING INTANGIBLE PROPERTY.

26 USC 144.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) is amended—

(1) by striking "For purposes of this paragraph, the term" and inserting "For purposes of this paragraph—

"(i) IN GENERAL.—The term", and

(2) by striking the last sentence and inserting the following new clauses:

"(ii) CERTAIN FACILITIES INCLUDED.—Such term includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

"(I) such facilities are located on the same site as the manufacturing facility, and

"(II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

"(iii) SPECIAL RULES FOR BONDS ISSUED IN 2009 AND 2010.—In the case of any issue made after the date of enactment of this clause and before January 1, 2011, clause (ii) shall not apply and the net proceeds from a bond shall be considered to be used to provide a manufacturing facility if such proceeds are used to provide—

"(I) a facility which is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or

"(II) a facility which is functionally related and subordinate to a manufacturing facility (determined without regard to this subclause) if such facility is located on the same site as the manufacturing facility.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 144 note.

SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED ENERGY FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4), and by adding at the end the following new paragraph: 26 USC 46.

"(5) the qualifying advanced energy project credit.".

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

"SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project.

"(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(3) LIMITATION.—The amount which is treated for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

"(c) DEFINITIONS.—

"(1) QUALIFYING ADVANCED ENERGY PROJECT.—

"(A) IN GENERAL.—The term 'qualifying advanced energy project' means a project—

"(i) which re-equips, expands, or establishes a manufacturing facility for the production of—

"(I) property designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

"(II) fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

"(III) electric grids to support the transmission of intermittent sources of renewable energy, including storage of such energy,

"(IV) property designed to capture and sequester carbon dioxide emissions,

"(V) property designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies),

"(VI) new qualified plug-in electric drive motor vehicles (as defined by section 30D), qualified plug-in electric vehicles (as defined by section 30(d)), or components which are designed specifically for use with such vehicles, including electric motors, generators, and power control units, or

"(VII) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary, and

"(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

"(B) EXCEPTION.—Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

"(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

"(A) which is necessary for the production of property described in paragraph (1)(A)(i),

"(B) which is—

"(i) tangible personal property, or

"(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified investment credit facility, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(d) QUALIFYING ADVANCED ENERGY PROJECT PROGRAM.—

"(1) ESTABLISHMENT.—

Deadline.

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

"(B) LIMITATION.—The total amount of credits that may be allocated under the program shall not exceed $2,300,000,000.

"(2) CERTIFICATION.—

"(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 2-year period beginning on the date the Secretary establishes the program under paragraph (1).

Deadline.

"(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 1 year from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

Deadline.

"(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 3 years from the date of issuance

of the certification in order to place the project in service and if such project is not placed in service by that time period, then the certification shall no longer be valid.

"(3) SELECTION CRITERIA.—In determining which qualifying advanced energy projects to certify under this section, the Secretary—

"(A) shall take into consideration only those projects where there is a reasonable expectation of commercial viability, and

"(B) shall take into consideration which projects—

"(i) will provide the greatest domestic job creation (both direct and indirect) during the credit period,

"(ii) will provide the greatest net impact in avoiding or reducing air pollutants or anthropogenic emissions of greenhouse gases,

"(iii) have the greatest potential for technological innovation and commercial deployment,

"(iv) have the lowest levelized cost of generated or stored energy, or of measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain), and

"(v) have the shortest project time from certification to completion.

"(4) REVIEW AND REDISTRIBUTION.—

"(A) REVIEW.—Not later than 4 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of such date. Deadline.

"(B) REDISTRIBUTION.—The Secretary may reallocate credits awarded under this section if the Secretary determines that—

"(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

"(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

"(C) REALLOCATION.—If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

"(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

"(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.".

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding after clause (iv) the following new clause: 26 USC 49.

"(v) the basis of any property which is part of a qualifying advanced energy project under section 48C.".

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

"48C. Qualifying advanced energy project credit.".

26 USC 46 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle E—Economic Recovery Tools

SEC. 1401. RECOVERY ZONE BONDS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

"PART III—RECOVERY ZONE BONDS

"Sec. 1400U–1. Allocation of recovery zone bonds.
"Sec. 1400U–2. Recovery zone economic development bonds.
"Sec. 1400U–3. Recovery zone facility bonds.

"SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.

"(a) ALLOCATIONS.—

"(1) IN GENERAL.—

"(A) GENERAL ALLOCATION.—The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States in the proportion that each such State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

"(B) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under subparagraph (A) for any calendar year for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the national recovery zone economic development bond limitation and 0.9 percent of the national recovery zone facility bond limitation.

"(2) 2008 STATE EMPLOYMENT DECLINE.—For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of—

"(A) the number of individuals employed in such State determined for December 2007, over

"(B) the number of individuals employed in such State determined for December 2008.

"(3) ALLOCATIONS BY STATES.—

"(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion to each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State. A county or municipality

Waiver authority.

may waive any portion of an allocation made under this subparagraph.

"(B) LARGE MUNICIPALITIES.—For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

"(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES.—For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

"(4) NATIONAL LIMITATIONS.—

"(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—There is a national recovery zone economic development bond limitation of $10,000,000,000.

"(B) RECOVERY ZONE FACILITY BONDS.—There is a national recovery zone facility bond limitation of $15,000,000,000.

"(b) RECOVERY ZONE.—For purposes of this part, the term 'recovery zone' means—

"(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress,

"(2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and

"(3) any area for which a designation as an empowerment zone or renewal community is in effect.

"SEC. 1400U–2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

"(a) IN GENERAL.—In the case of a recovery zone economic development bond—

"(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

"(2) subsection (b) of such section shall be applied by substituting '45 percent' for '35 percent'. Applicability.

"(b) RECOVERY ZONE ECONOMIC DEVELOPMENT BOND.—

"(1) IN GENERAL.—For purposes of this section, the term 'recovery zone economic development bond' means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

"(A) 100 percent of the excess of—

"(i) the available project proceeds (as defined in section 54A) of such issue, over

"(ii) the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue,

are to be used for one or more qualified economic development purposes, and

"(B) the issuer designates such bond for purposes of this section.

"(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed

the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U–1.

"(c) QUALIFIED ECONOMIC DEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

"(1) capital expenditures paid or incurred with respect to property located in such zone,

"(2) expenditures for public infrastructure and construction of public facilities, and

"(3) expenditures for job training and educational programs.

"SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.

"(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any recovery zone facility bond.

"(b) RECOVERY ZONE FACILITY BOND.—

"(1) IN GENERAL.—For purposes of this section, the term 'recovery zone facility bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

"(B) such bond is issued before January 1, 2011, and

"(C) the issuer designates such bond for purposes of this section.

"(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

"(c) RECOVERY ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect,

"(B) the original use of which in the recovery zone commences with the taxpayer, and

"(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

"(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

"(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

Applicability.

"(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections

(a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

"(d) NONAPPLICATION OF CERTAIN RULES.—Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

"PART III. RECOVERY ZONE BONDS.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 1400U–1 note.

SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end the following new subsection: 26 USC 7871.

"(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

"(1) ALLOCATION OF LIMITATION.—

"(A) IN GENERAL.—The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

"(B) NATIONAL LIMITATION.—There is a national tribal economic development bond limitation of $2,000,000,000.

"(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of a tribal economic development bond—

"(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,

"(B) the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and

"(C) section 146 shall not apply.

"(3) TRIBAL ECONOMIC DEVELOPMENT BOND.—

"(A) IN GENERAL.—For purposes of this section, the term 'tribal economic development bond' means any bond issued by an Indian tribal government—

"(i) the interest on which would be exempt from tax under section 103 if issued by a State or local government, and

"(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

"(B) EXCEPTIONS.—Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

"(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

"(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

"(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).".

(b) STUDY.—The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the effects of the amendment made by subsection (a). Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the study conducted under this paragraph, including the Secretary's recommendations regarding such amendment.

Deadline. Reports.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

26 USC 7871 note.

SEC. 1403. INCREASE IN NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Section 45D(f)(1) is amended—

26 USC 45.

(1) by striking "and" at the end of subparagraph (C),

(2) by striking ", 2007, 2008, and 2009." in subparagraph (D), and inserting "and 2007,", and

(3) by adding at the end the following new subparagraphs:

"(E) $5,000,000,000 for 2008, and

"(F) $5,000,000,000 for 2009.".

(b) SPECIAL RULE FOR ALLOCATION OF INCREASED 2008 LIMITATION.—The amount of the increase in the new markets tax credit limitation for calendar year 2008 by reason of the amendments made by subsection (a) shall be allocated in accordance with section 45D(f)(2) of the Internal Revenue Code of 1986 to qualified community development entities (as defined in section 45D(c) of such Code) which—

26 USC 45D note.

(1) submitted an allocation application with respect to calendar year 2008, and

(2)(A) did not receive an allocation for such calendar year, or

(B) received an allocation for such calendar year in an amount less than the amount requested in the allocation application.

SEC. 1404. COORDINATION OF LOW-INCOME HOUSING CREDIT AND LOW-INCOME HOUSING GRANTS.

Subsection (i) of section 42 is amended by adding at the end the following new paragraph:

"(9) COORDINATION WITH LOW-INCOME HOUSING GRANTS.—

"(A) REDUCTION IN STATE HOUSING CREDIT CEILING FOR LOW-INCOME HOUSING GRANTS RECEIVED IN 2009.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2009 shall each be reduced by so much of such amount as is taken into account in determining the amount of any grant to such State under section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

"(B) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any grant described in subparagraph (A).".

Subtitle F—Infrastructure Financing Tools

PART I—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph: 26 USC 265.

"(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

"(A) IN GENERAL.—In applying paragraph (2)(A), there shall not be taken into account tax-exempt obligations issued during 2009 or 2010.

"(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

"(C) REFUNDINGS.—For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).".

(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: "That portion of any obligation not taken into account under paragraph (2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008. 26 USC 265 note.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010.—

"(i) INCREASE IN LIMITATION.—In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '$30,000,000' for '$10,000,000'. Applicability.

"(ii) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer. Applicability.

"(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS.—In the case of a qualified financing issue issued during 2009 or 2010—

"(I) subparagraph (F) shall not apply, and

"(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt

obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).

"(iv) QUALIFIED FINANCING ISSUE.—For purposes of this subparagraph, the term 'qualified financing issue' means any composite, pooled, or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to 1 or more ultimate borrowers each of whom is a qualified borrower.

"(v) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

"(vi) QUALIFIED BORROWER.—For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).".

26 USC 265 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

26 USC 57.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

"(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—

"(I) IN GENERAL.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011.

"(II) TREATMENT OF REFUNDING BONDS.—For purposes of subclause (I), a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).

"(III) EXCEPTION FOR CERTAIN REFUNDING BONDS.—Subclause (II) shall not apply to any refunding bond which is issued to refund any bond which was issued after December 31, 2003, and before January 1, 2009.".

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED DURING 2009 AND 2010.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

"(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—

"(I) IN GENERAL.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011.

"(II) TREATMENT OF REFUNDING BONDS.—For purposes of subclause (I), a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).

"(III) EXCEPTION FOR CERTAIN REFUNDING BONDS.—Subclause (II) shall not apply to any refunding bond which is issued to refund any bond which was issued after December 31, 2003, and before January 1, 2009.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008. 26 USC 56 note.

SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 142(i) is amended by striking "operate at speeds in excess of" and inserting "be capable of attaining a maximum speed in excess of". 26 USC 142.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 142 note.

PART II—DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS. 26 USC 3402 note.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking "December 31, 2010" and inserting "December 31, 2011". 26 USC 3402.

PART III—TAX CREDIT BONDS FOR SCHOOLS

SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.

"(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer

shall not exceed the limitation amount allocated under subsection (d) for such calendar year to such issuer.

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

"(1) $11,000,000,000 for 2009,

"(2) $11,000,000,000 for 2010, and

"(3) except as provided in subsection (e), zero after 2010.

"(d) ALLOCATION OF LIMITATION.—

"(1) ALLOCATION AMONG STATES.—Except as provided in paragraph (2)(C), the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective amounts each such State is eligible to receive under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

"(2) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

"(A) IN GENERAL.—40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under subparagraph (B) by the Secretary among local educational agencies which are large local educational agencies for such year.

"(B) ALLOCATION FORMULA.—The amount to be allocated under subparagraph (A) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent fiscal year ending before such calendar year.

"(C) REDUCTION IN STATE ALLOCATION.—The allocation to any State under paragraph (1) shall be reduced by the aggregate amount of the allocations under this paragraph to large local educational agencies within such State.

"(D) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this paragraph to a large local educational agency for any calendar year may be reallocated by such agency to the State in which such agency is located for such calendar year. Any amount reallocated to a State under the preceding sentence may be allocated as provided in paragraph (1).

"(E) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this paragraph, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

"(i) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

"(ii) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary of Education determines (based on the

most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

"(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2009, and $200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

"(e) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(1) the amount allocated under subsection (d) to any State, exceeds

"(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation, the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4).". Applicability.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended by striking "or" at the end of subparagraph (C), by inserting "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph: 26 USC 54.

"(E) a qualified school construction bond,".

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).".

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 54F. Qualified school construction bonds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 54A note.

SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

26 USC 54.

(a) IN GENERAL.—Section 54E(c)(1) is amended by striking "and 2009" and inserting "and $1,400,000,000 for 2009 and 2010".

26 USC 54E note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART IV—BUILD AMERICA BONDS

SEC. 1531. BUILD AMERICA BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 is amended by adding at the end the following new subpart:

"Subpart J—Build America Bonds

"Sec. 54AA. Build America bonds.

"SEC. 54AA. BUILD AMERICA BONDS.

"(a) IN GENERAL.—If a taxpayer holds a build America bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is 35 percent of the amount of interest payable by the issuer with respect to such date .

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) BUILD AMERICA BOND.—

"(1) IN GENERAL.—For purposes of this section, the term 'build America bond' means any obligation (other than a private activity bond) if—

"(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

"(B) such obligation is issued before January 1, 2011, and

"(C) the issuer makes an irrevocable election to have this section apply.

"(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

"(A) for purposes of section 149(b), a build America bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6431,

"(B) for purposes of section 148, the yield on a build America bond shall be determined without regard to the credit allowed under subsection (a), and

"(C) a bond shall not be treated as a build America bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

"(e) INTEREST PAYMENT DATE.—For purposes of this section, the term 'interest payment date' means any date on which the holder of record of the build America bond is entitled to a payment of interest under such bond.

"(f) SPECIAL RULES.—

"(1) INTEREST ON BUILD AMERICA BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—For purposes of this title, interest on any build America bond shall be includible in gross income.

"(2) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).

"(g) SPECIAL RULE FOR QUALIFIED BONDS ISSUED BEFORE 2011.—In the case of a qualified bond issued before January 1, 2011—

"(1) ISSUER ALLOWED REFUNDABLE CREDIT.—In lieu of any credit allowed under this section with respect to such bond, the issuer of such bond shall be allowed a credit as provided in section 6431.

"(2) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' means any build America bond issued as part of an issue if—

"(A) 100 percent of the excess of—

"(i) the available project proceeds (as defined in section 54A) of such issue, over

"(ii) the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue,

are to be used for capital expenditures, and

"(B) the issuer makes an irrevocable election to have this subsection apply.

"(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6431.".

(b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE 2011.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

"SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

"(a) IN GENERAL.—In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

"(b) PAYMENT OF CREDIT.—The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such

interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

"(c) APPLICATION OF ARBITRAGE RULES.—For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

"(d) INTEREST PAYMENT DATE.—For purposes of this subsection, the term 'interest payment date' means each date on which interest is payable by the issuer under the terms of the bond.

"(e) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' has the meaning given such term in section 54AA(g).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or 6428" and inserting "6428, or 6431,".

26 USC 54.

(2) Section 54A(c)(1)(B) is amended by striking "subpart C" and inserting "subparts C and J".

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking "and I" and inserting ", I, and J".

(4) Section 6211(b)(4)(A) is amended by striking "and 6428" and inserting "6428, and 6431".

(5) Section 6401(b)(1) is amended by striking "and I" and inserting "I, and J".

(6) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"SUBPART J. BUILD AMERICA BONDS.".

(7) The table of section for subchapter B of chapter 65 is amended by adding at the end the following new item:

"Sec. 6431. Credit for qualified bonds allowed to issuer.".

26 USC 54AA note.

(d) TRANSITIONAL COORDINATION WITH STATE LAW.—Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any build America bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

26 USC 54 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART V—REGULATED INVESTMENT COMPANIES ALLOWED TO PASS-THRU TAX CREDIT BOND CREDITS

SEC. 1541. REGULATED INVESTMENT COMPANIES ALLOWED TO PASS-THRU TAX CREDIT BOND CREDITS.

(a) IN GENERAL.—Part I of subchapter M of chapter 1 is amended by inserting after section 853 the following new section:

"SEC. 853A. CREDITS FROM TAX CREDIT BONDS ALLOWED TO SHAREHOLDERS.

"(a) GENERAL RULE.—A regulated investment company—

"(1) which holds (directly or indirectly) one or more tax credit bonds on one or more applicable dates during the taxable year, and

"(2) which meets the requirements of section 852(a) for the taxable year,

may elect the application of this section with respect to credits allowable to the investment company during such taxable year with respect to such bonds.

"(b) EFFECT OF ELECTION.—If the election provided in subsection (a) is in effect for any taxable year—

"(1) the regulated investment company shall not be allowed any credits to which subsection (a) applies for such taxable year,

"(2) the regulated investment company shall—

"(A) include in gross income (as interest) for such taxable year an amount equal to the amount that such investment company would have included in gross income with respect to such credits if this section did not apply, and

"(B) increase the amount of the dividends paid deduction for such taxable year by the amount of such income, and

"(3) each shareholder of such investment company shall—

"(A) include in gross income an amount equal to such shareholder's proportionate share of the interest income attributable to such credits, and

"(B) be allowed the shareholder's proportionate share of such credits against the tax imposed by this chapter.

"(c) NOTICE TO SHAREHOLDERS.—For purposes of subsection (b)(3), the shareholder's proportionate share of— Deadline.

"(1) credits described in subsection (a), and

"(2) gross income in respect of such credits,

shall not exceed the amounts so designated by the regulated investment company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.

"(d) MANNER OF MAKING ELECTION AND NOTIFYING SHAREHOLDERS.—The election provided in subsection (a) and the notice to shareholders required by subsection (c) shall be made in such manner as the Secretary may prescribe.

"(e) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) TAX CREDIT BOND.—The term 'tax credit bond' means—

"(i) a qualified tax credit bond (as defined in section 54A(d)),

"(ii) a build America bond (as defined in section 54AA(d)), and

"(iii) any bond for which a credit is allowable under subpart H of part IV of subchapter A of this chapter.

"(B) APPLICABLE DATE.—The term 'applicable date' means—

"(i) in the case of a qualified tax credit bond or a bond described in subparagraph (A)(iii), any credit allowance date (as defined in section 54A(e)(1)), and

"(ii) in the case of a build America bond (as defined in section 54AA(d)), any interest payment date (as defined in section 54AA(e)).

"(2) STRIPPED TAX CREDIT BONDS.—If the ownership of a tax credit bond is separated from the credit with respect to such bond, subsection (a) shall be applied by reference to the Applicability.

instruments evidencing the entitlement to the credit rather than the tax credit bond.

"(f) REGULATIONS, ETC.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including methods for determining a shareholder's proportionate share of credits.".

(b) CONFORMING AMENDMENTS.—

26 USC 54.

(1) Section 54(l) is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) Section 54A(h) is amended to read as follows:

Procedures.

"(h) BONDS HELD BY REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a real estate investment trust, the credit determined under subsection (a) shall be allowed to beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be distributed to such beneficiaries) under procedures prescribed by the Secretary.".

(3) The table of sections for part I of subchapter M of chapter 1 is amended by inserting after the item relating to section 853 the following new item:

"Sec. 853A. Credits from tax credit bonds allowed to shareholders.".

26 USC 54 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle G—Other Provisions

26 USC 54C note.

SEC. 1601. APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS.

Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of—

(1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

(4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and

(5) any recovery zone economic development bond (as defined in section 1400U–2 of the Internal Revenue Code of 1986).

26 USC 42 note.

SEC. 1602. GRANTS TO STATES FOR LOW-INCOME HOUSING PROJECTS IN LIEU OF LOW-INCOME HOUSING CREDIT ALLOCATIONS FOR 2009.

(a) IN GENERAL.—The Secretary of the Treasury shall make a grant to the housing credit agency of each State in an amount equal to such State's low-income housing grant election amount.

(b) LOW-INCOME HOUSING GRANT ELECTION AMOUNT.—For purposes of this section, the term "low-income housing grant election amount" means, with respect to any State, such amount as the

State may elect which does not exceed 85 percent of the product of—

(1) the sum of—

(A) 100 percent of the State housing credit ceiling for 2009 which is attributable to amounts described in clauses (i) and (iii) of section 42(h)(3)(C) of the Internal Revenue Code of 1986, and

(B) 40 percent of the State housing credit ceiling for 2009 which is attributable to amounts described in clauses (ii) and (iv) of such section, multiplied by

(2) 10.

(c) SUBAWARDS FOR LOW-INCOME BUILDINGS.—

(1) IN GENERAL.—A State housing credit agency receiving a grant under this section shall use such grant to make subawards to finance the construction or acquisition and rehabilitation of qualified low-income buildings. A subaward under this section may be made to finance a qualified low-income building with or without an allocation under section 42 of the Internal Revenue Code of 1986, except that a State housing credit agency may make subawards to finance qualified low-income buildings without an allocation only if it makes a determination that such use will increase the total funds available to the State to build and rehabilitate affordable housing. In complying with such determination requirement, a State housing credit agency shall establish a process in which applicants that are allocated credits are required to demonstrate good faith efforts to obtain investment commitments for such credits before the agency makes such subawards.

Procedures.

(2) SUBAWARDS SUBJECT TO SAME REQUIREMENTS AS LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Any such subaward with respect to any qualified low-income building shall be made in the same manner and shall be subject to the same limitations (including rent, income, and use restrictions on such building) as an allocation of housing credit dollar amount allocated by such State housing credit agency under section 42 of the Internal Revenue Code of 1986, except that such subawards shall not be limited by, or otherwise affect (except as provided in subsection (h)(3)(J) of such section), the State housing credit ceiling applicable to such agency.

(3) COMPLIANCE AND ASSET MANAGEMENT.—The State housing credit agency shall perform asset management functions to ensure compliance with section 42 of the Internal Revenue Code of 1986 and the long-term viability of buildings funded by any subaward under this section. The State housing credit agency may collect reasonable fees from a subaward recipient to cover expenses associated with the performance of its duties under this paragraph. The State housing credit agency may retain an agent or other private contractor to satisfy the requirements of this paragraph.

(4) RECAPTURE.—The State housing credit agency shall impose conditions or restrictions, including a requirement providing for recapture, on any subaward under this section so as to assure that the building with respect to which such subaward is made remains a qualified low-income building during the compliance period. Any such recapture shall be payable to the Secretary of the Treasury for deposit in the general fund of the Treasury and may be enforced by means

of liens or such other methods as the Secretary of the Treasury determines appropriate.

Deadline.

(d) RETURN OF UNUSED GRANT FUNDS.—Any grant funds not used to make subawards under this section before January 1, 2011, shall be returned to the Secretary of the Treasury on such date. Any subawards returned to the State housing credit agency on or after such date shall be promptly returned to the Secretary of the Treasury. Any amounts returned to the Secretary of the Treasury under this subsection shall be deposited in the general fund of the Treasury.

(e) DEFINITIONS.—Any term used in this section which is also used in section 42 of the Internal Revenue Code of 1986 shall have the same meaning for purposes of this section as when used in such section 42. Any reference in this section to the Secretary of the Treasury shall be treated as including the Secretary's delegate.

(f) APPROPRIATIONS.—There is hereby appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this section.

26 USC 48 note.

SEC. 1603. GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Upon application, the Secretary of the Treasury shall, subject to the requirements of this section, provide a grant to each person who places in service specified energy property to reimburse such person for a portion of the expense of such property as provided in subsection (b). No grant shall be made under this section with respect to any property unless such property—

(1) is placed in service during 2009 or 2010, or

(2) is placed in service after 2010 and before the credit termination date with respect to such property, but only if the construction of such property began during 2009 or 2010.

(b) GRANT AMOUNT.—

(1) IN GENERAL.—The amount of the grant under subsection (a) with respect to any specified energy property shall be the applicable percentage of the basis of such property.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term "applicable percentage" means—

(A) 30 percent in the case of any property described in paragraphs (1) through (4) of subsection (d), and

(B) 10 percent in the case of any other property.

(3) DOLLAR LIMITATIONS.—In the case of property described in paragraph (2), (6), or (7) of subsection (d), the amount of any grant under this section with respect to such property shall not exceed the limitation described in section 48(c)(1)(B), 48(c)(2)(B), or 48(c)(3)(B) of the Internal Revenue Code of 1986, respectively, with respect to such property.

(c) TIME FOR PAYMENT OF GRANT.—The Secretary of the Treasury shall make payment of any grant under subsection (a) during the 60-day period beginning on the later of—

(1) the date of the application for such grant, or

(2) the date the specified energy property for which the grant is being made is placed in service.

(d) SPECIFIED ENERGY PROPERTY.—For purposes of this section, the term "specified energy property" means any of the following:

(1) QUALIFIED FACILITIES.—Any qualified property (as defined in section 48(a)(5)(D) of the Internal Revenue Code of 1986) which is part of a qualified facility (within the meaning of section 45 of such Code) described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of such Code.

(2) QUALIFIED FUEL CELL PROPERTY.—Any qualified fuel cell property (as defined in section 48(c)(1) of such Code).

(3) SOLAR PROPERTY.—Any property described in clause (i) or (ii) of section 48(a)(3)(A) of such Code.

(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—Any qualified small wind energy property (as defined in section 48(c)(4) of such Code).

(5) GEOTHERMAL PROPERTY.—Any property described in clause (iii) of section 48(a)(3)(A) of such Code.

(6) QUALIFIED MICROTURBINE PROPERTY.—Any qualified microturbine property (as defined in section 48(c)(2) of such Code).

(7) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Any combined heat and power system property (as defined in section 48(c)(3) of such Code).

(8) GEOTHERMAL HEAT PUMP PROPERTY.—Any property described in clause (vii) of section 48(a)(3)(A) of such Code.

Such term shall not include any property unless depreciation (or amortization in lieu of depreciation) is allowable with respect to such property.

(e) CREDIT TERMINATION DATE.—For purposes of this section, the term "credit termination date" means—

(1) in the case of any specified energy property which is part of a facility described in paragraph (1) of section 45(d) of the Internal Revenue Code of 1986, January 1, 2013,

(2) in the case of any specified energy property which is part of a facility described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of such Code, January 1, 2014, and

(3) in the case of any specified energy property described in section 48 of such Code, January 1, 2017.

Applicability.

In the case of any property which is described in paragraph (3) and also in another paragraph of this subsection, paragraph (3) shall apply with respect to such property.

(f) APPLICATION OF CERTAIN RULES.—In making grants under this section, the Secretary of the Treasury shall apply rules similar to the rules of section 50 of the Internal Revenue Code of 1986. In applying such rules, if the property is disposed of, or otherwise ceases to be specified energy property, the Secretary of the Treasury shall provide for the recapture of the appropriate percentage of the grant amount in such manner as the Secretary of the Treasury determines appropriate.

(g) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—The Secretary of the Treasury shall not make any grant under this section to—

(1) any Federal, State, or local government (or any political subdivision, agency, or instrumentality thereof),

(2) any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(3) any entity referred to in paragraph (4) of section 54(j) of such Code, or

(4) any partnership or other pass-thru entity any partner (or other holder of an equity or profits interest) of which is described in paragraph (1), (2) or (3).

(h) DEFINITIONS.—Terms used in this section which are also used in section 45 or 48 of the Internal Revenue Code of 1986 shall have the same meaning for purposes of this section as when used in such section 45 or 48. Any reference in this section to the Secretary of the Treasury shall be treated as including the Secretary's delegate.

(i) APPROPRIATIONS.—There is hereby appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this section.

Deadline.

(j) TERMINATION.—The Secretary of the Treasury shall not make any grant to any person under this section unless the application of such person for such grant is received before October 1, 2011.

31 USC 3101.

SEC. 1604. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting "$12,104,000,000,000".

Subtitle H—Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

19 USC 1675c note.

SEC. 1701. PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may—

(1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or

(2) offset any past, current, or future distributions of antidumping or countervailing duties assessed with respect to imports from countries that are not parties to the North American Free Trade Agreement in an attempt to recoup any payments described in subsection (b).

(b) PAYMENTS DESCRIBED.—Payments described in this subsection are payments of antidumping or countervailing duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 154))) that were—

(1) assessed and paid on imports of goods from countries that are parties to the North American Free Trade Agreement; and

(2) distributed on or after January 1, 2001, and before January 1, 2006.

Deadline.

(c) PAYMENT OF FUNDS COLLECTED OR WITHHELD.—Not later than the date that is 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) refund any repayments, or any other recoupment, of payments described in subsection (b); and

(2) fully distribute any antidumping or countervailing duties that the U.S. Customs and Border Protection is withholding as an offset as described in subsection (a)(2).

(d) LIMITATION.—Nothing in this section shall be construed to prevent the Secretary of Homeland Security, or any other person, from requiring repayment of, or attempting to otherwise recoup, any payments described in subsection (b) as a result of—

(1) a finding of false statements or other misconduct by a recipient of such a payment; or

(2) the reliquidation of an entry with respect to which such a payment was made.

Subtitle I—Trade Adjustment Assistance

Trade and Globalization Adjustment Assistance Act of 2009. 19 USC 2101 note.

SEC. 1800. SHORT TITLE.

This subtitle may be cited as the "Trade and Globalization Adjustment Assistance Act of 2009".

PART I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Subpart A—Trade Adjustment Assistance for Service Sector Workers

SEC. 1801. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICE SECTOR AND PUBLIC AGENCY WORKERS; SHIFTS IN PRODUCTION.

(a) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by striking "or appropriate subdivision of a firm"; and

(B) by striking "or subdivision";

(2) in paragraph (2), by striking "employment—" and all that follows and inserting "employment, has been totally or partially separated from such employment.";

(3) by inserting after paragraph (2) the following:

"(3) Subject to section 222(d)(5), the term 'firm' means—

"(A) a firm, including an agricultural firm, service sector firm, or public agency; or

"(B) an appropriate subdivision thereof.";

(4) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government, or a subdivision thereof.";

(5) in paragraph (11), by striking ", or in a subdivision of which,"; and

(6) by adding at the end the following:

"(18) The term 'service sector firm' means a firm engaged in the business of supplying services.".

(b) GROUP ELIGIBILITY REQUIREMENTS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)(2)—

(A) by amending subparagraph (A)(ii) to read as follows:

"(ii)(I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

"(II) imports of articles like or directly competitive with articles—

"(aa) into which one or more component parts produced by such firm are directly incorporated, or

"(bb) which are produced directly using services supplied by such firm,

have increased; or

"(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

"(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

"(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

"(b) ADVERSELY AFFECTED WORKERS IN PUBLIC AGENCIES.—A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

Certification.

"(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

"(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

"(3) the acquisition of services described in paragraph (2) contributed importantly to such workers' separation or threat of separation.".

(c) BASIS FOR SECRETARY'S DETERMINATIONS.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272), as amended, is further amended by adding at the end the following:

"(e) BASIS FOR SECRETARY'S DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary shall, in determining whether to certify a group of workers under section 223, obtain from the workers' firm, or a customer of the workers' firm, information the Secretary determines to be necessary to make the certification, through questionnaires and in such other manner as the Secretary determines appropriate.

"(2) ADDITIONAL INFORMATION.—The Secretary may seek additional information to determine whether to certify a group of workers under subsection (a), (b), or (c)—

"(A) by contacting—

"(i) officials or employees of the workers' firm;

"(ii) officials of customers of the workers' firm;

"(iii) officials of certified or recognized unions or other duly authorized representatives of the group of workers; or

"(iv) one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)); or

"(B) by using other available sources of information.

"(3) VERIFICATION OF INFORMATION.—

"(A) CERTIFICATION.—The Secretary shall require a firm or customer to certify—

"(i) all information obtained under paragraph (1) from the firm or customer (as the case may be) through questionnaires; and

"(ii) all other information obtained under paragraph (1) from the firm or customer (as the case may be) on which the Secretary relies in making a determination under section 223, unless the Secretary has a reasonable basis for determining that such information is accurate and complete without being certified.

"(B) USE OF SUBPOENAS.—The Secretary shall require the workers' firm or a customer of the workers' firm to provide information requested by the Secretary under paragraph (1) by subpoena pursuant to section 249 if the firm or customer (as the case may be) fails to provide the information within 20 days after the date of the Secretary's request, unless the firm or customer (as the case may be) demonstrates to the satisfaction of the Secretary that the firm or customer (as the case may be) will provide the information within a reasonable period of time. Deadline.

"(C) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary may not release information obtained under paragraph (1) that the Secretary considers to be confidential business information unless the firm or customer (as the case may be) submitting the confidential business information had notice, at the time of submission, that the information would be released by the Secretary, or the firm or customer (as the case may be) subsequently consents to the release of the information. Nothing in this subparagraph shall be construed to prohibit the Secretary from providing such confidential business information to a court in camera or to another party under a protective order issued by a court.".

(d) PENALTIES.—Section 244 of the Trade Act of 1974 (19 U.S.C. 2316) is amended to read as follows:

"SEC. 244. PENALTIES.

"Any person who—

"(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for that person or for any other person any payment authorized to be furnished

under this chapter or pursuant to an agreement under section 239, or

"(2) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, when providing information to the Secretary during an investigation of a petition under section 221,

shall be imprisoned for not more than one year, or fined under title 18, United States Code, or both.".

(e) CONFORMING AMENDMENTS.—

(1) Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "Secretary" and inserting "Secretary of Labor"; and

(II) by striking "or subdivision" and inserting "(as defined in section 247)"; and

(ii) in subparagraph (A), by striking "(including workers in an agricultural firm or subdivision of any agricultural firm)";

(B) in paragraph (2)(A), by striking "rapid response assistance" and inserting "rapid response activities"; and

(C) in paragraph (3), by inserting "and on the website of the Department of Labor" after "Federal Register".

(2) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272), as amended, is further amended—

(A) by striking "(including workers in any agricultural firm or subdivision of an agricultural firm)" each place it appears;

(B) in subsection (a)—

(i) in paragraph (1), by striking ", or an appropriate subdivision of the firm,"; and

(ii) in paragraph (2), by striking "or subdivision" each place it appears;

(C) in subsection (c) (as redesignated)—

(i) in paragraph (2)—

(I) by striking "(or subdivision)" each place it appears;

(II) by inserting "or service" after "the article"; and

(III) by striking "(c) (3)" and inserting "(d) (3)"; and

(ii) in paragraph (3), by striking "(or subdivision)" each place it appears; and

(D) in subsection (d) (as redesignated)—

(i) by striking "For purposes" and inserting "DEFINITIONS.—For purposes";

(ii) in paragraph (2), by striking ", or appropriate subdivision of a firm," each place it appears;

(iii) by amending paragraph (3) to read as follows:

"(3) DOWNSTREAM PRODUCER.—

"(A) IN GENERAL.—The term 'downstream producer' means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a).

"(B) VALUE-ADDED PRODUCTION PROCESSES OR SERVICES.—For purposes of subparagraph (A), value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services.";

(iv) in paragraph (4)—

(I) by striking "(or subdivision)"; and

(II) by inserting ", or services, used in the production of articles or in the supply of services, as the case may be," after "for articles"; and

(v) by adding at the end the following:

"(5) REFERENCE TO FIRM.—For purposes of subsection (a), the term 'firm' does not include a public agency.".

(3) Section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking "or subdivision of a firm"; and

(B) in subparagraph (C), by striking "or subdivision".

SEC. 1802. SEPARATE BASIS FOR CERTIFICATION.

Section 222 of the Trade Act of 1974 (19 U.S.C. 2272), as amended, is further amended by adding at the end the following:

"(f) FIRMS IDENTIFIED BY THE INTERNATIONAL TRADE COMMISSION.—Notwithstanding any other provision of this chapter, a group of workers covered by a petition filed under section 221 shall be certified under subsection (a) as eligible to apply for adjustment assistance under this chapter if—

"(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

"(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

"(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

"(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

"(2) the petition is filed during the one-year period beginning on the date on which—

Time period.
Notice.
Federal Register, publication.

"(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the Federal Register under section 202(f)(3); or

"(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the Federal Register; and

"(3) the workers have become totally or partially separated from the workers' firm within—

"(A) the one-year period described in paragraph (2); or

"(B) notwithstanding section 223(b), the one-year period preceding the one-year period described in paragraph (2).".

SEC. 1803. DETERMINATIONS BY SECRETARY OF LABOR.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended—

(1) in subsection (b), by striking "or appropriate subdivision of the firm before his application" and all that follows and inserting "before the worker's application under section 231 occurred more than one year before the date of the petition on which such certification was granted.";

(2) in subsection (c), by striking "together with his reasons" and inserting "and on the website of the Department of Labor, together with the Secretary's reasons";

(3) in subsection (d)—

(A) by striking "or subdivision of the firm" and all that follows through "he shall" and inserting ", that total or partial separations from such firm are no longer attributable to the conditions specified in section 222, the Secretary shall"; and

(B) by striking "together with his reasons" and inserting "and on the website of the Department of Labor, together with the Secretary's reasons"; and

(4) by adding at the end the following:

"(e) STANDARDS FOR INVESTIGATIONS AND DETERMINATIONS.—

Criteria.

"(1) IN GENERAL.—The Secretary shall establish standards, including data requirements, for investigations of petitions filed under section 221 and criteria for making determinations under subsection (a).

Deadline.

"(2) CONSULTATIONS.—Not less than 90 days before issuing a final rule with respect to the standards required under paragraph (1), the Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to such rule.".

SEC. 1804. MONITORING AND REPORTING RELATING TO SERVICE SECTOR.

(a) IN GENERAL.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the heading, by striking "**SYSTEM**" and inserting "**AND DATA COLLECTION**";

(2) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) MONITORING PROGRAMS.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic supply of services" after "domestic production";

(D) by inserting "or supplying services" after "producing articles"; and

(E) by inserting ", or supply of services," after "changes in production"; and

(3) by adding at the end the following:

"(b) COLLECTION OF DATA AND REPORTS ON SERVICE SECTOR.—

System.

"(1) SECRETARY OF LABOR.—Not later than 90 days after the date of the enactment of this subsection, the Secretary of Labor shall implement a system to collect data on adversely affected workers employed in the service sector that includes the number of workers by State and industry, and by the

cause of the dislocation of each worker, as identified in the certification.

"(2) SECRETARY OF COMMERCE.—Not later than 1 year after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms acquiring services from firms in foreign countries.". Study.

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 282 and inserting the following:

"Sec. 282. Trade monitoring and data collection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 19 USC 2393 note.

Subpart B—Industry Notifications Following Certain Affirmative Determinations

SEC. 1811. NOTIFICATIONS FOLLOWING CERTAIN AFFIRMATIVE DETERMINATIONS.

(a) IN GENERAL.—Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended—

(1) by amending the heading to read as follows:

"SEC. 224. STUDY AND NOTIFICATIONS REGARDING CERTAIN AFFIRMATIVE DETERMINATIONS; INDUSTRY NOTIFICATION OF ASSISTANCE.";

(2) in subsection (a), by striking "Whenever" and inserting "STUDY OF DOMESTIC INDUSTRY.—Whenever";

(3) in subsection (b)—

(A) by striking "The report" and inserting "REPORT BY THE SECRETARY.—The report"; and

(B) by inserting "and on the website of the Department of Labor" after "Federal Register"; and

(4) by adding at the end the following:

"(c) NOTIFICATIONS FOLLOWING AFFIRMATIVE GLOBAL SAFEGUARD DETERMINATIONS.—Upon making an affirmative determination under section 202(b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

"(d) NOTIFICATIONS FOLLOWING AFFIRMATIVE BILATERAL OR PLURILATERAL SAFEGUARD DETERMINATIONS.—

"(1) NOTIFICATIONS OF DETERMINATIONS OF MARKET DISRUPTION.—Upon making an affirmative determination under section 421(b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

"(2) NOTIFICATIONS REGARDING TRADE AGREEMENT SAFEGUARDS.—Upon making an affirmative determination in a proceeding initiated under an applicable safeguard provision (other than a provision described in paragraph (3)) that is enacted

to implement a trade agreement to which the United States is a party, the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

"(3) NOTIFICATIONS REGARDING TEXTILE AND APPAREL SAFEGUARDS.—Upon making an affirmative determination in a proceeding initiated under any safeguard provision relating to textile and apparel articles that is enacted to implement a trade agreement to which the United States is a party, the President shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination.

"(e) NOTIFICATIONS FOLLOWING CERTAIN AFFIRMATIVE DETERMINATIONS UNDER TITLE VII OF THE TARIFF ACT OF 1930.—Upon making an affirmative determination under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce and, in the case of a determination with respect to an agricultural commodity, the Secretary of Agriculture, of the determination.

"(f) INDUSTRY NOTIFICATION OF ASSISTANCE.—Upon receiving a notification of a determination under subsection (c), (d), or (e) with respect to a domestic industry—

"(1) the Secretary of Labor shall—

"(A) notify the representatives of the domestic industry affected by the determination, firms publicly identified by name during the course of the proceeding relating to the determination, and any certified or recognized union or, to the extent practicable, other duly authorized representative of workers employed by such representatives of the domestic industry, of—

"(i) the allowances, training, employment services, and other benefits available under this chapter;

"(ii) the manner in which to file a petition and apply for such benefits; and

"(iii) the availability of assistance in filing such petitions;

"(B) notify the Governor of each State in which one or more firms in the industry described in subparagraph (A) are located of the Commission's determination and the identity of the firms; and

"(C) upon request, provide any assistance that is necessary to file a petition under section 221;

"(2) the Secretary of Commerce shall—

"(A) notify the representatives of the domestic industry affected by the determination and any firms publicly identified by name during the course of the proceeding relating to the determination of—

"(i) the benefits available under chapter 3;

"(ii) the manner in which to file a petition and apply for such benefits; and

"(iii) the availability of assistance in filing such petitions; and

"(B) upon request, provide any assistance that is necessary to file a petition under section 251; and

"(3) in the case of an affirmative determination based upon imports of an agricultural commodity, the Secretary of Agriculture shall—

"(A) notify representatives of the domestic industry affected by the determination and any agricultural commodity producers publicly identified by name during the course of the proceeding relating to the determination of—

"(i) the benefits available under chapter 6;

"(ii) the manner in which to file a petition and apply for such benefits; and

"(iii) the availability of assistance in filing such petitions; and

"(B) upon request, provide any assistance that is necessary to file a petition under section 292.

"(g) REPRESENTATIVES OF THE DOMESTIC INDUSTRY.—For purposes of subsection (f), the term 'representatives of the domestic industry' means the persons that petitioned for relief in connection with—

"(1) a proceeding under section 202 or 421 of this Act;

"(2) a proceeding under section 702(b) or 732(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)); or

"(3) any safeguard investigation described in subsection (d)(2) or (d)(3).".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 224 and inserting the following:

"Sec. 224. Study and notifications regarding certain affirmative determinations; industry notification of assistance.".

SEC. 1812. NOTIFICATION TO SECRETARY OF COMMERCE.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended by adding at the end the following:

"(c) Upon issuing a certification under section 223, the Secretary shall notify the Secretary of Commerce of the identity of each firm covered by the certification.".

Subpart C—Program Benefits

SEC. 1821. QUALIFYING REQUIREMENTS FOR WORKERS.

(a) IN GENERAL.—Section 231(a)(5)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2291 (a)(5)(A)(ii)) is amended—

(1) by striking subclauses (I) and (II) and inserting the following: Certification.

"(I) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs after the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after such total separation,

"(II) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs before the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after the date of such certification,";

(2) in subclause (III)—

(A) by striking "later of the dates specified in subclause (I) or (II)" and inserting "date specified in subclause (I) or (II), as the case may be"; and

(B) by striking "or" at the end;

(3) by redesignating subclause (IV) as subclause (V); and

(4) by inserting after subclause (III) the following:

"(IV) in the case of a worker who fails to enroll by the date required by subclause (I), (II), or (III), as the case may be, due to the failure to provide the worker with timely information regarding the date specified in such subclause, the last day of a period determined by the Secretary, or".

(b) WAIVERS OF TRAINING REQUIREMENTS.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "The worker possesses" and inserting the following:

"(i) IN GENERAL.—The worker possesses"; and

(B) by adding at the end the following:

"(ii) MARKETABLE SKILLS DEFINED.—For purposes of clause (i), the term 'marketable skills' may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.";

(2) in paragraph (2)(A), by striking "A waiver" and inserting "Except as provided in paragraph (3)(B), a waiver"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "Pursuant to an agreement under section 239, the Secretary may authorize a" and inserting "An agreement under section 239 shall authorize a";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

Deadlines.

"(B) REVIEW OF WAIVERS.—An agreement under section 239 shall require a cooperating State to review each waiver issued by the State under subparagraph (A), (B), (D), (E), or (F) of paragraph (1)—

"(i) 3 months after the date on which the State issues the waiver; and

"(ii) on a monthly basis thereafter.".

(c) CONFORMING AMENDMENTS.—

(1) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291), as amended, is further amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "more than 60 days" and all that follows through "section 221" and inserting "on or after the date of such certification"; and

(B) in subsection (b)—

(i) by striking paragraph (2); and

(ii) in paragraph (1)—

(I) by striking "(1)";

(II) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(III) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(2) Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

SEC. 1822. WEEKLY AMOUNTS.

Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) in subsection (a)—

(A) by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)";

(B) by striking "total unemployment" the first place it appears and inserting "unemployment"; and

(C) in paragraph (2), by inserting before the period the following: ", except that in the case of an adversely affected worker who is participating in training under this chapter, such income shall not include earnings from work for such week that are equal to or less than the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B))"; and

(2) by adding at the end the following:

"(d) ELECTION OF TRADE READJUSTMENT ALLOWANCE OR UNEMPLOYMENT INSURANCE.—Notwithstanding section 231(a)(3)(B), an adversely affected worker may elect to receive a trade readjustment allowance instead of unemployment insurance during any week with respect to which the worker—

"(1) is entitled to receive unemployment insurance as a result of the establishment by the worker of a new benefit year under State law, based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and

"(2) is otherwise entitled to a trade readjustment allowance.".

SEC. 1823. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES; ALLOWANCES FOR EXTENDED TRAINING AND BREAKS IN TRAINING.

Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting "under paragraph (1)" after "trade readjustment allowance"; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "training approved for him" and inserting "a training program approved for the worker";

(ii) by striking "52 additional weeks" and inserting "78 additional weeks"; and

(iii) by striking "52-week" and inserting "91-week"; and

(B) in the matter following subparagraph (B), by striking "52-week" and inserting "91-week".

SEC. 1824. SPECIAL RULES FOR CALCULATION OF ELIGIBILITY PERIOD.

Section 233 of the Trade Act of 1974 (19 U.S.C. 2293), as amended, is further amended by adding at the end the following:

"(g) SPECIAL RULE FOR CALCULATING SEPARATION.—Notwithstanding any other provision of this chapter, any period during which a judicial or administrative appeal is pending with respect to the denial by the Secretary of a petition under section 223 shall not be counted for purposes of calculating the period of separation under subsection (a)(2).

"(h) SPECIAL RULE FOR JUSTIFIABLE CAUSE.—If the Secretary determines that there is justifiable cause, the Secretary may extend the period during which trade readjustment allowances are payable to an adversely affected worker under paragraphs (2) and (3) of subsection (a) (but not the maximum amounts of such allowances that are payable under this section).

"(i) SPECIAL RULE WITH RESPECT TO MILITARY SERVICE.—

Waiver authority.

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary may waive any requirement of this chapter that the Secretary determines is necessary to ensure that an adversely affected worker who is a member of a reserve component of the Armed Forces and serves a period of duty described in paragraph (2) is eligible to receive a trade readjustment allowance, training, and other benefits under this chapter in the same manner and to the same extent as if the worker had not served the period of duty.

"(2) PERIOD OF DUTY DESCRIBED.—An adversely affected worker serves a period of duty described in this paragraph if, before completing training under section 236, the worker—

"(A) serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

"(B) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.".

SEC. 1825. APPLICATION OF STATE LAWS AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.

Section 234 of the Trade Act of 1974 (19 U.S.C. 2294) is amended—

(1) by striking "Except where inconsistent" and inserting "(a) IN GENERAL.—Except where inconsistent"; and

(2) by adding at the end the following:

"(b) SPECIAL RULE WITH RESPECT TO STATE LAWS AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.—Any law, regulation, policy, or practice of a cooperating State that allows for a waiver for good cause of any time limitation relating to the administration of the State unemployment insurance law shall, in the administration of the program under this chapter

Applicability.

by the State, apply to any time limitation with respect to an application for a trade readjustment allowance or enrollment in training under this chapter.".

SEC. 1826. EMPLOYMENT AND CASE MANAGEMENT SERVICES.

(a) IN GENERAL.—Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended to read as follows:

"SEC. 235. EMPLOYMENT AND CASE MANAGEMENT SERVICES.

Contracts.

"The Secretary shall make available, directly or through agreements with States under section 239, to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter the following employment and case management services:

"(1) Comprehensive and specialized assessment of skill levels and service needs, including through—

"(A) diagnostic testing and use of other assessment tools; and

"(B) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

"(2) Development of an individual employment plan to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.

"(3) Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.

"(4) Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965 (20 U.S.C. 1070a–16), where applicable, and notifying workers that the workers may request financial aid administrators at institutions of higher education (as defined in section 102 of such Act (20 U.S.C. 1002)) to use the administrators' discretion under section 479A of such Act (20 U.S.C. 1087tt) to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for Federal financial assistance under title IV of such Act (20 U.S.C. 1070 et seq.).

"(5) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.

"(6) Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training under this chapter, and after receiving such training for purposes of job placement.

"(7) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

"(A) job vacancy listings in such labor market areas;

"(B) information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

"(C) information relating to local occupations that are in demand and earnings potential of such occupations; and

"(D) skills requirements for local occupations described in subparagraph (C).

"(8) Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

"235. Employment and case management services.".

SEC. 1827. ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.

(a) IN GENERAL.—Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295 et seq.) is amended by inserting after section 235 the following:

19 USC 2295a.

"SEC. 235A. FUNDING FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.

"(a) FUNDING FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

"(1) IN GENERAL.—In addition to any funds made available to a State to carry out section 236 for a fiscal year, the State shall receive for the fiscal year a payment in an amount that is equal to 15 percent of the amount of such funds.

"(2) USE OF FUNDS.—A State that receives a payment under paragraph (1) shall—

"(A) use not more than ⅔ of such payment for the administration of the trade adjustment assistance for workers program under this chapter, including for—

"(i) processing waivers of training requirements under section 231;

"(ii) collecting, validating, and reporting data required under this chapter; and

"(iii) providing reemployment trade adjustment assistance under section 246; and

"(B) use not less than ⅓ of such payment for employment and case management services under section 235.

"(b) ADDITIONAL FUNDING FOR EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

"(1) IN GENERAL.—In addition to any funds made available to a State to carry out section 236 and the payment under subsection (a)(1) for a fiscal year, the Secretary shall provide to the State for the fiscal year a payment in the amount of $350,000.

"(2) USE OF FUNDS.—A State that receives a payment under paragraph (1) shall use such payment for the purpose of providing employment and case management services under section 235.

"(3) VOLUNTARY RETURN OF FUNDS.—A State that receives a payment under paragraph (1) may decline or otherwise return such payment to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 235 the following:

"Sec. 235A. Funding for administrative expenses and employment and case management services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 19 USC 2295a note.

SEC. 1828. TRAINING FUNDING.

(a) IN GENERAL.—Section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)) is amended to read as follows:

"(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

"(i) for each of the fiscal years 2009 and 2010, $575,000,000; and

"(ii) for the period beginning October 1, 2010, and ending December 31, 2010, $143,750,000. Time period.

"(B)(i) The Secretary shall, as soon as practicable after the beginning of each fiscal year, make an initial distribution of the funds made available to carry out this section, in accordance with the requirements of subparagraph (C).

"(ii) The Secretary shall ensure that not less than 90 percent of the funds made available to carry out this section for a fiscal year are distributed to the States by not later than July 15 of that fiscal year. Deadline.

"(C)(i) In making the initial distribution of funds pursuant to subparagraph (B)(i) for a fiscal year, the Secretary shall hold in reserve 35 percent of the funds made available to carry out this section for that fiscal year for additional distributions during the remainder of the fiscal year.

"(ii) Subject to clause (iii), in determining how to apportion the initial distribution of funds pursuant to subparagraph (B)(i) in a fiscal year, the Secretary shall take into account, with respect to each State—

"(I) the trend in the number of workers covered by certifications of eligibility under this chapter during the most recent 4 consecutive calendar quarters for which data are available;

"(II) the trend in the number of workers participating in training under this section during the most recent 4 consecutive calendar quarters for which data are available;

"(III) the number of workers estimated to be participating in training under this section during the fiscal year;

"(IV) the amount of funding estimated to be necessary to provide training approved under this section to such workers during the fiscal year; and

"(V) such other factors as the Secretary considers appropriate relating to the provision of training under this section.

"(iii) In no case may the amount of the initial distribution to a State pursuant to subparagraph (B)(i) in a fiscal year be less than 25 percent of the initial distribution to the State in the preceding fiscal year.

"(D) The Secretary shall establish procedures for the distribution of the funds that remain available for the fiscal year after the initial distribution required under subparagraph (B)(i). Such procedures may include the distribution of funds pursuant to requests submitted by States in need of such funds. Procedures.

"(E) If, during a fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the dollar amount limitation specified in subparagraph (A), the Secretary shall decide how the amount of funds made available to carry out this section that have not been distributed at the time of the estimate will be apportioned among the States for the remainder of the fiscal year.".

(b) DETERMINATIONS REGARDING TRAINING.—Section 236(a)(9) of the Trade Act of 1974 (19 U.S.C. 2296(a)(9)) is amended—

(1) by striking "The Secretary" and inserting "(A) Subject to subparagraph (B), the Secretary"; and

(2) by adding at the end the following:

"(B)(i) In determining under paragraph (1)(E) whether a worker is qualified to undertake and complete training, the Secretary may approve training for a period longer than the worker's period of eligibility for trade readjustment allowances under part I if the worker demonstrates a financial ability to complete the training after the expiration of the worker's period of eligibility for such trade readjustment allowances.

"(ii) In determining the reasonable cost of training under paragraph (1)(F) with respect to a worker, the Secretary may consider whether other public or private funds are reasonably available to the worker, except that the Secretary may not require a worker to obtain such funds as a condition of approval of training under paragraph (1).".

(c) REGULATIONS.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended by adding at the end the following:

Deadlines.

"(g) REGULATIONS WITH RESPECT TO APPORTIONMENT OF TRAINING FUNDS TO STATES.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out the provisions of subsection (a)(2).

"(2) CONSULTATIONS.—The Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not less than 90 days before issuing any regulation pursuant to paragraph (1).".

19 USC 2296 note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act, except that—

(1) subparagraph (A) of section 236(a)(2) of the Trade Act of 1974, as amended by subsection (a) of this section, shall take effect on the date of the enactment of this Act; and

(2) subparagraphs (B), (C), and (D) of such section 236(a)(2) shall take effect on October 1, 2009.

SEC. 1829. PREREQUISITE EDUCATION; APPROVED TRAINING PROGRAMS.

(a) IN GENERAL.—Section 236(a)(5) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" at the end of clause (i);

(B) by adding "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following:

"(iii) apprenticeship programs registered under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.),";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(3) by inserting after subparagraph (D) the following:

"(E) any program of prerequisite education or coursework required to enroll in training that may be approved under this section,";

(4) in subparagraph (F)(ii), as redesignated by paragraph (2), by striking "and" at the end;

(5) in subparagraph (G), as redesignated by paragraph (2), by striking the period at the end and inserting ", and"; and

(6) by adding at the end the following:

"(H) any training program or coursework at an accredited institution of higher education (described in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including a training program or coursework for the purpose of—

"(i) obtaining a degree or certification; or

"(ii) completing a degree or certification that the worker had previously begun at an accredited institution of higher education.

The Secretary may not limit approval of a training program under paragraph (1) to a program provided pursuant to title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).".

(b) CONFORMING AMENDMENTS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) in subsection (a)(2), by inserting "prerequisite education or" after "requires a program of"; and

(2) in subsection (f) (as redesignated by section 1821(c) of this subtitle), by inserting "prerequisite education or" after "includes a program of".

(c) TECHNICAL CORRECTIONS.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the flush text, by striking "his behalf" and inserting "the worker's behalf"; and

(B) in paragraph (3), by striking "this paragraph (1)" and inserting "paragraph (1)"; and

(2) in subsection (b)(2), by striking ", and" and inserting a period.

SEC. 1830. PRE-LAYOFF AND PART-TIME TRAINING.

(a) PRE-LAYOFF TRAINING.—

(1) IN GENERAL.—Section 236(a) of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(A) in paragraph (1), by inserting after "determines" the following: ", with respect to an adversely affected worker or an adversely affected incumbent worker,";

(B) in paragraph (4)—

(i) in subparagraphs (A) and (B), by inserting "or an adversely affected incumbent worker" after "an adversely affected worker" each place it appears; and

(ii) in subparagraph (C), by inserting "or adversely affected incumbent worker" after "adversely affected worker" each place it appears;

(C) in paragraph (5), in the matter preceding subparagraph (A), by striking "The training programs" and inserting "Except as provided in paragraph (10), the training programs";

(D) in paragraph (6)(B), by inserting "or adversely affected incumbent worker" after "adversely affected worker";

(E) in paragraph (7)(B), by inserting "or adversely affected incumbent worker" after "adversely affected worker"; and

(F) by inserting after paragraph (9) the following:

"(10) In the case of an adversely affected incumbent worker, the Secretary may not approve—

"(A) on-the-job training under paragraph (5)(A)(i); or

"(B) customized training under paragraph (5)(A)(ii), unless such training is for a position other than the worker's adversely affected employment.

"(11) If the Secretary determines that an adversely affected incumbent worker for whom the Secretary approved training under this section is no longer threatened with a total or partial separation, the Secretary shall terminate the approval of such training.".

(2) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319), as amended, is further amended by adding at the end the following:

"(19) The term 'adversely affected incumbent worker' means a worker who—

"(A) is a member of a group of workers who have been certified as eligible to apply for adjustment assistance under subchapter A;

"(B) has not been totally or partially separated from adversely affected employment; and

"(C) the Secretary determines, on an individual basis, is threatened with total or partial separation.".

(b) PART-TIME TRAINING.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296), as amended, is further amended by adding at the end the following:

"(h) PART-TIME TRAINING.—

"(1) IN GENERAL.—The Secretary may approve full-time or part-time training for a worker under subsection (a).

"(2) LIMITATION.—Notwithstanding paragraph (1), a worker participating in part-time training approved under subsection (a) may not receive a trade readjustment allowance under section 231.".

SEC. 1831. ON-THE-JOB TRAINING.

(a) IN GENERAL.—Section 236(c) of the Trade Act of 1974 (19 U.S.C. 2296(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as subparagraphs (A) through (J) and moving such subparagraphs 2 ems to the right;

(2) by striking "(c) The Secretary shall" and all that follows through "such costs," and inserting the following:

"(c) ON-THE-JOB TRAINING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may approve on-the-job training for any adversely affected worker if—

"(A) the worker meets the requirements for training to be approved under subsection (a)(1);

"(B) the Secretary determines that on-the-job training—

"(i) can reasonably be expected to lead to suitable employment with the employer offering the on-the-job training;

"(ii) is compatible with the skills of the worker;

"(iii) includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and

"(iv) can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills; and

"(C) the State determines that the on-the-job training program meets the requirements of clauses (iii) and (iv) of subparagraph (B).

"(2) MONTHLY PAYMENTS.—The Secretary shall pay the costs of on-the-job training approved under paragraph (1) in monthly installments.

"(3) CONTRACTS FOR ON-THE-JOB TRAINING.—

"(A) IN GENERAL.—The Secretary shall ensure, in entering into a contract with an employer to provide on-the-job training to a worker under this subsection, that the skill requirements of the job for which the worker is being trained, the academic and occupational skill level of the worker, and the work experience of the worker are taken into consideration.

"(B) TERM OF CONTRACT.—Training under any such contract shall be limited to the period of time required for the worker receiving on-the-job training to become proficient in the job for which the worker is being trained, but may not exceed 104 weeks in any case.

"(4) EXCLUSION OF CERTAIN EMPLOYERS.—The Secretary shall not enter into a contract for on-the-job training with an employer that exhibits a pattern of failing to provide workers receiving on-the-job training from the employer with—

"(A) continued, long-term employment as regular employees; and

"(B) wages, benefits, and working conditions that are equivalent to the wages, benefits, and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving on-the-job training from the employer.

"(5) LABOR STANDARDS.—The Secretary may pay the costs of on-the-job training,"; and

(3) in paragraph (5), as redesignated—

(A) in subparagraph (I), as redesignated by paragraph (1) of this section, by striking "paragraphs (1), (2), (3), (4), (5), and (6)" and inserting "subparagraphs (A), (B), (C), (D), (E), and (F)"; and

(B) in subparagraph (J), as redesignated by paragraph (1) of this section, by striking "paragraph (8)" and inserting "subparagraph (H)".

(b) REPEAL OF PREFERENCE FOR TRAINING ON THE JOB.—Section 236(a)(1) of the Trade Act of 1974 (19 U.S.C. 2296(a)(1)) is amended by striking the last sentence.

SEC. 1832. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE AND PROGRAM BENEFITS WHILE IN TRAINING.

Section 236(d) of the Trade Act of 1974 (19 U.S.C. 2296(d)) is amended to read as follows:

"(d) ELIGIBILITY.—An adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter—

"(1) because the worker—

"(A) is enrolled in training approved under subsection (a);

"(B) left work—

"(i) that was not suitable employment in order to enroll in such training; or

"(ii) that the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or

Deadline.

"(C) left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of subsection (c)(1)(B); or

"(2) because of the application to any such week in training of the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.".

SEC. 1833. JOB SEARCH AND RELOCATION ALLOWANCES.

(a) JOB SEARCH ALLOWANCES.—Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended—

(1) in subsection (a)(2)(C)(ii), by striking ", unless the worker received a waiver under section 231(c)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "90 percent of the cost of" and inserting "all"; and

(B) in paragraph (2), by striking "$1,250" and inserting "$1,500".

(b) RELOCATION ALLOWANCES.—Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) in subsection (a)(2)(E)(ii), by striking ", unless the worker received a waiver under section 231(c)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "90 percent of the" and inserting "all"; and

(B) in paragraph (2), by striking "$1,250" and inserting "$1,500".

Subpart D—Reemployment Trade Adjustment Assistance Program

SEC. 1841. REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended—

(1) by amending the heading to read as follows:

"SEC. 246. REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE PROGRAM.";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "Not later than" and all that follows through "2002, the Secretary" and inserting "The Secretary"; and

(ii) by striking "an alternative trade adjustment assistance program for older workers" and inserting "a reemployment trade adjustment assistance program";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "for a period not to exceed 2 years" and inserting "for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be)"; and

(II) by striking clauses (i) and (ii) and inserting the following:

"(i) the wages received by the worker at the time of separation; and

"(ii) the wages received by the worker from reemployment.";

(ii) in subparagraph (B)—

(I) by striking "for a period not to exceed 2 years" and inserting "for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be)"; and

(II) by striking ", as added by section 201 of the Trade Act of 2002"; and

(iii) by adding at the end the following:

"(C) TRAINING AND OTHER SERVICES.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive training approved under section 236 and employment and case management services under section 235."; and

(C) by striking paragraphs (3) through (5) and inserting the following:

"(3) ELIGIBILITY.—

"(A) IN GENERAL.—A group of workers certified under subchapter A as eligible for adjustment assistance under subchapter A is eligible for benefits described in paragraph (2) under the program established under paragraph (1).

"(B) INDIVIDUAL ELIGIBILITY.—A worker in a group of workers described in subparagraph (A) may elect to receive benefits described in paragraph (2) under the program established under paragraph (1) if the worker—

"(i) is at least 50 years of age;

"(ii) earns not more than $55,000 each year in wages from reemployment;

"(iii)(I) is employed on a full-time basis as defined by the law of the State in which the worker is employed and is not enrolled in a training program approved under section 236; or

"(II) is employed at least 20 hours per week and is enrolled in a training program approved under section 236; and

"(iv) is not employed at the firm from which the worker was separated.

"(4) ELIGIBILITY PERIOD FOR PAYMENTS.—

Effective date.

"(A) WORKER WHO HAS NOT RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has not received a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period not to exceed 2 years beginning on the earlier of—

"(i) the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification; or

"(ii) the date on which the worker obtains reemployment described in paragraph (3)(B).

"(B) WORKER WHO HAS RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has received a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period of 104 weeks beginning on the date on which the worker obtains reemployment described in paragraph (3)(B), reduced by the total number of weeks for which the worker received such trade readjustment allowance.

"(5) TOTAL AMOUNT OF PAYMENTS.—

"(A) IN GENERAL.—The payments described in paragraph (2)(A) made to a worker may not exceed—

"(i) $12,000 per worker during the eligibility period under paragraph (4)(A); or

"(ii) the amount described in subparagraph (B) per worker during the eligibility period under paragraph (4)(B).

"(B) AMOUNT DESCRIBED.—The amount described in this subparagraph is the amount equal to the product of—

"(i) $12,000, and

"(ii) the ratio of—

"(I) the total number of weeks in the eligibility period under paragraph (4)(B) with respect to the worker, to

"(II) 104 weeks.

"(6) CALCULATION OF AMOUNT OF PAYMENTS FOR CERTAIN WORKERS.—

Applicability.

"(A) IN GENERAL.—In the case of a worker described in paragraph (3)(B)(iii)(II), paragraph (2)(A) shall be applied by substituting the percentage described in subparagraph (B) for '50 percent'.

"(B) PERCENTAGE DESCRIBED.—The percentage described in this subparagraph is the percentage—

"(i) equal to ½ of the ratio of—

"(I) the number of weekly hours of employment of the worker referred to in paragraph (3)(B)(iii)(II), to

"(II) the number of weekly hours of employment of the worker at the time of separation, but

"(ii) in no case more than 50 percent.

"(7) LIMITATION ON OTHER BENEFITS.—A worker described in paragraph (3)(B) may not receive a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A) during any week for which the worker receives a payment described in paragraph (2)(A).";

and

(3) in subsection (b)(2), by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)".

(b) EXTENSION OF PROGRAM.—Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking "the date that is 5 years" and all that follows through the end period and inserting "December 31, 2010.".

(c) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 246 and inserting the following:

"Sec. 246. Reemployment trade adjustment assistance program.".

Subpart E—Other Matters

SEC. 1851. OFFICE OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.) is amended by adding at the end the following:

"SEC. 249A. OFFICE OF TRADE ADJUSTMENT ASSISTANCE. 19 USC 2322.

"(a) ESTABLISHMENT.—There is established in the Department of Labor an office to be known as the Office of Trade Adjustment Assistance (in this section referred to as the 'Office').

"(b) HEAD OF OFFICE.—The head of the Office shall be an administrator, who shall report directly to the Deputy Assistant Secretary for Employment and Training.

"(c) PRINCIPAL FUNCTIONS.—The principal functions of the administrator of the Office shall be—

"(1) to oversee and implement the administration of trade adjustment assistance program under this chapter; and

"(2) to carry out functions delegated to the Secretary of Labor under this chapter, including—

"(A) making determinations under section 223;

"(B) providing information under section 225 about trade adjustment assistance to workers and assisting such workers to prepare petitions or applications for program benefits;

"(C) providing assistance to employers of groups of workers that have filed petitions under section 221 in submitting information required by the Secretary relating to the petitions;

"(D) ensuring workers covered by a certification of eligibility under subchapter A receive the employment and case management services described in section 235;

"(E) ensuring that States fully comply with agreements entered into under section 239;

"(F) advocating for workers applying for benefits available under this chapter;

"(G) establishing and overseeing a hotline that workers, employers, and other entities may call to obtain information regarding eligibility criteria, procedural requirements, and benefits available under this chapter; and

"(H) carrying out such other duties with respect to this chapter as the Secretary specifies for purposes of this section.

"(d) ADMINISTRATION.—

"(1) DESIGNATION.—The administrator shall designate an employee of the Department of Labor with appropriate experience and expertise to carry out the duties described in paragraph (2).

"(2) DUTIES.—The employee designated under paragraph (1) shall—

"(A) receive complaints and requests for assistance related to the trade adjustment assistance program under this chapter;

"(B) resolve such complaints and requests for assistance, in coordination with other employees of the Office;

"(C) compile basic information concerning such complaints and requests for assistance; and

"(D) carry out such other duties with respect to this chapter as the Secretary specifies for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 249 the following:

"Sec. 249A. Office of Trade Adjustment Assistance.".

SEC. 1852. ACCOUNTABILITY OF STATE AGENCIES; COLLECTION AND PUBLICATION OF PROGRAM DATA; AGREEMENTS WITH STATES.

(a) IN GENERAL.—Section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(1) by amending clause (2) to read as follows: "(2) in accordance with subsection (f), shall make available to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A the employment and case management services described in section 235,"; and

(2) by striking "will" each place it appears and inserting "shall".

(b) FORM AND MANNER OF DATA.—Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended—

(1) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FORM AND MANNER OF DATA.—Each agreement under this subchapter shall—

"(1) provide the Secretary with the authority to collect any data the Secretary determines necessary to meet the requirements of this chapter; and

"(2) specify the form and manner in which any such data requested by the Secretary shall be reported.".

(c) STATE ACTIVITIES.—Section 239(g) of the Trade Act of 1974 (as redesignated) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by amending paragraph (4) to read as follows:

"(4) perform outreach to, intake of, and orientation for adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A with respect to assistance and benefits available under this chapter, and"; and

(3) by adding at the end the following:

"(5) make employment and case management services described in section 235 available to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A and, if funds provided to carry out this chapter are insufficient to make such services available, make arrangements to make such services available through other Federal programs.".

(d) REPORTING REQUIREMENT.—Section 239(h) of the Trade Act of 1974 (as redesignated) is amended by striking "1998." and inserting "1998 (29 U.S.C. 2822(b)) and a description of the State's rapid response activities under section 221(a)(2)(A).".

(e) CONTROL MEASURES.—Section 239 of the Trade Act of 1974 (19 U.S.C. 2311), as amended, is further amended by adding at the end the following:

"(i) CONTROL MEASURES.—

"(1) IN GENERAL.—The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the operation and administration of the trade adjustment assistance program under this chapter, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported. Requirements.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'control measures' means measures that—

"(A) are internal to a system used by a State to collect data; and

"(B) are designed to ensure the accuracy and verifiability of such data.

"(j) DATA REPORTING.—

"(1) IN GENERAL.—Any agreement entered into under this section shall require the cooperating State or cooperating State agency to report to the Secretary on a quarterly basis comprehensive performance accountability data, to consist of—

"(A) the core indicators of performance described in paragraph (2)(A);

"(B) the additional indicators of performance described in paragraph (2)(B), if any; and

"(C) a description of efforts made to improve outcomes for workers under the trade adjustment assistance program.

"(2) CORE INDICATORS DESCRIBED.—

"(A) IN GENERAL.—The core indicators of performance described in this paragraph are—

"(i) the percentage of workers receiving benefits under this chapter who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

"(ii) the percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and

"(iii) the earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

"(B) ADDITIONAL INDICATORS.—The Secretary and a cooperating State or cooperating State agency may agree upon additional indicators of performance for the trade adjustment assistance program under this chapter, as appropriate.

Procedures.

"(3) STANDARDS WITH RESPECT TO RELIABILITY OF DATA.—In preparing the quarterly report required by paragraph (1), each cooperating State or cooperating State agency shall establish procedures that are consistent with guidelines to be issued by the Secretary to ensure that the data reported are valid and reliable.".

Immigration.

SEC. 1853. VERIFICATION OF ELIGIBILITY FOR PROGRAM BENEFITS.

Section 239 of the Trade Act of 1974 (19 U.S.C. 2311), as amended, is further amended by adding at the end the following:

"(k) VERIFICATION OF ELIGIBILITY FOR PROGRAM BENEFITS.—

"(1) IN GENERAL.—An agreement under this subchapter shall provide that the State shall periodically redetermine that a worker receiving benefits under this subchapter who is not a citizen or national of the United States remains in a satisfactory immigration status. Once satisfactory immigration status has been initially verified through the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this subchapter. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)).

"(2) PROCEDURES.—The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this subsection.".

SEC. 1854. COLLECTION OF DATA AND REPORTS; INFORMATION TO WORKERS.

(a) IN GENERAL.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.), as amended, is further amended by adding at the end the following:

19 USC 2323.

"SEC. 249B. COLLECTION AND PUBLICATION OF DATA AND REPORTS; INFORMATION TO WORKERS.

System.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall implement a system to collect and report the data described in subsection (b), as well as any other information that the Secretary considers appropriate to effectively carry out this chapter.

"(b) DATA TO BE INCLUDED.—The system required under subsection (a) shall include collection of and reporting on the following data for each fiscal year:

"(1) DATA ON PETITIONS FILED, CERTIFIED, AND DENIED.—

"(A) The number of petitions filed, certified, and denied under this chapter.

"(B) The number of workers covered by petitions filed, certified, and denied.

"(C) The number of petitions, classified by—

"(i) the basis for certification, including increased imports, shifts in production, and other bases of eligibility; and

"(ii) congressional district of the United States.

"(D) The average time for processing such petitions.

"(2) DATA ON BENEFITS RECEIVED.—

"(A) The number of workers receiving benefits under this chapter.

"(B) The number of workers receiving each type of benefit, including training, trade readjustment allowances, employment and case management services, and relocation and job search allowances, and, to the extent feasible, credits for health insurance costs under section 35 of the Internal Revenue Code of 1986.

"(C) The average time during which such workers receive each such type of benefit.

"(3) DATA ON TRAINING.—

"(A) The number of workers enrolled in training approved under section 236, classified by major types of training, including classroom training, training through distance learning, on-the-job training, and customized training.

"(B) The number of workers enrolled in full-time training and part-time training.

"(C) The average duration of training.

"(D) The number of training waivers granted under section 231(c), classified by type of waiver.

"(E) The number of workers who complete training and the duration of such training.

"(F) The number of workers who do not complete training.

"(4) DATA ON OUTCOMES.—

"(A) A summary of the quarterly reports required under section 239(j).

"(B) The sectors in which workers are employed after receiving benefits under this chapter.

"(5) DATA ON RAPID RESPONSE ACTIVITIES.—Whether rapid response activities were provided with respect to each petition filed under section 221.

"(c) CLASSIFICATION OF DATA.—To the extent possible, in collecting and reporting the data described in subsection (b), the Secretary shall classify the data by industry, State, and national totals.

"(d) REPORT.—Not later than December 15 of each year, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes—

"(1) a summary of the information collected under this section for the preceding fiscal year;

"(2) information on the distribution of funds to each State pursuant to section 236(a)(2); and

"(3) any recommendations of the Secretary with respect to changes in eligibility requirements, benefits, or training funding under this chapter based on the data collected under this section.

"(e) AVAILABILITY OF DATA.—

Web posting.

"(1) IN GENERAL.—The Secretary shall make available to the public, by publishing on the website of the Department of Labor and by other means, as appropriate—

"(A) the report required under subsection (d);

"(B) the data collected under this section, in a searchable format; and

"(C) a list of cooperating States and cooperating State agencies that failed to submit the data required by this section to the Secretary in a timely manner.

Deadline.

"(2) UPDATES.—The Secretary shall update the data under paragraph (1) on a quarterly basis.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 249A the following:

"Sec. 249B. Collection and publication of data and reports; information to workers.".

19 USC 2323 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1855. FRAUD AND RECOVERY OF OVERPAYMENTS.

Section 243(a)(1) of the Trade Act of 1974 (19 U.S.C. 2315(a)(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "may waive" and inserting "shall waive"; and

(B) by striking ", in accordance with guidelines prescribed by the Secretary,"; and

(2) in subparagraph (B), by striking "would be contrary to equity and good conscience" and inserting "would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household)".

SEC. 1856. SENSE OF CONGRESS ON APPLICATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391 et seq.) is amended by adding at the end the following:

19 USC 2397a.

"SEC. 288. SENSE OF CONGRESS.

"It is the sense of Congress that the Secretaries of Labor, Commerce, and Agriculture should apply the provisions of chapter 2 (relating to adjustment assistance for workers), chapter 3 (relating to adjustment assistance for firms), chapter 4 (relating to adjustment assistance for communities), and chapter 6 (relating to adjustment assistance for farmers), respectively, with the utmost regard

for the interests of workers, firms, communities, and farmers petitioning for benefits under such chapters.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 287 the following:

"Sec. 288. Sense of Congress.".

SEC. 1857. CONSULTATIONS IN PROMULGATION OF REGULATIONS.

Section 248 of the Trade Act of 1974 (19 U.S.C. 2320) is amended—

(1) by striking "The Secretary shall" and inserting the following:

"(a) IN GENERAL.—The Secretary shall"; and

(2) by adding at the end the following:

"(b) CONSULTATIONS.—Not later than 90 days before issuing a regulation under subsection (a), the Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the regulation.". Deadline.

SEC. 1858. TECHNICAL CORRECTIONS.

(a) DETERMINATIONS BY SECRETARY OF LABOR.—Section 223(c) of the Trade Act of 1974 (19 U.S.C. 2273(c)) is amended by striking "his determination" and inserting "a determination".

(b) QUALIFYING REQUIREMENTS FOR WORKERS.—Section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "his application" and inserting "the worker's application"; and

(B) in subparagraph (A), by striking "he is covered" and inserting "the worker is covered";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking the period and inserting a comma; and

(B) in subparagraph (D), by striking "5 U.S.C. 8521(a)(1)" and inserting "section 8521(a)(1) of title 5, United States Code"; and

(3) in paragraph (3)—

(A) by striking "he" each place it appears and inserting "the worker"; and

(B) in subparagraph (C), by striking "him" and inserting "the worker".

(c) SUBPOENA POWER.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2321) is amended—

(1) in the section heading, by striking "**SUBPENA**" and inserting "**SUBPOENA**";

(2) by striking "subpena" and inserting "subpoena" each place it appears; and

(3) in subsection (a), by striking "him" and inserting "the Secretary".

(d) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 249 and inserting the following:

"Sec. 249. Subpoena power.".

PART II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

SEC. 1861. EXPANSION TO SERVICE SECTOR FIRMS.

(a) IN GENERAL.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended by inserting "or service sector firm" after "agricultural firm" each place it appears.

(b) DEFINITION OF SERVICE SECTOR FIRM.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(1) by striking "chapter," and inserting "chapter:";

(2) by striking "the term 'firm'" and inserting the following:

"(1) FIRM.—The term 'firm'"; and

(3) by adding at the end the following:

"(2) SERVICE SECTOR FIRM.—The term 'service sector firm' means a firm engaged in the business of supplying services.".

(c) CONFORMING AMENDMENTS.—

(1) Section 251(c)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(C)) is amended—

(A) by inserting "or services" after "articles" the first place it appears; and

(B) by inserting "or services which are supplied" after "produced".

(2) Section 251(c)(2)(B)(ii) of such Act is amended to read as follows:

"(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

SEC. 1862. MODIFICATION OF REQUIREMENTS FOR CERTIFICATION.

Section 251(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(B)) is amended to read as follows:

"(B) that—

"(i) sales or production, or both, of the firm have decreased absolutely,

"(ii) sales or production, or both, of an article or service that accounted for not less than 25 percent of the total sales or production of the firm during the 12-month period preceding the most recent 12-month period for which date are available have decreased absolutely,

"(iii) sales or production, or both, of the firm during the most recent 12-month period for which data are available have decreased compared to—

"(I) the average annual sales or production for the firm during the 24-month period preceding that 12-month period, or

"(II) the average annual sales or production for the firm during the 36-month period preceding that 12-month period, and

"(iv) sales or production, or both, of an article or service that accounted for not less than 25 percent of the total sales or production of the firm during the most recent 12-month period for which data are available have decreased compared to—

"(I) the average annual sales or production for the article or service during the 24-month period preceding that 12-month period, or

"(II) the average annual sales or production for the article or service during the 36-month period preceding that 12-month period, and".

SEC. 1863. BASIS FOR DETERMINATIONS.

Section 251 of the Trade Act of 1974 (19 U.S.C. 2341), as amended, is further amended by adding at the end the following:

"(e) BASIS FOR SECRETARY'S DETERMINATIONS.—For purposes of subsection (c)(1)(C), the Secretary may determine that there are increased imports of like or directly competitive articles or services, if customers accounting for a significant percentage of the decrease in the sales or production of the firm certify to the Secretary that such customers have increased their imports of such articles or services from a foreign country, either absolutely or relative to their acquisition of such articles or services from suppliers located in the United States. Certification.

"(f) NOTIFICATION TO FIRMS OF AVAILABILITY OF BENEFITS.—Upon receiving notice from the Secretary of Labor under section 225 of the identity of a firm that is covered by a certification issued under section 223, the Secretary of Commerce shall notify the firm of the availability of adjustment assistance under this chapter.".

SEC. 1864. OVERSIGHT AND ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended—

(1) by striking sections 254, 255, 256, and 257; 19 USC 2344–2347.

(2) by redesignating sections 258, 259, 260, 261, 262, 264, and 265, as sections 256, 257, 258, 259, 260, 261, and 262, respectively; and 19 USC 2348–2352, 2354, 2355.

(3) by inserting after section 253 the following:

"SEC. 254. OVERSIGHT AND ADMINISTRATION. 19 USC 2344.

"(a) IN GENERAL.—The Secretary shall, to such extent and in such amounts as are provided in appropriations Acts, provide grants to intermediary organizations (referred to in section 253(b)(1)) throughout the United States pursuant to agreements with such intermediary organizations. Each such agreement shall require the intermediary organization to provide benefits to firms certified under section 251. The Secretary shall, to the maximum extent practicable, provide by October 1, 2010, that contracts entered into with intermediary organizations be for a 12-month period and that all such contracts have the same beginning date and the same ending date. Grants. Deadline. Contracts.

"(b) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall develop a methodology for the distribution of funds among the intermediary organizations described in subsection (a). Deadline. Methodology.

"(2) PROMPT INITIAL DISTRIBUTION.—The methodology described in paragraph (1) shall ensure the prompt initial distribution of funds and establish additional criteria governing the apportionment and distribution of the remainder of such funds among the intermediary organizations. Criteria.

"(3) CRITERIA.—The methodology described in paragraph (1) shall include criteria based on the data in the annual report on the trade adjustment assistance for firms program

described in section 1866 of the Trade and Globalization Adjustment Assistance Act of 2009.

Guidelines.

"(c) REQUIREMENTS FOR CONTRACTS.—An agreement with an intermediary organization described in subsection (a) shall require the intermediary organization to contract for the supply of services to carry out grants under this chapter in accordance with terms and conditions that are consistent with guidelines established by the Secretary.

Deadlines.

"(d) CONSULTATIONS.—

"(1) CONSULTATIONS REGARDING METHODOLOGY.—The Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(A) not less than 30 days before finalizing the methodology described in subsection (b); and

"(B) not less than 60 days before adopting any changes to such methodology.

"(2) CONSULTATIONS REGARDING GUIDELINES.—The Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not less than 60 days before finalizing the guidelines described in subsection (c) or adopting any subsequent changes to such guidelines.

19 USC 2345.

"SEC. 255. AUTHORIZATION OF APPROPRIATIONS.

Time period.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary $50,000,000 for each of the fiscal years 2009 through 2010, and $12,501,000 for the period beginning October 1, 2010, and ending December 31, 2010, to carry out the provisions of this chapter. Amounts appropriated pursuant to this subsection shall—

Deadline.

"(1) be available to provide adjustment assistance to firms that file a petition for such assistance pursuant to this chapter on or before December 31, 2010; and

"(2) otherwise remain available until expended.

"(b) PERSONNEL.—Of the amounts appropriated pursuant to this section for each fiscal year, $350,000 shall be available for full-time positions in the Department of Commerce to administer the provisions of this chapter. Of such funds the Secretary shall make available to the Economic Development Administration such sums as may be necessary to establish the position of Director of Adjustment Assistance for Firms and such other full-time positions as may be appropriate to administer the provisions of this chapter.".

Establishment.

19 USC 2344 note.

(b) RESIDUAL AUTHORITY.—The Secretary of Commerce shall have the authority to modify, terminate, resolve, liquidate, or take any other action with respect to a loan, guarantee, contract, or any other financial assistance that was extended under section 254, 255, 256, or 257 of the Trade Act of 1974 (19 U.S.C. 2344, 2345, 2346, and 2347), as in effect on the day before the effective date set forth in section 1891.

(c) CONFORMING AMENDMENTS.—

19 USC 2348.

(1) Section 256 of the Trade Act of 1974, as redesignated by subsection (a) of this section, is amended by striking subsection (d).

19 USC 2350.

(2) Section 258 of the Trade Act of 1974, as redesignated by subsection (a) of this section, is amended—

(A) in the first sentence, by striking "and financial"; and

(B) in the last sentence—

(i) by striking "sections 253 and 254" and inserting "section 253"; and

(ii) by striking "title 28 of the United States Code" and inserting "title 28, United States Code".

(d) CLERICAL AMENDMENTS.—The table of contents of the Trade Act of 1974 is amended by striking the items relating to sections 254, 255, 256, 257, 258, 259, 260, 261, 262, 264, and 265, and inserting the following:

"Sec. 254. Oversight and administration.
"Sec. 255. Authorization of appropriations.
"Sec. 256. Protective provisions.
"Sec. 257. Penalties.
"Sec. 258. Civil actions.
"Sec. 259. Definitions.
"Sec. 260. Regulations.
"Sec. 261. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding.
"Sec. 262. Assistance to industries.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act, except that subsections (b) and (d) of section 254 of the Trade Act of 1974 (as added by subsection (a) of this section) shall take effect on such date of enactment. 19 USC 2344 note.

SEC. 1865. INCREASED PENALTIES FOR FALSE STATEMENTS.

Section 257 of the Trade Act of 1974, as redesignated by section 1864(a), is amended to read as follows: 19 USC 2349.

"SEC. 257. PENALTIES.

"Any person who—

"(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or willfully overvalues any security, for the purpose of influencing in any way a determination under this chapter, or for the purpose of obtaining money, property, or anything of value under this chapter, or

"(2) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, when providing information to the Secretary during an investigation of a petition under this chapter,

shall be imprisoned for not more than 2 years, or fined under title 18, United States Code, or both.".

SEC. 1866. ANNUAL REPORT ON TRADE ADJUSTMENT ASSISTANCE FOR FIRMS. 19 USC 2356.

(a) IN GENERAL.—Not later than December 15, 2009, and each year thereafter, the Secretary of Commerce shall prepare a report containing data regarding the trade adjustment assistance for firms program provided for in chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) for the preceding fiscal year. The data shall include the following:

(1) The number of firms that inquired about the program.

(2) The number of petitions filed under section 251.

(3) The number of petitions certified and denied.

(4) The average time for processing petitions.

(5) The number of petitions filed and firms certified for each congressional district of the United States.

(6) The number of firms that received assistance in preparing their petitions.

(7) The number of firms that received assistance developing business recovery plans.

(8) The number of business recovery plans approved and denied by the Secretary of Commerce.

(9) Sales, employment, and productivity at each firm participating in the program at the time of certification.

(10) Sales, employment, and productivity at each firm upon completion of the program and each year for the 2-year period following completion.

(11) The financial assistance received by each firm participating in the program.

(12) The financial contribution made by each firm participating in the program.

(13) The types of technical assistance included in the business recovery plans of firms participating in the program.

(14) The number of firms leaving the program before completing the project or projects in their business recovery plans and the reason the project was not completed.

(b) CLASSIFICATION OF DATA.—To the extent possible, in collecting and reporting the data described in subsection (a), the Secretary shall classify the data by intermediary organization, State, and national totals.

(c) REPORT TO CONGRESS; PUBLICATION.—The Secretary of Commerce shall—

(1) submit the report described in subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives; and

Federal Register, publication.

(2) publish the report in the Federal Register and on the website of the Department of Commerce.

(d) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary of Commerce may not release information described in subsection (a) that the Secretary considers to be confidential business information unless the person submitting the confidential business information had notice, at the time of submission, that such information would be released by the Secretary, or such person subsequently consents to the release of the information. Nothing in this subsection shall be construed to prohibit the Secretary from providing such confidential business information to a court in camera or to another party under a protective order issued by a court.

SEC. 1867. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341), as amended, is further amended—

(1) in subsection (a), by striking "he has" and inserting "the Secretary has"; and

(2) in subsection (d), by striking "60 days" and inserting "40 days".

(b) TECHNICAL ASSISTANCE.—Section 253(a)(3) of the Trade Act of 1974 (19 U.S.C. 2343(a)(3)) is amended by striking "of a certified firm" and inserting "to a certified firm".

PART III—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

SEC. 1871. PURPOSE. 19 USC 2371 note.

The purpose of the amendments made by this part is to assist communities impacted by trade with economic adjustment through the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the development and provision of programs that meet the training needs of workers covered by certifications under section 223.

SEC. 1872. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.

(a) IN GENERAL.—Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

"CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

"Subchapter A—Trade Adjustment Assistance for Communities

"SEC. 271. DEFINITIONS. 19 USC 2371.

"In this subchapter:

"(1) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the meaning given that term in section 291.

"(2) COMMUNITY.—The term 'community' means a city, county, or other political subdivision of a State or a consortium of political subdivisions of a State.

"(3) COMMUNITY IMPACTED BY TRADE.—The term 'community impacted by trade' means a community described in section 273(b)(2).

"(4) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community that the Secretary has determined under section 273(b)(1) is eligible to apply for assistance under this subchapter.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"SEC. 272. ESTABLISHMENT OF TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES PROGRAM. 19 USC 2371a.

"Not later than August 1, 2009, the Secretary shall establish a trade adjustment assistance for communities program at the Department of Commerce under which the Secretary shall— Deadline.

"(1) provide technical assistance under section 274 to communities impacted by trade to facilitate the economic adjustment of those communities; and

"(2) award grants to communities impacted by trade to carry out strategic plans developed under section 276. Grants.

"SEC. 273. ELIGIBILITY; NOTIFICATION. 19 USC 2371b.

"(a) PETITION.— Deadlines.

"(1) IN GENERAL.—A community may submit a petition to the Secretary for an affirmative determination under subsection (b)(1) that the community is eligible to apply for assistance under this subchapter if—

"(A) on or after August 1, 2009, one or more certifications described in subsection (b)(3) are made with respect to the community; and

"(B) the community submits the petition not later than 180 days after the date of the most recent certification.

Time period.

"(2) SPECIAL RULE WITH RESPECT TO CERTAIN COMMUNITIES.—In the case of a community with respect to which one or more certifications described in subsection (b)(3) were made on or after January 1, 2007, and before August 1, 2009, the community may submit not later than February 1, 2010, a petition to the Secretary for an affirmative determination under subsection (b)(1).

"(b) AFFIRMATIVE DETERMINATION.—

"(1) IN GENERAL.—The Secretary shall make an affirmative determination that a community is eligible to apply for assistance under this subchapter if the Secretary determines that the community is a community impacted by trade.

"(2) COMMUNITY IMPACTED BY TRADE.—A community is a community impacted by trade if—

"(A) one or more certifications described in paragraph (3) are made with respect to the community; and

"(B) the Secretary determines that the community is significantly affected by the threat to, or the loss of, jobs associated with any such certification.

"(3) CERTIFICATION DESCRIBED.—A certification described in this paragraph is a certification—

"(A) by the Secretary of Labor that a group of workers in the community is eligible to apply for assistance under section 223;

"(B) by the Secretary of Commerce that a firm located in the community is eligible to apply for adjustment assistance under section 251; or

"(C) by the Secretary of Agriculture that a group of agricultural commodity producers in the community is eligible to apply for adjustment assistance under section 293.

"(c) NOTIFICATIONS.—

"(1) NOTIFICATION TO THE GOVERNOR.—The Governor of a State shall be notified promptly—

"(A) by the Secretary of Labor, upon making a determination that a group of workers in the State is eligible for assistance under section 223;

"(B) by the Secretary of Commerce, upon making a determination that a firm in the State is eligible for assistance under section 251; and

"(C) by the Secretary of Agriculture, upon making a determination that a group of agricultural commodity producers in the State is eligible for assistance under section 293.

"(2) NOTIFICATION TO COMMUNITY.—Upon making an affirmative determination under subsection (b)(1) that a community is eligible to apply for assistance under this subchapter, the Secretary shall promptly notify the community and the Governor of the State in which the community is located—

"(A) of the affirmative determination;

"(B) of the applicable provisions of this subchapter; and

"(C) of the means for obtaining assistance under this subchapter and other appropriate economic assistance that may be available to the community.

"SEC. 274. TECHNICAL ASSISTANCE. 19 USC 2371c.

"(a) IN GENERAL.—The Secretary shall provide comprehensive technical assistance to an eligible community to assist the community to—

"(1) diversify and strengthen the economy in the community;

"(2) identify significant impediments to economic development that result from the impact of trade on the community; and

"(3) develop a strategic plan under section 276 to address economic adjustment and workforce dislocation in the community, including unemployment among agricultural commodity producers.

"(b) COORDINATION OF FEDERAL RESPONSE.—The Secretary shall coordinate the Federal response to an eligible community by—

"(1) identifying Federal, State, and local resources that are available to assist the community in responding to economic distress; and

"(2) assisting the community in accessing available Federal assistance and ensuring that such assistance is provided in a targeted, integrated manner.

"(c) INTERAGENCY COMMUNITY ASSISTANCE WORKING GROUP.—

"(1) IN GENERAL.—The Secretary shall establish an interagency Community Assistance Working Group, to be chaired by the Secretary or the Secretary's designee, which shall assist the Secretary with the coordination of the Federal response pursuant to subsection (b). Establishment.

"(2) MEMBERSHIP.—The Working Group shall consist of representatives of any Federal department or agency with responsibility for providing economic adjustment assistance, including the Department of Agriculture, the Department of Defense, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, and any other Federal, State, or regional public department or agency the Secretary determines to be appropriate.

"SEC. 275. GRANTS FOR ELIGIBLE COMMUNITIES. 19 USC 2371d.

"(a) IN GENERAL.—The Secretary may award a grant under this section to an eligible community to assist the community in carrying out any project or program that is included in a strategic plan developed by the community under section 276.

"(b) APPLICATION.—

"(1) IN GENERAL.—An eligible community seeking to receive a grant under this section shall submit a grant application to the Secretary that contains—

"(A) the strategic plan developed by the community under section 276(a)(1)(A) and approved by the Secretary under section 276(a)(1)(B); and

"(B) a description of the project or program included in the strategic plan with respect to which the community seeks the grant.

"(2) COORDINATION AMONG GRANT PROGRAMS.—If an entity in an eligible community is seeking or plans to seek a Community College and Career Training Grant under section 278 or a Sector Partnership Grant under section 279A while the eligible community is seeking a grant under this section, the eligible community shall include in the grant application a description of how the eligible community will integrate any projects or programs carried out using a grant under this section with any projects or programs that may be carried out using such other grants.

"(c) LIMITATION.—An eligible community may not be awarded more than $5,000,000 under this section.

"(d) COST-SHARING.—

"(1) FEDERAL SHARE.—The Federal share of a project or program for which a grant is awarded under this section may not exceed 95 percent of the cost of such project or program.

"(2) COMMUNITY SHARE.—The Secretary shall require, as a condition of awarding a grant to an eligible community under this section, that the eligible community contribute not less than an amount equal to 5 percent of the amount of the grant toward the cost of the project or program for which the grant is awarded.

"(e) GRANTS TO SMALL- AND MEDIUM-SIZED COMMUNITIES.—The Secretary shall give priority to grant applications submitted under this section by eligible communities that are small- and medium-sized communities.

"(f) ANNUAL REPORT.—Not later than December 15 in each of the calendar years 2009 through 2011, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

"(1) describing each grant awarded under this section during the preceding fiscal year; and

"(2) assessing the impact on the eligible community of each such grant awarded in a fiscal year before the fiscal year referred to in paragraph (1).

19 USC 2371e.

"SEC. 276. STRATEGIC PLANS.

"(a) IN GENERAL.—

"(1) DEVELOPMENT.—An eligible community that intends to apply for a grant under section 275 shall—

"(A) develop a strategic plan for the community's economic adjustment to the impact of trade; and

"(B) submit the plan to the Secretary for evaluation and approval.

"(2) INVOLVEMENT OF PRIVATE AND PUBLIC ENTITIES.—

"(A) IN GENERAL.—To the extent practicable, an eligible community shall consult with entities described in subparagraph (B) in developing a strategic plan under paragraph (1).

"(B) ENTITIES DESCRIBED.—Entities described in this subparagraph are public and private entities within the eligible community, including—

"(i) local, county, or State government agencies serving the community;

"(ii) firms, including small- and medium-sized firms, within the community;

"(iii) local workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832);

"(iv) labor organizations, including State labor federations and labor-management initiatives, representing workers in the community; and

"(v) educational institutions, local educational agencies, or other training providers serving the community.

"(b) CONTENTS.—The strategic plan shall, at a minimum, contain the following:

"(1) A description and analysis of the capacity of the eligible community to achieve economic adjustment to the impact of trade.

"(2) An analysis of the economic development challenges and opportunities facing the community as well as the strengths and weaknesses of the economy of the community.

"(3) An assessment of the commitment of the eligible community to the strategic plan over the long term and the participation and input of members of the community affected by economic dislocation.

"(4) A description of the role and the participation of the entities described in subsection (a)(2)(B) in developing the strategic plan.

"(5) A description of the projects to be undertaken by the eligible community under the strategic plan.

"(6) A description of how the strategic plan and the projects to be undertaken by the eligible community will facilitate the community's economic adjustment.

"(7) A description of the educational and training programs available to workers in the eligible community and the future employment needs of the community.

"(8) An assessment of the cost of implementing the strategic plan, the timing of funding required by the eligible community to implement the strategic plan, and the method of financing to be used to implement the strategic plan.

"(9) A strategy for continuing the economic adjustment of the eligible community after the completion of the projects described in paragraph (5).

"(c) GRANTS TO DEVELOP STRATEGIC PLANS.—

"(1) IN GENERAL.—The Secretary, upon receipt of an application from an eligible community, may award a grant to the community to assist the community in developing a strategic plan under subsection (a)(1). A grant awarded under this paragraph shall not exceed 75 percent of the cost of developing the strategic plan.

Time period.

"(2) FUNDS TO BE USED.—Of the funds appropriated pursuant to section 277(c), the Secretary may make available not more than $25,000,000 for each of the fiscal years 2009 and 2010, and $6,250,000 for the period beginning October 1, 2010, and ending December 31, 2010, to provide grants to eligible communities under paragraph (1).

"SEC. 277. GENERAL PROVISIONS.

19 USC 2371f.

"(a) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this subchapter, including—

"(A) establishing specific guidelines for the submission and evaluation of strategic plans under section 276;

"(B) establishing specific guidelines for the submission and evaluation of grant applications under section 275; and

"(C) administering the grant programs established under sections 275 and 276.

Deadline.

"(2) CONSULTATIONS.—The Secretary shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not less than 90 days prior to promulgating any final rule or regulation pursuant to paragraph (1).

Designation.

"(b) PERSONNEL.—The Secretary shall designate such staff as may be necessary to carry out the responsibilities described in this subchapter.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of the fiscal years 2009 and 2010, and $37,500,000 for the period beginning October 1, 2010, and ending December 31, 2010, to carry out this subchapter.

"(2) AVAILABILITY.—Amounts appropriated pursuant to this subchapter—

"(A) shall be available to provide adjustment assistance to communities that have been approved for assistance pursuant to this chapter on or before December 31, 2010; and

"(B) shall otherwise remain available until expended.

"(3) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to this subchapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

"Subchapter B—Community College and Career Training Grant Program

19 USC 2372.

"SEC. 278. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.

"(a) GRANTS AUTHORIZED.—

Effective date.

"(1) IN GENERAL.—Beginning August 1, 2009, the Secretary may award Community College and Career Training Grants to eligible institutions for the purpose of developing, offering, or improving educational or career training programs for workers eligible for training under section 236.

"(2) LIMITATIONS.—An eligible institution may not be awarded—

"(A) more than one grant under this section; or

"(B) a grant under this section in excess of $1,000,000.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)),

but only with respect to a program offered by the institution that can be completed in not more than 2 years.

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

"(c) GRANT PROPOSALS.—

"(1) IN GENERAL.—An eligible institution seeking to receive a grant under this section shall submit a grant proposal to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) GUIDELINES.—Not later than June 1, 2009, the Secretary shall— Deadline.

"(A) promulgate guidelines for the submission of grant proposals under this section; and

"(B) publish and maintain such guidelines on the website of the Department of Labor. Web posting.

"(3) ASSISTANCE.—The Secretary shall offer assistance in preparing a grant proposal to any eligible institution that requests such assistance.

"(4) GENERAL REQUIREMENTS FOR GRANT PROPOSALS.—

"(A) IN GENERAL.—A grant proposal submitted to the Secretary under this section shall include a detailed description of—

"(i) the specific project for which the grant proposal is submitted, including the manner in which the grant will be used to develop, offer, or improve an educational or career training program that is suited to workers eligible for training under section 236;

"(ii) the extent to which the project for which the grant proposal is submitted will meet the educational or career training needs of workers in the community served by the eligible institution who are eligible for training under section 236;

"(iii) the extent to which the project for which the grant proposal is submitted fits within any overall strategic plan developed by an eligible community under section 276;

"(iv) the extent to which the project for which the grant proposal is submitted relates to any project funded by a Sector Partnership Grant awarded under section 279A; and

"(v) any previous experience of the eligible institution in providing educational or career training programs to workers eligible for training under section 236.

"(B) ABSENCE OF EXPERIENCE.—The absence of any previous experience in providing educational or career training programs described in subparagraph (A)(v) shall not automatically disqualify an eligible institution from receiving a grant under this section.

"(5) COMMUNITY OUTREACH REQUIRED.—In order to be considered by the Secretary, a grant proposal submitted by an eligible institution under this section shall—

"(A) demonstrate that the eligible institution—

"(i) reached out to employers, and other entities described in section 276(a)(2)(B) to identify—

"(I) any shortcomings in existing educational and career training opportunities available to workers in the community; and

"(II) any future employment opportunities within the community and the educational and career training skills required for workers to meet the future employment demand;

"(ii) reached out to other similarly situated institutions in an effort to benefit from any best practices that may be shared with respect to providing educational or career training programs to workers eligible for training under section 236; and

"(iii) reached out to any eligible partnership in the community that has sought or received a Sector Partnership Grant under section 279A to enhance the effectiveness of each grant and avoid duplication of efforts; and

"(B) include a detailed description of—

"(i) the extent and outcome of the outreach conducted under subparagraph (A);

"(ii) the extent to which the project for which the grant proposal is submitted will contribute to meeting any shortcomings identified under subparagraph (A)(i)(I) or any educational or career training needs identified under subparagraph (A)(i)(II); and

"(iii) the extent to which employers, including small- and medium-sized firms within the community, have demonstrated a commitment to employing workers who would benefit from the project for which the grant proposal is submitted.

"(d) CRITERIA FOR AWARD OF GRANTS.—

"(1) IN GENERAL.—Subject to the appropriation of funds, the Secretary shall award a grant under this section based on—

"(A) a determination of the merits of the grant proposal submitted by the eligible institution to develop, offer, or improve educational or career training programs to be made available to workers eligible for training under section 236;

"(B) an evaluation of the likely employment opportunities available to workers who complete an educational or career training program that the eligible institution proposes to develop, offer, or improve; and

"(C) an evaluation of prior demand for training programs by workers eligible for training under section 236 in the community served by the eligible institution, as well as the availability and capacity of existing training programs to meet future demand for training programs.

"(2) PRIORITY FOR CERTAIN COMMUNITIES.—In awarding grants under this section, the Secretary shall give priority to an eligible institution that serves a community that the Secretary of Commerce has determined under section 273 is eligible to apply for assistance under subchapter A within the 5-year period preceding the date on which the grant proposal is submitted to the Secretary under this section.

"(3) MATCHING REQUIREMENTS.—A grant awarded under this section may not be used to satisfy any private matching requirement under any other provision of law.

"(e) ANNUAL REPORT.—Not later than December 15 in each of the calendar years 2009 through 2011, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report—

"(1) describing each grant awarded under this section during the preceding fiscal year; and

"(2) assessing the impact of each award of a grant under this section in a fiscal year preceding the fiscal year referred to in paragraph (1) on workers receiving training under section 236.

"SEC. 279. AUTHORIZATION OF APPROPRIATIONS. 19 USC 2372a.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor $40,000,000 for each of the fiscal years 2009 and 2010, and $10,000,000 for the period beginning October 1, 2010, and ending December 31, 2010, to fund the Community College and Career Training Grant Program. Funds appropriated pursuant to this section shall remain available until expended. Time period.

"(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

"Subchapter C—Industry or Sector Partnership Grant Program for Communities Impacted by Trade

"SEC. 279A. INDUSTRY OR SECTOR PARTNERSHIP GRANT PROGRAM FOR COMMUNITIES IMPACTED BY TRADE. 19 USC 2373.

"(a) PURPOSE.—The purpose of this subchapter is to facilitate efforts by industry or sector partnerships to strengthen and revitalize industries and create employment opportunities for workers in communities impacted by trade.

"(b) DEFINITIONS.—In this subchapter:

"(1) COMMUNITY IMPACTED BY TRADE.—The term 'community impacted by trade' has the meaning given that term in section 271.

"(2) DISLOCATED WORKER.—The term 'dislocated worker' means a worker who has been totally or partially separated, or is threatened with total or partial separation, from employment in an industry or sector in a community impacted by trade.

"(3) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a voluntary partnership composed of public and private persons, firms, or other entities within a community impacted by trade, that shall include representatives of—

"(A) an industry or sector within the community, including an industry association;

"(B) local, county, or State government;

"(C) multiple firms in the industry or sector, including small- and medium-sized firms, within the community;

"(D) local workforce investment boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832);

"(E) labor organizations, including State labor federations and labor-management initiatives, representing workers in the community; and

"(F) educational institutions, local educational agencies, or other training providers serving the community.

"(4) LEAD ENTITY.—The term 'lead entity' means—

"(A) an entity designated by the eligible partnership to be responsible for submitting a grant proposal under subsection (e) and serving as the eligible partnership's fiscal agent in expending any Sector Partnership Grant awarded under this section; or

"(B) a State agency designated by the Governor of the State to carry out the responsibilities described in subparagraph (A).

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

"(6) TARGETED INDUSTRY OR SECTOR.—The term 'targeted industry or sector' means the industry or sector represented by an eligible partnership.

Effective date.

"(c) SECTOR PARTNERSHIP GRANTS AUTHORIZED.—Beginning on August 1, 2009, and subject to the appropriation of funds, the Secretary shall award Sector Partnership Grants to eligible partnerships to assist the eligible partnerships in carrying out projects, over periods of not more than 3 years, to strengthen and revitalize industries and sectors and create employment opportunities for dislocated workers.

"(d) USE OF SECTOR PARTNERSHIP GRANTS.—An eligible partnership may use a Sector Partnership Grant to carry out any project that the Secretary determines will further the purpose of this subchapter, which may include—

"(1) identifying the skill needs of the targeted industry or sector and any gaps in the available supply of skilled workers in the community impacted by trade, and developing strategies for filling the gaps, including by—

"(A) developing systems to better link firms in the targeted industry or sector to available skilled workers;

"(B) helping firms in the targeted industry or sector to obtain access to new sources of qualified job applicants;

"(C) retraining dislocated and incumbent workers; or

"(D) facilitating the training of new skilled workers by aligning the instruction provided by local suppliers of education and training services with the needs of the targeted industry or sector;

"(2) analyzing the skills and education levels of dislocated and incumbent workers and developing training to address skill gaps that prevent such workers from obtaining jobs in the targeted industry or sector;

"(3) helping firms, especially small- and medium-sized firms, in the targeted industry or sector increase their productivity and the productivity of their workers;

"(4) helping such firms retain incumbent workers;

"(5) developing learning consortia of small- and medium-sized firms in the targeted industry or sector with similar training needs to enable the firms to combine their purchases of training services, and thereby lower their training costs;

"(6) providing information and outreach activities to firms in the targeted industry or sector regarding the activities of

the eligible partnership and other local service suppliers that could assist the firms in meeting needs for skilled workers;

"(7) seeking, applying, and disseminating best practices learned from similarly situated communities impacted by trade in the development and implementation of economic growth and revitalization strategies; and

"(8) identifying additional public and private resources to support the activities described in this subsection, which may include the option to apply for a community grant under section 275 or a Community College and Career Training Grant under section 278 (subject to meeting any additional requirements of those sections).

"(e) GRANT PROPOSALS.—

"(1) IN GENERAL.—The lead entity of an eligible partnership seeking to receive a Sector Partnership Grant under this section shall submit a grant proposal to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) GENERAL REQUIREMENTS OF GRANT PROPOSALS.—A grant proposal submitted under paragraph (1) shall, at a minimum—

"(A) identify the members of the eligible partnership;

"(B) identify the targeted industry or sector for which the eligible partnership intends to carry out projects using the Sector Partnership Grant;

"(C) describe the goals that the eligible partnership intends to achieve to promote the targeted industry or sector;

"(D) describe the projects that the eligible partnership will undertake to achieve such goals;

"(E) demonstrate that the eligible partnership has the organizational capacity to carry out the projects described in subparagraph (D);

"(F) explain—

"(i) whether—

"(I) the community impacted by trade has sought or received a community grant under section 275;

"(II) an eligible institution in the community has sought or received a Community College and Career Training Grant under section 278; or

"(III) any other entity in the community has received funds pursuant to any other federally funded training project; and

"(ii) how the eligible partnership will coordinate its use of a Sector Partnership Grant with the use of such other grants or funds in order to enhance the effectiveness of each grant and any such funds and avoid duplication of efforts; and

"(G) include performance measures, developed based on the performance measures issued by the Secretary under subsection (g)(2), and a timeline for measuring progress toward achieving the goals described in subparagraph (C).

"(f) AWARD OF GRANTS.—

"(1) IN GENERAL.—Upon application by the lead entity of an eligible partnership, the Secretary may award a Sector Partnership Grant to the eligible partnership to assist the

partnership in carrying out any of the projects in the grant proposal that the Secretary determines will further the purposes of this subchapter.

"(2) LIMITATIONS.—An eligible partnership may not be awarded—

"(A) more than one Sector Partnership Grant; or

"(B) a total grant award under this subchapter in excess of—

"(i) except as provided in clause (ii), $2,500,000; or

"(ii) in the case of an eligible partnership located within a community impacted by trade that is not served by an institution receiving a Community College and Career Training Grant under section 278, $3,000,000.

"(g) ADMINISTRATION BY THE SECRETARY.—

"(1) TECHNICAL ASSISTANCE AND OVERSIGHT.—

"(A) IN GENERAL.—The Secretary shall provide technical assistance to, and oversight of, the lead entity of an eligible partnership in applying for and administering Sector Partnership Grants awarded under this section.

"(B) TECHNICAL ASSISTANCE.—Technical assistance provided under subparagraph (A) shall include providing conferences and such other methods of collecting and disseminating information on best practices developed by eligible partnerships as the Secretary determines appropriate.

"(C) GRANTS OR CONTRACTS FOR TECHNICAL ASSISTANCE.—The Secretary may award a grant or contract to one or more national or State organizations to provide technical assistance to foster the planning, formation, and implementation of eligible partnerships.

"(2) PERFORMANCE MEASURES.—The Secretary shall issue a range of performance measures, with quantifiable benchmarks, and methodologies that eligible partnerships may use to measure progress toward the goals described in subsection (e). In developing such measures, the Secretary shall consider the benefits of the eligible partnership and its activities for workers, firms, industries, and communities.

"(h) REPORTS.—

"(1) PROGRESS REPORT.—Not later than 1 year after receiving a Sector Partnership Grant, and 3 years thereafter, the lead entity shall submit to the Secretary, on behalf of the eligible partnership, a report containing—

"(A) a detailed description of the progress made toward achieving the goals described in subsection (e)(2)(C), using the performance measures required under subsection (e)(2)(G);

"(B) a detailed evaluation of the impact of the grant award on workers and employers in the community impacted by trade; and

"(C) a detailed description of all expenditures of funds awarded to the eligible partnership under the Sector Partnership Grant approved by the Secretary under this subchapter.

"(2) ANNUAL REPORT.—Not later than December 15 in each of the calendar years 2009 through 2011, the Secretary shall submit to the Committee on Finance of the Senate and the

Committee on Ways and Means of the House of Representatives a report—

"(A) describing each Sector Partnership Grant awarded to an eligible partnership during the preceding fiscal year; and

"(B) assessing the impact of each Sector Partnership Grant awarded in a fiscal year preceding the fiscal year referred to in subparagraph (A) on workers and employers in communities impacted by trade.

"SEC. 279B. AUTHORIZATION OF APPROPRIATIONS. 19 USC 2373a.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Labor $40,000,000 for each of the fiscal years 2009 and 2010, and $10,000,000 for the period beginning October 1, 2010, and ending December 31, 2010, to carry out the Sector Partnership Grant program under section 279A. Funds appropriated pursuant to this section shall remain available until expended. Time period.

"(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to support the economic development of local communities.

"(c) ADMINISTRATIVE COSTS.—The Secretary may retain not more than 5 percent of the funds appropriated pursuant to this section for each fiscal year to administer the Sector Partnership Grant program under section 279A.

"Subchapter D—General Provisions

"SEC. 279C. RULE OF CONSTRUCTION. 19 USC 2374.

"Nothing in this chapter prevents a worker from receiving trade adjustment assistance under chapter 2 of this title at the same time the worker is receiving assistance in any manner from—

"(1) a community receiving a community grant under subchapter A;

"(2) an eligible institution receiving a Community College and Career Training Grant under subchapter B; or

"(3) an eligible partnership receiving a Sector Partnership Grant under subchapter C.".

SEC. 1873. CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents of the Trade Act of 1974 is amended by striking the items relating to chapter 4 of title II and inserting the following:

"CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

"Subchapter A—Trade Adjustment Assistance for Communities

"Sec. 271. Definitions.
"Sec. 272. Establishment of trade adjustment assistance for communities program.
"Sec. 273. Eligibility; notification.
"Sec. 274. Technical assistance.
"Sec. 275. Grants for eligible communities.
"Sec. 276. Strategic plans.
"Sec. 277. General provisions.

"Subchapter B—Community College and Career Training Grant Program

"Sec. 278. Community college and career training grant program.
"Sec. 279. Authorization of appropriations.

"Subchapter C—Industry or Sector Partnership Grant Program for Communities Impacted by Trade

"Sec. 279A. Industry or sector partnership grant program for communities impacted by trade.
"Sec. 279B. Authorization of appropriations.

"Subchapter D—General Provisions

"Sec. 279C. Rule of construction."

(b) JUDICIAL REVIEW.—

(1) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended—

(A) by inserting "or 296" after "section 293";

(B) by striking "or any other interested domestic party" and inserting "or authorized representative of a community"; and

(C) by striking "section 271" and inserting "section 273".

(2) Section 1581(d) of title 28, United States Code, is amended—

(A) in paragraph (2), by striking "; and" and inserting a semicolon;

(B) in paragraph (3)—

(i) by striking "271" and inserting "273"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) any final determination of the Secretary of Agriculture under section 293 or 296 of the Trade Act of 1974 (19 U.S.C. 2401b) with respect to the eligibility of a group of agricultural commodity producers for adjustment assistance under such Act.".

PART IV—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

SEC. 1881. DEFINITIONS.

Section 291 of the Trade Act of 1974 (19 U.S.C. 2401) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' includes—

"(A) any agricultural commodity (including livestock) in its raw or natural state;

"(B) any class of goods within an agricultural commodity; and

"(C) in the case of an agricultural commodity producer described in paragraph (2)(B), wild-caught aquatic species.";

(2) by amending paragraph (2) to read as follows:

"(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' means—

"(A) a person that shares in the risk of producing an agricultural commodity and that is entitled to a share of the commodity for marketing, including an operator, a sharecropper, or a person that owns or rents the land on which the commodity is produced; or

"(B) a person that reports gain or loss from the trade or business of fishing on the person's annual Federal income tax return for the taxable year that most closely

corresponds to the marketing year with respect to which a petition is filed under section 292."; and

(3) by adding at the end the following:

"(7) MARKETING YEAR.—The term 'marketing year' means—

"(A) a marketing year designated by the Secretary with respect to an agricultural commodity; or

"(B) in the case of an agricultural commodity with respect to which the Secretary does not designate a marketing year, a calendar year.".

SEC. 1882. ELIGIBILITY.

(a) IN GENERAL.—Section 292 of the Trade Act of 1974 (19 U.S.C. 2401a) is amended by striking subsections (c) through (e) and inserting the following:

"(c) GROUP ELIGIBILITY REQUIREMENTS.—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines that— Certification.

"(1)(A) the national average price of the agricultural commodity produced by the group during the most recent marketing year for which data are available is less than 85 percent of the average of the national average price for the commodity in the 3 marketing years preceding such marketing year;

"(B) the quantity of production of the agricultural commodity produced by the group during such marketing year is less than 85 percent of the average of the quantity of production of the commodity produced by the group in the 3 marketing years preceding such marketing year;

"(C) the value of production of the agricultural commodity produced by the group during such marketing year is less than 85 percent of the average value of production of the commodity produced by the group in the 3 marketing years preceding such marketing year; or

"(D) the cash receipts for the agricultural commodity produced by the group during such marketing year are less than 85 percent of the average of the cash receipts for the commodity produced by the group in the 3 marketing years preceding such marketing year;

"(2) the volume of imports of articles like or directly competitive with the agricultural commodity produced by the group in the marketing year with respect to which the group files the petition increased compared to the average volume of such imports during the 3 marketing years preceding such marketing year; and

"(3) the increase in such imports contributed importantly to the decrease in the national average price, quantity of production, or value of production of, or cash receipts for, the agricultural commodity, as described in paragraph (1).

"(d) ELIGIBILITY OF CERTAIN OTHER PRODUCERS.—An agricultural commodity producer or group of producers that resides outside of the State or region identified in the petition filed under subsection (a) may file a request to become a party to that petition not later than 15 days after the date the notice is published in the Federal Register under subsection (a) with respect to that petition. Deadline. Notice. Federal Register, publication.

"(e) TREATMENT OF CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of goods within

an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining under subsection (c)—

"(1) group eligibility;

"(2) the national average price, quantity of production, or value of production, or cash receipts; and

"(3) the volume of imports.".

(b) CONFORMING AMENDMENTS.—Section 293 of the Trade Act of 1974 (19 U.S.C. 2401b) is amended—

(1) in subsection (a), by striking "section 292 (c) or (d), as the case may be," and inserting "section 292(c)"; and

(2) in subsection (c), by striking "decline in price for" and inserting "decrease in the national average price, quantity of production, or value of production of, or cash receipts for,".

SEC. 1883. BENEFITS.

(a) IN GENERAL.—Section 296 of the Trade Act of 1974 (19 U.S.C. 2401e) is amended to read as follows:

"SEC. 296. QUALIFYING REQUIREMENTS AND BENEFITS FOR AGRICULTURAL COMMODITY PRODUCERS.

"(a) IN GENERAL.—

"(1) REQUIREMENTS.—

Deadline.

"(A) IN GENERAL.—Benefits under this chapter shall be available to an agricultural commodity producer covered by a certification under this chapter who files an application for such benefits not later than 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293, if the producer submits to the Secretary sufficient information to establish that—

"(i) the producer produced the agricultural commodity covered by the application filed under this subsection in the marketing year with respect to which the petition is filed and in at least 1 of the 3 marketing years preceding that marketing year;

"(ii)(I) the quantity of the agricultural commodity that was produced by the producer in the marketing year with respect to which the petition is filed has decreased compared to the most recent marketing year preceding that marketing year for which data are available; or

"(II)(aa) the price received for the agricultural commodity by the producer during the marketing year with respect to which the petition is filed has decreased compared to the average price for the commodity received by the producer in the 3 marketing years preceding that marketing year; or

"(bb) the county level price maintained by the Secretary for the agricultural commodity on the date on which the petition is filed has decreased compared to the average county level price for the commodity in the 3 marketing years preceding the date on which the petition is filed; and

"(iii) the producer is not receiving—

"(I) cash benefits under chapter 2 or 3; or

"(II) benefits based on the production of an agricultural commodity covered by another petition filed under this chapter.

"(B) SPECIAL RULE WITH RESPECT TO CROPS NOT GROWN EVERY YEAR.—For purposes of subparagraph (A)(ii)(II)(aa), if a petition is filed with respect to an agricultural commodity that is not produced by the producer every year, an agricultural commodity producer producing that commodity may establish the average price received for the commodity by the producer in the 3 marketing years preceding the year with respect to which the petition is filed by using average price data for the 3 most recent marketing years in which the producer produced the commodity and for which data are available.

"(2) LIMITATIONS BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—Notwithstanding any other provision of this chapter, an agricultural commodity producer shall not be eligible for assistance under this chapter in any year in which the average adjusted gross income (as defined in section 1001D(a) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(a))) of the producer exceeds the level set forth in subparagraph (A) or (B) of section 1001D(b)(1) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)), whichever is applicable.

"(B) DEMONSTRATION OF COMPLIANCE.—An agricultural commodity producer shall provide to the Secretary such information as the Secretary determines necessary to demonstrate that the producer is in compliance with the limitation under subparagraph (A).

"(C) COUNTER-CYCLICAL AND ACRE PAYMENTS.—The total amount of payments made to an agricultural commodity producer under this chapter during any crop year may not exceed the limitations on payments set forth in subsections (b)(2), (b)(3), (c)(2), and (c)(3) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

"(b) TECHNICAL ASSISTANCE.—

"(1) INITIAL TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—An agricultural commodity producer that files an application and meets the requirements under subsection (a)(1) shall be entitled to receive initial technical assistance designed to improve the competitiveness of the production and marketing of the agricultural commodity with respect to which the producer was certified under this chapter. Such assistance shall include information regarding—

"(i) improving the yield and marketing of that agricultural commodity; and

"(ii) the feasibility and desirability of substituting one or more alternative agricultural commodities for that agricultural commodity.

"(B) TRANSPORTATION AND SUBSISTENCE EXPENSES.—

"(i) IN GENERAL.—The Secretary may authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses incurred by an agricultural commodity producer in connection with initial technical assistance under subparagraph (A) if such assistance is provided at facilities that are not within normal commuting distance of the regular place of residence of the producer.

"(ii) EXCEPTIONS.—The Secretary may not authorize payments to an agricultural commodity producer under clause (i)—

"(I) for subsistence expenses that exceed the lesser of—

"(aa) the actual per diem expenses for subsistence incurred by the producer; or

"(bb) the prevailing per diem allowance rate authorized under Federal travel regulations; or

"(II) for travel expenses that exceed the prevailing mileage rate authorized under the Federal travel regulations.

"(2) INTENSIVE TECHNICAL ASSISTANCE.—A producer that has completed initial technical assistance under paragraph (1) shall be eligible to participate in intensive technical assistance. Such assistance shall consist of—

"(A) a series of courses to further assist the producer in improving the competitiveness of the producer in producing—

"(i) the agricultural commodity with respect to which the producer was certified under this chapter; or

"(ii) another agricultural commodity; and

"(B) assistance in developing an initial business plan based on the courses completed under subparagraph (A).

"(3) INITIAL BUSINESS PLAN.—

"(A) APPROVAL BY SECRETARY.—The Secretary shall approve an initial business plan developed under paragraph (2)(B) if the plan—

"(i) reflects the skills gained by the producer through the courses described in paragraph (2)(A); and

"(ii) demonstrates how the producer will apply those skills to the circumstances of the producer.

"(B) FINANCIAL ASSISTANCE FOR IMPLEMENTING INITIAL BUSINESS PLAN.—Upon approval of the producer's initial business plan by the Secretary under subparagraph (A), a producer shall be entitled to an amount not to exceed $4,000 to—

"(i) implement the initial business plan; or

"(ii) develop a long-term business adjustment plan under paragraph (4).

"(4) LONG-TERM BUSINESS ADJUSTMENT PLAN.—

"(A) IN GENERAL.—A producer that has completed intensive technical assistance under paragraph (2) and whose initial business plan has been approved under paragraph (3)(A) shall be eligible for, in addition to the amount under subparagraph (C), assistance in developing a long-term business adjustment plan.

"(B) APPROVAL OF LONG-TERM BUSINESS ADJUSTMENT PLANS.—The Secretary shall approve a long-term business adjustment plan developed under subparagraph (A) if the Secretary determines that the plan—

"(i) includes steps reasonably calculated to materially contribute to the economic adjustment of the producer to changing market conditions;

"(ii) takes into consideration the interests of the workers employed by the producer; and

"(iii) demonstrates that the producer will have sufficient resources to implement the business plan.

"(C) PLAN IMPLEMENTATION.—Upon approval of the producer's long-term business adjustment plan under subparagraph (B), a producer shall be entitled to an amount not to exceed $8,000 to implement the long-term business adjustment plan.

"(c) MAXIMUM AMOUNT OF ASSISTANCE.—An agricultural commodity producer may receive not more than $12,000 under paragraphs (3) and (4) of subsection (b) in the 36-month period following certification under section 293.

"(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer that receives benefits under this chapter (other than initial technical assistance under subsection (b)(1)) shall not be eligible for cash benefits under chapter 2 or 3.".

(b) CLERICAL AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking the item relating to section 296 and inserting the following:

"Sec. 296. Qualifying requirements and benefits for agricultural commodity producers.".

SEC. 1884. REPORT.

Section 293 of the Trade Act of 1974 (19 U.S.C. 2401b) is amended by adding at the end the following:

"(d) REPORT BY THE SECRETARY.—Not later than January 30, 2010, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the following information with respect to adjustment assistance provided under this chapter during the preceding fiscal year:

"(1) A list of the agricultural commodities covered by a certification under this chapter.

"(2) The States or regions in which such commodities are produced and the aggregate amount of such commodities produced in each such State or region.

"(3) The total number of agricultural commodity producers, by congressional district, receiving benefits under this chapter.

"(4) The total number of agricultural commodity producers, by congressional district, receiving technical assistance under this chapter.".

SEC. 1885. FRAUD AND RECOVERY OF OVERPAYMENTS.

Section 297(a)(1) of the Trade Act of 1974 (19 U.S.C. 2401f(a)(1)) is amended by inserting "or has expended funds received under this chapter for a purpose that was not approved by the Secretary," after "entitled,".

SEC. 1886. DETERMINATION OF INCREASES OF IMPORTS FOR CERTAIN FISHERMEN.

19 USC 2271 note.

For purposes of chapters 2 and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), in the case of an agricultural commodity producer that—

(1) is a fisherman or aquaculture producer, and

(2) is otherwise eligible for adjustment assistance under chapter 2 or 6, as the case may be,

the increase in imports of articles like or directly competitive with the agricultural commodity produced by such producer may be based on imports of wild-caught seafood, farm-raised seafood, or both.

SEC. 1887. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.

Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking "fiscal years 2003 through 2007" and all that follows through the end period and inserting "fiscal years 2009 and 2010, and $22,500,000 for the period beginning October 1, 2010, and ending December 31, 2010, to carry out the purposes of this chapter, including administrative costs, and salaries and expenses of employees of the Department of Agriculture.".

PART V—GENERAL PROVISIONS

19 USC 2271 note.

SEC. 1891. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, and subsection (b) of this section, this subtitle and the amendments made by this subtitle—

(1) shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act; and

Applicability.

(2) shall apply to—

(A) petitions for certification filed under chapter 2, 3, or 6 of title II of the Trade Act of 1974 on or after the effective date described in paragraph (1); and

(B) petitions for assistance and proposals for grants filed under chapter 4 of title II of the Trade Act of 1974 on or after such effective date.

(b) CERTIFICATIONS MADE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a)—

(1) a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under subchapter B of chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the effective date described in subsection (a)(1), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on the day before such effective date, if the worker—

(A) is certified as eligible for trade adjustment assistance benefits under such chapter 2 pursuant to a petition filed under section 221 of the Trade Act of 1974 on or before such effective date; and

(B) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on the day before such effective date;

(2) a worker shall continue to receive (or be eligible to receive) benefits under section 246(a)(2) of the Trade Act of 1974, as in effect on the day before the effective date described in subsection (a)(1), for such period for which the worker meets the eligibility requirements of section 246 of that Act as in effect on the day before such effective date, if the worker—

(A) is certified as eligible for benefits under such section 246 pursuant to a petition filed under section 221 of the Trade Act of 1974 on or before such effective date; and

(B) would otherwise be eligible to receive benefits under such section 246(a)(2) as in effect on the day before such effective date; and

(3) a firm shall continue to receive (or be eligible to receive) adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on the day before the effective date described in subsection (a)(1), for such period for which the firm meets the eligibility requirements of such chapter 3 as in effect on the day before such effective date, if the firm—

(A) is certified as eligible for benefits under such chapter 3 pursuant to a petition filed under section 251 of the Trade Act of 1974 on or before such effective date; and

(B) would otherwise be eligible to receive benefits under such chapter 3 as in effect on the day before such effective date.

SEC. 1892. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAMS.

(a) FOR WORKERS.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking "December 31, 2007" and inserting "December 31, 2010".

(b) TERMINATION.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note prec.) is amended—

(1) in subsection (a), by striking "December 31, 2007" each place it appears and inserting "December 31, 2010"; and

(2) by amending subsection (b) to read as follows:

"(b) OTHER ASSISTANCE.—

"(1) ASSISTANCE FOR FIRMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), technical assistance and grants may not be provided under chapter 3 after December 31, 2010.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), any technical assistance or grant approved under chapter 3 on or before December 31, 2010, may be provided—

"(i) to the extent funds are available pursuant to such chapter for such purpose; and

"(ii) to the extent the recipient of the technical assistance or grant is otherwise eligible to receive such technical assistance or grant, as the case may be.

"(2) FARMERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), technical assistance and financial assistance may not be provided under chapter 6 after December 31, 2010.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), any technical or financial assistance approved under chapter 6 on or before December 31, 2010, may be provided—

"(i) to the extent funds are available pursuant to such chapter for such purpose; and

"(ii) to the extent the recipient of the technical or financial assistance is otherwise eligible to receive such technical or financial assistance, as the case may be.

"(3) ASSISTANCE FOR COMMUNITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), technical assistance and grants may not be provided under chapter 4 after December 31, 2010.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), any technical assistance or grant approved under chapter 4 on or before December 31, 2010, may be provided—

"(i) to the extent funds are available pursuant to such chapter for such purpose; and

"(ii) to the extent the recipient of the technical assistance or grant is otherwise eligible to receive such technical assistance or grant, as the case may be.".

19 USC 2271 note prec.

SEC. 1893. TERMINATION; RELATED PROVISIONS.

(a) SUNSET.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this subtitle to chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall not apply on or after January 1, 2011.

(2) EXCEPTION.—The amendments made by this subtitle to section 285 of the Trade Act of 1974 shall continue to apply on and after January 1, 2011, with respect to—

(A) workers certified as eligible for trade adjustment assistance benefits under chapter 2 of title II of that Act pursuant to petitions filed under section 221 of that Act before January 1, 2011;

(B) firms certified as eligible for technical assistance or grants under chapter 3 of title II of that Act pursuant to petitions filed under section 251 of that Act before January 1, 2011;

(C) recipients approved for technical assistance or grants under chapter 4 of title II of that Act pursuant to petitions for assistance or proposals for grants (as the case may be) filed pursuant to such chapter before January 1, 2011; and

(D) agricultural commodity producers certified as eligible for technical or financial assistance under chapter 6 of title II of that Act pursuant to petitions filed under section 292 of that Act before January 1, 2011.

Effective date.

(b) APPLICATION OF PRIOR LAW.—Chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied and administered beginning January 1, 2011, as if the amendments made by this subtitle (other than part VI) had never been enacted, except that in applying and administering such chapters—

(1) section 245 of that Act shall be applied and administered by substituting "2011" for "2007";

(2) section 246(b) of that Act shall be applied and administered by substituting "December 31, 2011" for "the date that is 5 years" and all that follows through "State";

(3) section 256(b) of that Act shall be applied and administered by substituting "the 1-year period beginning January 1, 2011" for "each of fiscal years 2003 through 2007, and $4,000,000 for the 3-month period beginning October 1, 2007";

(4) section 298(a) of that Act shall be applied and administered by substituting "the 1-year period beginning January 1, 2011" for "each of the fiscal years" and all that follows through "October 1, 2007"; and

(5) subject to subsection (a)(2), section 285 of that Act shall be applied and administered—

(A) in subsection (a), by substituting "2011" for "2007" each place it appears; and

(B) by applying and administering subsection (b) as if it read as follows:

"(b) OTHER ASSISTANCE.—

"(1) ASSISTANCE FOR FIRMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after December 31, 2011.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before December 31, 2011, may be provided—

"(i) to the extent funds are available pursuant to such chapter for such purpose; and

"(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

"(2) FARMERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after December 31, 2011.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before December 31, 2011, may be provided—

"(i) to the extent funds are available pursuant to such chapter for such purpose; and

"(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.".

SEC. 1894. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.

Not later than September 30, 2012, the Comptroller General of the United States shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a comprehensive report on the operation and effectiveness of the amendments made by this subtitle to chapters 2, 3, 4, and 6 of the Trade Act of 1974.

SEC. 1895. EMERGENCY DESIGNATION.

Amounts appropriated pursuant to this subtitle are 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.

PART VI—HEALTH COVERAGE IMPROVEMENT

TAA Health Coverage Improvement Act of 2009.
26 USC 1 note.

SEC. 1899. SHORT TITLE.

This part may be cited as the "TAA Health Coverage Improvement Act of 2009".

SEC. 1899A. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IMPROVEMENT OF AFFORDABILITY.—

(1) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by inserting "(80 percent

26 USC 35.

in the case of eligible coverage months beginning before January 1, 2011)" after "65 percent".

(2) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by inserting "(80 percent in the case of eligible coverage months beginning before January 1, 2011)" after "65 percent".

26 USC 7527.

26 USC 35 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning on or after the first day of the first month beginning 60 days after the date of the enactment of this Act.

SEC. 1899B. PAYMENT FOR MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF ADVANCE PAYMENTS OF CREDIT.

(a) PAYMENT FOR PREMIUMS DUE PRIOR TO COMMENCEMENT OF ADVANCE PAYMENTS OF CREDIT.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following new subsection:

"(e) PAYMENT FOR PREMIUMS DUE PRIOR TO COMMENCEMENT OF ADVANCE PAYMENTS.—In the case of eligible coverage months beginning before January 1, 2011—

"(1) IN GENERAL.—The program established under subsection (a) shall provide that the Secretary shall make 1 or more retroactive payments on behalf of a certified individual in an aggregate amount equal to 80 percent of the premiums for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the first month for which an advance payment is made on behalf of such individual under subsection (a).

"(2) REDUCTION OF PAYMENT FOR AMOUNTS RECEIVED UNDER NATIONAL EMERGENCY GRANTS.—The amount of any payment determined under paragraph (1) shall be reduced by the amount of any payment made to the taxpayer for the purchase of qualified health insurance under a national emergency grant pursuant to section 173(f) of the Workforce Investment Act of 1998 for a taxable year including the eligible coverage months described in paragraph (1).".

26 USC 7527 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after December 31, 2008.

26 USC 7527 note.

(c) TRANSITIONAL RULE.—The Secretary of the Treasury shall not be required to make any payments under section 7527(e) of the Internal Revenue Code of 1986, as added by this section, until after the date that is 6 months after the date of the enactment of this Act.

SEC. 1899C. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 35(c) of the Internal Revenue Code of 1986 (defining eligible TAA recipient) is amended to read as follows:

"(2) ELIGIBLE TAA RECIPIENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'eligible TAA recipient' means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974 or who

would be eligible to receive such allowance if section 231 of such Act were applied without regard to subsection (a)(3)(B) of such section. An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.

"(B) SPECIAL RULE.—In the case of any eligible coverage month beginning after the date of the enactment of this paragraph and before January 1, 2011, the term 'eligible TAA recipient' means, with respect to any month, any individual who—

"(i) is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974,

"(ii) would be eligible to receive such allowance except that such individual is in a break in training provided under a training program approved under section 236 of such Act that exceeds the period specified in section 233(e) of such Act, but is within the period for receiving such allowances provided under section 233(a) of such Act, or

"(iii) is receiving unemployment compensation (as defined in section 85(b)) for any day of such month and who would be eligible to receive such allowance for such month if section 231 of such Act were applied without regard to subsections (a)(3)(B) and (a)(5) thereof.

An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after the date of the enactment of this Act. 26 USC 35 note.

SEC. 1899D. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following new subparagraph: 26 USC 9801.

"(D) TAA-ELIGIBLE INDIVIDUALS.—In the case of plan years beginning before January 1, 2011—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is 7 days after the date of the issuance by the Secretary (or by any person or entity designated by the Secretary) of a qualified health insurance costs credit eligibility certificate for such individual for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual' and 'TAA-related loss of coverage' have the

meanings given such terms in section 4980B(f)(5)(C)(iv).".

(b) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) TAA-ELIGIBLE INDIVIDUALS.—In the case of plan years beginning before January 1, 2011—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 7 days after the date of the issuance by the Secretary (or by any person or entity designated by the Secretary) of a qualified health insurance costs credit eligibility certificate for such individual for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual' and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4).".

(c) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) TAA-ELIGIBLE INDIVIDUALS.—In the case of plan years beginning before January 1, 2011—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 7 days after the date of the issuance by the Secretary (or by any person or entity designated by the Secretary) of a qualified health insurance costs credit eligibility certificate for such individual for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual' and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4).".

26 USC 9801 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 1899E. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

26 USC 35.

(a) IN GENERAL.—Subsection (g) of section 35 of such Code is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

"(9) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—In the case of eligible coverage months beginning before January 1, 2011—

"(A) MEDICARE ELIGIBILITY.—In the case of any month which would be an eligible coverage month with respect to an eligible individual but for subsection (f)(2)(A), such month shall be treated as an eligible coverage month with respect to such eligible individual solely for purposes of

determining the amount of the credit under this section with respect to any qualifying family members of such individual (and any advance payment of such credit under section 7527). This subparagraph shall only apply with respect to the first 24 months after such eligible individual is first entitled to the benefits described in subsection (f)(2)(A).

"(B) DIVORCE.—In the case of the finalization of a divorce between an eligible individual and such individual's spouse, such spouse shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 24 months beginning with the date of such finalization, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such finalization.

"(C) DEATH.—In the case of the death of an eligible individual—

"(i) any spouse of such individual (determined at the time of such death) shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 24 months beginning with the date of such death, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such death, and

"(ii) any individual who was a qualifying family member of the decedent immediately before such death (or, in the case of an individual to whom paragraph (4) applies, the taxpayer to whom the deduction under section 151 is allowable) shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 24 months beginning with the date of such death, except that in determining the amount of such credit only such qualifying family member may be taken into account.".

(b) CONFORMING AMENDMENT.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

"(8) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—In the case of eligible coverage months beginning before January 1, 2011—

"(A) MEDICARE ELIGIBILITY.—In the case of any month which would be an eligible coverage month with respect to an eligible individual but for paragraph (7)(B)(i), such month shall be treated as an eligible coverage month with respect to such eligible individual solely for purposes of determining the eligibility of qualifying family members of such individual under this subsection. This subparagraph shall only apply with respect to the first 24 months after such eligible individual is first entitled to the benefits described in paragraph (7)(B)(i). Applicability.

"(B) DIVORCE.—In the case of the finalization of a divorce between an eligible individual and such individual's spouse, such spouse shall be treated as an eligible individual for purposes of this subsection for a period of 24

months beginning with the date of such finalization, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such finalization.

"(C) DEATH.—In the case of the death of an eligible individual—

"(i) any spouse of such individual (determined at the time of such death) shall be treated as an eligible individual for purposes of this subsection for a period of 24 months beginning with the date of such death, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such death, and

"(ii) any individual who was a qualifying family member of the decedent immediately before such death shall be treated as an eligible individual for purposes this subsection for a period of 24 months beginning with the date of such death, except that no qualifying family members may be taken into account with respect to such individual.".

26 USC 35 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2009.

SEC. 1899F. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA AMENDMENTS.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended—

(1) by moving clause (v) to after clause (iv) and before the flush left sentence beginning with "In the case of a qualified beneficiary";

(2) by striking "In the case of a qualified beneficiary" and inserting the following:

"(vi) SPECIAL RULE FOR DISABILITY.—In the case of a qualified beneficiary"; and

(3) by redesignating clauses (v) and (vi), as amended by paragraphs (1) and (2), as clauses (vii) and (viii), respectively, and by inserting after clause (iv) the following new clauses:

"(v) SPECIAL RULE FOR PBGC RECIPIENTS.—In the case of a qualifying event described in section 603(2) with respect to a covered employee who (as of such qualifying event) has a nonforfeitable right to a benefit any portion of which is to be paid by the Pension Benefit Guaranty Corporation under title IV, notwithstanding clause (i) or (ii), the date of the death of the covered employee, or in the case of the surviving spouse or dependent children of the covered employee, 24 months after the date of the death of the covered employee. The preceding sentence shall not require any period of coverage to extend beyond December 31, 2010.

"(vi) SPECIAL RULE FOR TAA-ELIGIBLE INDIVIDUALS.—In the case of a qualifying event described in section 603(2) with respect to a covered employee who is (as of the date that the period of coverage would,

but for this clause or clause (vii), otherwise terminate under clause (i) or (ii)) a TAA-eligible individual (as defined in section 605(b)(4)(B)), the period of coverage shall not terminate by reason of clause (i) or (ii), as the case may be, before the later of the date specified in such clause or the date on which such individual ceases to be such a TAA-eligible individual. The preceding sentence shall not require any period of coverage to extend beyond December 31, 2010.".

(b) IRC AMENDMENTS.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended— 26 USC 4980B.

(1) by striking "In the case of a qualified beneficiary" and inserting the following:

"(VI) SPECIAL RULE FOR DISABILITY.—In the case of a qualified beneficiary", and

(2) by redesignating subclauses (V) and (VI), as amended by paragraph (1), as subclauses (VII) and (VIII), respectively, and by inserting after clause (IV) the following new subclauses:

"(V) SPECIAL RULE FOR PBGC RECIPIENTS.—In the case of a qualifying event described in paragraph (3)(B) with respect to a covered employee who (as of such qualifying event) has a nonforfeitable right to a benefit any portion of which is to be paid by the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act of 1974, notwithstanding subclause (I) or (II), the date of the death of the covered employee, or in the case of the surviving spouse or dependent children of the covered employee, 24 months after the date of the death of the covered employee. The preceding sentence shall not require any period of coverage to extend beyond December 31, 2010.

"(VI) SPECIAL RULE FOR TAA-ELIGIBLE INDIVIDUALS.—In the case of a qualifying event described in paragraph (3)(B) with respect to a covered employee who is (as of the date that the period of coverage would, but for this subclause or subclause (VII), otherwise terminate under subclause (I) or (II)) a TAA-eligible individual (as defined in paragraph (5)(C)(iv)(II)), the period of coverage shall not terminate by reason of subclause (I) or (II), as the case may be, before the later of the date specified in such subclause or the date on which such individual ceases to be such a TAA-eligible individual. The preceding sentence shall not require any period of coverage to extend beyond December 31, 2010.".

(c) PHSA AMENDMENTS.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)) is amended—

(1) by striking "In the case of a qualified beneficiary" and inserting the following:

"(v) SPECIAL RULE FOR DISABILITY.—In the case of a qualified beneficiary"; and

(2) by redesignating clauses (iv) and (v), as amended by paragraph (1), as clauses (v) and (vi), respectively, and by inserting after clause (iii) the following new clause:

"(iv) SPECIAL RULE FOR TAA-ELIGIBLE INDIVIDUALS.—In the case of a qualifying event described in section 2203(2) with respect to a covered employee who is (as of the date that the period of coverage would, but for this clause or clause (v), otherwise terminate under clause (i) or (ii)) a TAA-eligible individual (as defined in section 2205(b)(4)(B)), the period of coverage shall not terminate by reason of clause (i) or (ii), as the case may be, before the later of the date specified in such clause or the date on which such individual ceases to be such a TAA-eligible individual. The preceding sentence shall not require any period of coverage to extend beyond December 31, 2010.".

26 USC 4980B note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after the date of the enactment of this Act.

SEC. 1899G. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

26 USC 35.

(a) IN GENERAL.—Paragraph (1) of section 35(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(K) In the case of eligible coverage months beginning before January 1, 2011, coverage under an employee benefit plan funded by a voluntary employees' beneficiary association (as defined in section 501(c)(9)) established pursuant to an order of a bankruptcy court, or by agreement with an authorized representative, as provided in section 1114 of title 11, United States Code.".

26 USC 35 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after the date of the enactment of this Act.

SEC. 1899H. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Subsection (d) of section 7527 of the Internal Revenue Code of 1986 (relating to qualified health insurance costs credit eligibility certificate) is amended to read as follows:

"(d) QUALIFIED HEALTH INSURANCE COSTS ELIGIBILITY CERTIFICATE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified health insurance costs eligibility certificate' means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

"(A) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

"(B) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).

"(2) INCLUSION OF CERTAIN INFORMATION.—In the case of any statement described in paragraph (1) which is issued before January 1, 2011, such statement shall not be treated as a

qualified health insurance costs credit eligibility certificate unless such statement includes—

"(A) the name, address, and telephone number of the State office or offices responsible for providing the individual with assistance with enrollment in qualified health insurance (as defined in section 35(e)),

"(B) a list of the coverage options that are treated as qualified health insurance (as so defined) by the State in which the individual resides, and

"(C) in the case of a TAA-eligible individual (as defined in section 4980B(f)(5)(C)(iv)(II)), a statement informing the individual that the individual has 63 days from the date that is 7 days after the date of the issuance of such certificate to enroll in such insurance without a lapse in creditable coverage (as defined in section 9801(c)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after the date that is 6 months after the date of the enactment of this Act. 26 USC 7527 note.

SEC. 1899I. SURVEY AND REPORT ON ENHANCED HEALTH COVERAGE TAX CREDIT PROGRAM. 26 USC 35 note.

(a) SURVEY.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a biennial survey of eligible individuals (as defined in section 35(c) of the Internal Revenue Code of 1986) relating to the health coverage tax credit under section 35 of the Internal Revenue Code of 1986 (hereinafter in this section referred to as the "health coverage tax credit").

(2) INFORMATION OBTAINED.—The survey conducted under subsection (a) shall obtain the following information:

(A) HCTC PARTICIPANTS.—In the case of eligible individuals receiving the health coverage tax credit (including individuals participating in the health coverage tax credit program under section 7527 of such Code, hereinafter in this section referred to as the "HCTC program")—

(i) demographic information of such individuals, including income and education levels,

(ii) satisfaction of such individuals with the enrollment process in the HCTC program,

(iii) satisfaction of such individuals with available health coverage options under the credit, including level of premiums, benefits, deductibles, cost-sharing requirements, and the adequacy of provider networks, and

(iv) any other information that the Secretary determines is appropriate.

(B) NON-HCTC PARTICIPANTS.—In the case of eligible individuals not receiving the health coverage tax credit—

(i) demographic information of each individual, including income and education levels,

(ii) whether the individual was aware of the health coverage tax credit or the HCTC program,

(iii) the reasons the individual has not enrolled in the HCTC program, including whether such reasons include the burden of the process of enrollment and the affordability of coverage,

(iv) whether the individual has health insurance coverage, and, if so, the source of such coverage, and

(v) any other information that the Secretary determines is appropriate.

(3) REPORT.—Not later than December 31 of each year in which a survey is conducted under paragraph (1) (beginning in 2010), the Secretary of the Treasury shall report to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Education and Labor, and the Committee on Energy and Commerce of the House of Representatives the findings of the most recent survey conducted under paragraph (1).

(b) REPORT.—Not later than October 1 of each year (beginning in 2010), the Secretary of the Treasury (after consultation with the Secretary of Health and Human Services, and, in the case of the information required under paragraph (7), the Secretary of Labor) shall report to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Education and Labor, and the Committee on Energy and Commerce of the House of Representatives the following information with respect to the most recent taxable year ending before such date:

(1) In each State and nationally—

(A) the total number of eligible individuals (as defined in section 35(c) of the Internal Revenue Code of 1986) and the number of eligible individuals receiving the health coverage tax credit,

(B) the total number of such eligible individuals who receive an advance payment of the health coverage tax credit through the HCTC program,

(C) the average length of the time period of the participation of eligible individuals in the HCTC program, and

(D) the total number of participating eligible individuals in the HCTC program who are enrolled in each category of coverage as described in section 35(e)(1) of such Code,

with respect to each category of eligible individuals described in section 35(c)(1) of such Code.

(2) In each State and nationally, an analysis of—

(A) the range of monthly health insurance premiums, for self-only coverage and for family coverage, for individuals receiving the health coverage tax credit, and

(B) the average and median monthly health insurance premiums, for self-only coverage and for family coverage, for individuals receiving the health coverage tax credit,

with respect to each category of coverage as described in section 35(e)(1) of such Code.

(3) In each State and nationally, an analysis of the following information with respect to the health insurance coverage of individuals receiving the health coverage tax credit who are enrolled in coverage described in subparagraphs (B) through (H) of section 35(e)(1) of such Code:

(A) Deductible amounts.

(B) Other out-of-pocket cost-sharing amounts.

(C) A description of any annual or lifetime limits on coverage or any other significant limits on coverage services, or benefits.

The information required under this paragraph shall be reported with respect to each category of coverage described in such subparagraphs.

(4) In each State and nationally, the gender and average age of eligible individuals (as defined in section 35(c) of such Code) who receive the health coverage tax credit, in each category of coverage described in section 35(e)(1) of such Code, with respect to each category of eligible individuals described in such section.

(5) The steps taken by the Secretary of the Treasury to increase the participation rates in the HCTC program among eligible individuals, including outreach and enrollment activities.

(6) The cost of administering the HCTC program by function, including the cost of subcontractors, and recommendations on ways to reduce administrative costs, including recommended statutory changes.

(7) The number of States applying for and receiving national emergency grants under section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)), the activities funded by such grants on a State-by-State basis, and the time necessary for application approval of such grants.

SEC. 1899J. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $80,000,000 for the period of fiscal years 2009 through 2010 to implement the amendments made by, and the provisions of, sections 1899 through 1899I of this part.

SEC. 1899K. EXTENSION OF NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)), as amended by this Act, is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) USE OF FUNDS.—

"(A) HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN QUALIFIED HEALTH INSURANCE THAT HAS GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used to provide an eligible individual described in paragraph (4)(C) and such individual's qualifying family members with health insurance coverage for the 3-month period that immediately precedes the first eligible coverage month (as defined in section 35(b) of the Internal Revenue Code of 1986) in which such eligible individual and such individual's qualifying family members are covered by qualified health insurance that meets the requirements described in clauses (i) through (v) of section 35(e)(2)(A) of the Internal Revenue Code of 1986 (or such longer minimum period as is necessary in order for such eligible individual and such individual's qualifying family members to be covered by qualified health insurance that meets such requirements).

"(B) ADDITIONAL USES.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

"(i) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members with enrolling in health insurance coverage and qualified health insurance or paying premiums for such coverage or insurance.

"(ii) ADMINISTRATIVE EXPENSES AND START-UP EXPENSES TO ESTABLISH GROUP HEALTH PLAN COVERAGE OPTIONS FOR QUALIFIED HEALTH INSURANCE.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in health insurance coverage and qualified health insurance, including—

"(I) eligibility verification activities;

"(II) the notification of eligible individuals of available health insurance and qualified health insurance options;

"(III) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

"(IV) providing assistance to eligible individuals in enrolling in health insurance coverage and qualified health insurance;

"(V) the development or installation of necessary data management systems; and

"(VI) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses, in order for the State to treat the coverage described in subparagraphs (C) through (H) of section 35(e)(1) of the Internal Revenue Code of 1986 as qualified health insurance under that section.

"(iii) OUTREACH.—To pay for outreach to eligible individuals to inform such individuals of available health insurance and qualified health insurance options, including outreach consisting of notice to eligible individuals of such options made available after the date of enactment of this clause and direct assistance to help potentially eligible individuals and such individual's qualifying family members qualify and remain eligible for the credit established under section 35 of the Internal Revenue Code of 1986 and advance payment of such credit under section 7527 of such Code.

"(iv) BRIDGE FUNDING.—To assist potentially eligible individuals to purchase qualified health insurance coverage prior to issuance of a qualified health insurance costs credit eligibility certificate under section 7527 of the Internal Revenue Code of 1986 and commencement of advance payment, and receipt of expedited payment, under subsections (a) and (e), respectively, of that section.

"(C) RULE OF CONSTRUCTION.—The inclusion of a permitted use under this paragraph shall not be construed

as prohibiting a similar use of funds permitted under subsection (g).”; and

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

“(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g), the term ‘qualified health insurance’ has the meaning given that term in section 35(e) of the Internal Revenue Code of 1986.”.

(b) FUNDING.—Section 174(c)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amended—

(1) in the paragraph heading, by striking “AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002” and inserting “APPROPRIATIONS”; and

(2) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) to carry out subsection (a)(4)(A) of section 173—

“(i) $10,000,000 for fiscal year 2002; and

“(ii) $150,000,000 for the period of fiscal years 2009 through 2010; and”.

SEC. 1899L. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding the health insurance tax credit allowed under section 35 of the Internal Revenue Code of 1986.

(b) REPORT.—Not later than March 1, 2010, the Comptroller General shall submit a report to Congress regarding the results of the study conducted under subsection (a). Such report shall include an analysis of—

(1) the administrative costs—

(A) of the Federal Government with respect to such credit and the advance payment of such credit under section 7527 of such Code, and

(B) of providers of qualified health insurance with respect to providing such insurance to eligible individuals and their qualifying family members,

(2) the health status and relative risk status of eligible individuals and qualifying family members covered under such insurance,

(3) participation in such credit and the advance payment of such credit by eligible individuals and their qualifying family members, including the reasons why such individuals did or did not participate and the effect of the amendments made by this part on such participation, and

(4) the extent to which eligible individuals and their qualifying family members—

(A) obtained health insurance other than qualifying health insurance, or

(B) went without health insurance coverage.

(c) ACCESS TO RECORDS.—For purposes of conducting the study required under this section, the Comptroller General and any of his duly authorized representatives shall have access to, and the right to examine and copy, all documents, records, and other recorded information—

(1) within the possession or control of providers of qualified health insurance, and

(2) determined by the Comptroller General (or any such representative) to be relevant to the study.

The Comptroller General shall not disclose the identity of any provider of qualified health insurance or any eligible individual in making any information obtained under this section available to the public.

(d) DEFINITIONS.—Any term which is defined in section 35 of the Internal Revenue Code of 1986 shall have the same meaning when used in this section.

Assistance for Unemployed Workers and Struggling Families Act.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE; TABLE OF CONTENTS OF TITLE.'

26 USC 1 note.

(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: 26 USC 3304 note.

"(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

"(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

"(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.".

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS. 26 USC 3304 note.

(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. Notification.

(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.—

Time period.

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010.—In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION.—Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

Applicability.

(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.

Application.
Deadline.

"(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).

Deadline.
Notification.

Certifications.

"(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.

Deadline.

Effective date.

"(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).

Deadline.

"(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). Deadline.

"(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). 42 USC 1103 note.

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— Time period.

"(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.".

26 USC 3304 note.

SEC. 2005. FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

Applicability.

(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 January 1, 2010, 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 January 1, 2010, 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).

Applicability.

(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 January 1, 2010, the provisions of subsections (a) and (b) shall, at the option of a State, be applied by substituting "ending before June 1, 2010" for "before January 1, 2010".

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

26 USC 3304 note.

(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:

Applicability.

"(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.

Time period.
Deadline.

"(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.

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).".

Effective dates.

(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.— Effective dates.

(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.

Time period. Applicability. 42 USC 655 note.

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

26 USC 6428 note.

SEC. 2201. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS.

(a) AUTHORITY TO MAKE PAYMENTS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Subject to paragraph (5)(B), the Secretary of the Treasury shall 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.—

Deadline.

(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.

Certification.

(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.—

Time period.

(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.

Applicability.

(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).

26 USC 6428 note.

SEC. 2202. 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, 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. Time period.

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. PREMIUM ASSISTANCE FOR COBRA BENEFITS. 26 USC 6432 note.

(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 Deadline.

affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

(ii) REQUIREMENTS.—An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if—

(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

(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 9 months after the first day of the first month that paragraph (1)(A) applies with respect to such individual,

(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE.—For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT.—An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL.—For purposes of this section, the term "assistance eligible individual" means any qualified beneficiary if— Definition. Time period.

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

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

(A) IN GENERAL.—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.

Application.

Determination. Deadline.

Courts.

(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), become entitled to elect 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. Regulations.

(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 Deadline.

(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.

Deadline.

(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.

Web posting.

(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 Education 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:

26 USC 6432.

"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 multiemployer 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 offsets 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.

Time period.
Deadlines.

(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:

26 USC 6720C.

"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 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph: 26 USC 35.

"(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. 26 USC 139C.

"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.

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

(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 report 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.

TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS

Health Information Technology for Economic and Clinical Health Act.

SEC. 4001. TABLE OF CONTENTS OF TITLE.

The table of contents of this title is as follows:

TITLE IV—MEDICARE AND MEDICAID HEALTH INFORMATION TECHNOLOGY; MISCELLANEOUS MEDICARE PROVISIONS

Sec. 4001. Table of contents of title.

Subtitle A—Medicare Incentives

Sec. 4101. Incentives for eligible professionals.
Sec. 4102. Incentives for hospitals.
Sec. 4103. Treatment of payments and savings; implementation funding.
Sec. 4104. Studies and reports on health information technology.

Subtitle B—Medicaid Incentives

Sec. 4201. Medicaid provider HIT adoption and operation payments; implementation funding.

Subtitle C—Miscellaneous Medicare Provisions

Sec. 4301. Moratoria on certain Medicare regulations.
Sec. 4302. Long-term care hospital technical corrections.

Subtitle A—Medicare Incentives

SEC. 4101. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) INCENTIVE PAYMENTS.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended by adding at the end the following new subsection:

"(o) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—

"(i) IN GENERAL.—Subject to the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for the EHR reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)), from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

Deadline.

"(ii) NO INCENTIVE PAYMENTS WITH RESPECT TO YEARS AFTER 2016.—No incentive payments may be

made under this subsection with respect to a year after 2016.

"(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS.—

"(i) IN GENERAL.—In no case shall the amount of the incentive payment provided under this paragraph for an eligible professional for a payment year exceed the applicable amount specified under this subparagraph with respect to such eligible professional and such year.

"(ii) AMOUNT.—Subject to clauses (iii) through (v), the applicable amount specified in this subparagraph for an eligible professional is as follows:

"(I) For the first payment year for such professional, $15,000 (or, if the first payment year for such eligible professional is 2011 or 2012, $18,000).

"(II) For the second payment year for such professional, $12,000.

"(III) For the third payment year for such professional, $8,000.

"(IV) For the fourth payment year for such professional, $4,000.

"(V) For the fifth payment year for such professional, $2,000.

"(VI) For any succeeding payment year for such professional, $0.

"(iii) PHASE DOWN FOR ELIGIBLE PROFESSIONALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible professional is after 2013, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013.

"(iv) INCREASE FOR CERTAIN ELIGIBLE PROFESSIONALS.—In the case of an eligible professional who predominantly furnishes services under this part in an area that is designated by the Secretary (under section 332(a)(1)(A) of the Public Health Service Act) as a health professional shortage area, the amount that would otherwise apply for a payment year for such professional under subclauses (I) through (V) of clause (ii) shall be increased by 10 percent. In implementing the preceding sentence, the Secretary may, as determined appropriate, apply provisions of subsections (m) and (u) of section 1833 in a similar manner as such provisions apply under such subsection.

"(v) NO INCENTIVE PAYMENT IF FIRST ADOPTING AFTER 2014.—If the first payment year for an eligible professional is after 2014 then the applicable amount specified in this subparagraph for such professional for such year and any subsequent year shall be $0.

"(C) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—

"(i) IN GENERAL.—No incentive payment may be made under this paragraph in the case of a hospital-based eligible professional.

"(ii) HOSPITAL-BASED ELIGIBLE PROFESSIONAL.—For purposes of clause (i), the term 'hospital-based eligible professional' means, with respect to covered professional services furnished by an eligible professional during the EHR reporting period for a payment year, an eligible professional, such as a pathologist, anesthesiologist, or emergency physician, who furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital. The determination of whether an eligible professional is a hospital-based eligible professional shall be made on the basis of the site of service (as defined by the Secretary) and without regard to any employment or billing arrangement between the eligible professional and any other provider.

"(D) PAYMENT.—

"(i) FORM OF PAYMENT.—The payment under this paragraph may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

"(ii) COORDINATION OF APPLICATION OF LIMITATION FOR PROFESSIONALS IN DIFFERENT PRACTICES.—In the case of an eligible professional furnishing covered professional services in more than one practice (as specified by the Secretary), the Secretary shall establish rules to coordinate the incentive payments, including the application of the limitation on amounts of such incentive payments under this paragraph, among such practices. Regulations.

"(iii) COORDINATION WITH MEDICAID.—The Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State governments to demonstrate meaningful use of certified EHR technology under this title and title XIX. The Secretary may also adjust the reporting periods under such title and such subsections in order to carry out this clause.

"(E) PAYMENT YEAR DEFINED.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a year beginning with 2011.

"(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', 'fourth payment year', and 'fifth payment year' mean, with respect to covered professional services furnished by such eligible professional, each successive year immediately following the first payment year for such professional.

"(2) MEANINGFUL EHR USER.—

"(A) IN GENERAL.—For purposes of paragraph (1), an eligible professional shall be treated as a meaningful EHR

user for an EHR reporting period for a payment year (or, for purposes of subsection (a)(7), for an EHR reporting period under such subsection for a year) if each of the following requirements is met:

"(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary.

"(ii) INFORMATION EXCHANGE.—The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

"(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible professional submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary may provide for the use of alternative means for meeting the requirements of clauses (i), (ii), and (iii) in the case of an eligible professional furnishing covered professional services in a group practice (as defined by the Secretary). The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

"(B) REPORTING ON MEASURES.—

"(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

"(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

Federal Register, publication.

"(II) Prior to any measure being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

"(ii) LIMITATION.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

"(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid

redundant or duplicative reporting otherwise required, including reporting under subsection (k)(2)(C).

"(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

"(i) IN GENERAL.—A professional may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

"(I) an attestation;

"(II) the submission of claims with appropriate coding (such as a code indicating that a patient encounter was documented using certified EHR technology);

"(III) a survey response;

"(IV) reporting under subparagraph (A)(iii); and

"(V) other means specified by the Secretary.

"(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

"(3) APPLICATION.—

"(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

"(B) COORDINATION WITH OTHER PAYMENTS.—The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

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

"(i) the methodology and standards for determining payment amounts under this subsection and payment adjustments under subsection (a)(7)(A), including the limitation under paragraph (1)(B) and coordination under clauses (ii) and (iii) of paragraph (1)(D);

"(ii) the methodology and standards for determining a meaningful EHR user under paragraph (2), including selection of measures under paragraph (2)(B), specification of the means of demonstrating meaningful EHR use under paragraph (2)(C), and the hardship exception under subsection (a)(7)(B);

"(iii) the methodology and standards for determining a hospital-based eligible professional under paragraph (1)(C); and

"(iv) the specification of reporting periods under paragraph (5) and the selection of the form of payment under paragraph (1)(D)(i).

"(D) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone

numbers of the eligible professionals who are meaningful EHR users and, as determined appropriate by the Secretary, of group practices receiving incentive payments under paragraph (1).

"(4) CERTIFIED EHR TECHNOLOGY DEFINED.—For purposes of this section, the term 'certified EHR technology' means a qualified electronic health record (as defined in section 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

"(B) EHR REPORTING PERIOD.—The term 'EHR reporting period' means, with respect to a payment year, any period (or periods) as specified by the Secretary.

"(C) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).".

(b) INCENTIVE PAYMENT ADJUSTMENT.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

"(7) INCENTIVES FOR MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(A) ADJUSTMENT.—

"(i) IN GENERAL.—Subject to subparagraphs (B) and (D), with respect to covered professional services furnished by an eligible professional during 2015 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for an EHR reporting period for the year, the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

"(ii) APPLICABLE PERCENT.—Subject to clause (iii), for purposes of clause (i), the term 'applicable percent' means—

"(I) for 2015, 99 percent (or, in the case of an eligible professional who was subject to the application of the payment adjustment under section 1848(a)(5) for 2014, 98 percent);

"(II) for 2016, 98 percent; and

"(III) for 2017 and each subsequent year, 97 percent.

"(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2018 AND SUBSEQUENT YEARS.—For 2018 and each subsequent year, if the Secretary finds

that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

"(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

"(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

"(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

"(E) DEFINITIONS.—For purposes of this paragraph:

"(i) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

"(ii) EHR REPORTING PERIOD.—The term 'EHR reporting period' means, with respect to a year, a period (or periods) specified by the Secretary.

"(iii) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).".

(c) APPLICATION TO CERTAIN MA-AFFILIATED ELIGIBLE PROFESSIONALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

"(l) APPLICATION OF ELIGIBLE PROFESSIONAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) IN GENERAL.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

"(2) ELIGIBLE PROFESSIONAL DESCRIBED.—With respect to a qualifying MA organization, an eligible professional described in this paragraph is an eligible professional (as defined for purposes of section 1848(o)) who—

"(A)(i) is employed by the organization; or

"(ii)(I) is employed by, or is a partner of, an entity that through contract with the organization furnishes at least 80 percent of the entity's Medicare patient care services to enrollees of such organization; and

"(II) furnishes at least 80 percent of the professional services of the eligible professional covered under this title to enrollees of the organization; and

"(B) furnishes, on average, at least 20 hours per week of patient care services.

"(3) ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—In applying section 1848(o) under paragraph (1), instead of the additional payment amount under section 1848(o)(1)(A) and subject to subparagraph (B), the Secretary may substitute an amount determined by the Secretary to the extent feasible and practical to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such professionals was payable under part B instead of this part.

"(B) AVOIDING DUPLICATION OF PAYMENTS.—

"(i) IN GENERAL.—In the case of an eligible professional described in paragraph (2)—

"(I) that is eligible for the maximum incentive payment under section 1848(o)(1)(A) for the same payment period, the payment incentive shall be made only under such section and not under this subsection; and

"(II) that is eligible for less than such maximum incentive payment for the same payment period, the payment incentive shall be made only under this subsection and not under section 1848(o)(1)(A).

"(ii) METHODS.—In the case of an eligible professional described in paragraph (2) who is eligible for an incentive payment under section 1848(o)(1)(A) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

"(I) to ensure that duplicate payments are not made with respect to an eligible professional both under this subsection and under section 1848(o)(1)(A); and

"(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

"(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS.—In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

Deadline.

"(4) PAYMENT ADJUSTMENT.—

"(A) IN GENERAL.—In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph (D), the

payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

"(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

"(i) the number of percentage points by which the applicable percent (under section 1848(a)(7)(A)(ii)) for the year is less than 100 percent; and

"(ii) the Medicare physician expenditure proportion specified in subparagraph (C) for the year.

"(C) MEDICARE PHYSICIAN EXPENDITURE PROPORTION.—The Medicare physician expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

"(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible professionals of the organization are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of all such eligible professionals of the organization that are not meaningful EHR users for such year.

"(5) QUALIFYING MA ORGANIZATION DEFINED.—In this subsection and subsection (m), the term 'qualifying MA organization' means a Medicare Advantage organization that is organized as a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act).

Attestation.

"(6) MEANINGFUL EHR USER ATTESTATION.—For purposes of this subsection and subsection (m), a qualifying MA organization shall submit an attestation, in a form and manner specified by the Secretary which may include the submission of such attestation as part of submission of the initial bid under section 1854(a)(1)(A)(iv), identifying—

"(A) whether each eligible professional described in paragraph (2), with respect to such organization is a meaningful EHR user (as defined in section 1848(o)(2)) for a year specified by the Secretary; and

"(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.

"(7) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of—

"(A) each qualifying MA organization receiving an incentive payment under this subsection for eligible professionals of the organization; and

"(B) the eligible professionals of such organization for which such incentive payment is based.

"(8) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

"(A) the methodology and standards for determining payment amounts and payment adjustments under this subsection, including avoiding duplication of payments under paragraph (3)(B) and the specification of rules for the fixed schedule for application of limitation on incentive payments for all eligible professionals under paragraph (3)(C);

"(B) the methodology and standards for determining eligible professionals under paragraph (2); and

"(C) the methodology and standards for determining a meaningful EHR user under section 1848(o)(2), including specification of the means of demonstrating meaningful EHR use under section 1848(o)(3)(C) and selection of measures under section 1848(o)(3)(B).".

(d) STUDY AND REPORT RELATING TO MA ORGANIZATIONS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study on the extent to which and manner in which payment incentives and adjustments (such as under sections 1848(o) and 1848(a)(7) of the Social Security Act) could be made available to professionals, as defined in 1861(r), who are not eligible for HIT incentive payments under section 1848(o) and receive payments for Medicare patient services nearly-exclusively through contractual arrangements with one or more Medicare Advantage organizations, or an intermediary organization or organizations with contracts with Medicare Advantage organizations. Such study shall assess approaches for measuring meaningful use of qualified EHR technology among such professionals and mechanisms for delivering incentives and adjustments to those professionals, including through incentive payments and adjustments through Medicare Advantage organizations or intermediary organizations.

(2) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the findings and the conclusions of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(e) CONFORMING AMENDMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking "and (i)" and inserting "(i), and (l)";

(2) in subsection (c)—

(A) in paragraph (1)(D)(i), by striking "section 1886(h)" and inserting "sections 1848(o) and 1886(h)"; and

(B) in paragraph (6)(A), by inserting after "under part B," the following: "excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,"; and

(3) in subsection (f), by inserting "and for payments under subsection (l)" after "with the organization".

(f) CONFORMING AMENDMENTS TO E-PRESCRIBING.—

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(5)(A)) is amended—

(A) in clause (i), by striking "or any subsequent year" and inserting ", 2013 or 2014"; and

(B) in clause (ii), by striking "and each subsequent year".

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w–4(m)(2)) is amended—

(A) in subparagraph (A), by striking "For 2009" and inserting "Subject to subparagraph (D), for 2009"; and

(B) by adding at the end the following new subparagraph:

"(D) LIMITATION WITH RESPECT TO EHR INCENTIVE PAYMENTS.—The provisions of this paragraph shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the EHR reporting period the eligible professional (or group practice) receives an incentive payment under subsection (o)(1)(A) with respect to a certified EHR technology (as defined in subsection (o)(4)) that has the capability of electronic prescribing.".

SEC. 4102. INCENTIVES FOR HOSPITALS.

(a) INCENTIVE PAYMENT.—

(1) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(n) INCENTIVES FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, with respect to inpatient hospital services furnished by an eligible hospital during a payment year (as defined in paragraph (2)(G)), if the eligible hospital is a meaningful EHR user (as determined under paragraph (3)) for the EHR reporting period with respect to such year, in addition to the amount otherwise paid under this section, there also shall be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable amount specified in paragraph (2)(A) for the hospital for such payment year.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the succeeding subparagraphs of this paragraph, the applicable amount specified in this subparagraph for an eligible hospital for a payment year is equal to the product of the following:

"(i) INITIAL AMOUNT.—The sum of—

"(I) the base amount specified in subparagraph (B); plus

"(II) the discharge related amount specified in subparagraph (C) for a 12-month period selected by the Secretary with respect to such payment year.

"(ii) MEDICARE SHARE.—The Medicare share as specified in subparagraph (D) for the eligible hospital for a period selected by the Secretary with respect to such payment year.

"(iii) TRANSITION FACTOR.—The transition factor specified in subparagraph (E) for the eligible hospital for the payment year.

"(B) BASE AMOUNT.—The base amount specified in this subparagraph is $2,000,000.

"(C) DISCHARGE RELATED AMOUNT.—The discharge related amount specified in this subparagraph for a 12-

month period selected by the Secretary shall be determined as the sum of the amount, estimated based upon total discharges for the eligible hospital (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

"(i) For the first through 1,149th discharge, $0.

"(ii) For the 1,150th through the 23,000th discharge, $200.

"(iii) For any discharge greater than the 23,000th, $0.

"(D) MEDICARE SHARE.—The Medicare share specified under this subparagraph for an eligible hospital for a period selected by the Secretary for a payment year is equal to the fraction—

"(i) the numerator of which is the sum (for such period and with respect to the eligible hospital) of—

"(I) the estimated number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and

"(II) the estimated number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and

"(ii) the denominator of which is the product of—

"(I) the estimated total number of inpatient-bed-days with respect to the eligible hospital during such period; and

"(II) the estimated total amount of the eligible hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the estimated total amount of the hospital's charges during such period.

Data.

Insofar as the Secretary determines that data are not available on charity care necessary to calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

"(E) TRANSITION FACTOR SPECIFIED.—

"(i) IN GENERAL.—Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

"(I) For the first payment year for such hospital, 1.

"(II) For the second payment year for such hospital, ¾.

"(III) For the third payment year for such hospital, ½.

"(IV) For the fourth payment year for such hospital, ¼.

"(V) For any succeeding payment year for such hospital, 0.

"(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013.—If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

"(F) FORM OF PAYMENT.—The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

"(G) PAYMENT YEAR DEFINED.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'payment year' means a fiscal year beginning with fiscal year 2011.

"(ii) FIRST, SECOND, ETC. PAYMENT YEAR.—The term 'first payment year' means, with respect to inpatient hospital services furnished by an eligible hospital, the first fiscal year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', and 'fourth payment year' mean, with respect to an eligible hospital, each successive year immediately following the first payment year for that hospital.

"(3) MEANINGFUL EHR USER.—

"(A) IN GENERAL.—For purposes of paragraph (1), an eligible hospital shall be treated as a meaningful EHR user for an EHR reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for an EHR reporting period under such subsection for a fiscal year) if each of the following requirements are met:

"(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the hospital is using certified EHR technology in a meaningful manner.

"(ii) INFORMATION EXCHANGE.—The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

"(iii) REPORTING ON MEASURES USING EHR.—Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

"(B) REPORTING ON MEASURES.—

"(i) SELECTION.—The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

"(I) The Secretary shall provide preference to clinical quality measures that have been selected for purposes of applying subsection (b)(3)(B)(viii) or that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

Federal Register, publication.

"(II) Prior to any measure (other than a clinical quality measure that has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

"(ii) LIMITATIONS.—The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

"(iii) COORDINATION OF REPORTING OF INFORMATION.—In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

"(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE.—

"(i) IN GENERAL.—An eligible hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

"(I) an attestation;

"(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

"(III) a survey response;

"(IV) reporting under subparagraph (A)(iii); and

"(V) other means specified by the Secretary.

"(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are necessary for purposes of subparagraph (A).

"(4) APPLICATION.—

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

"(i) the methodology and standards for determining payment amounts under this subsection and payment adjustments under subsection (b)(3)(B)(ix), including selection of periods under paragraph (2) for determining, and making estimates or using proxies of, discharges under paragraph (2)(C) and inpatient-bed-days, hospital charges, charity charges, and Medicare share under paragraph (2)(D);

"(ii) the methodology and standards for determining a meaningful EHR user under paragraph (3), including selection of measures under paragraph (3)(B), specification of the means of demonstrating meaningful EHR use under paragraph (3)(C), and the hardship exception under subsection (b)(3)(B)(ix)(II); and

"(iii) the specification of EHR reporting periods under paragraph (6)(B) and the selection of the form of payment under paragraph (2)(F).

"(B) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the eligible hospitals that are meaningful EHR users under this subsection or subsection (b)(3)(B)(ix) (and a list of the names of critical access hospitals to which paragraph (3) or (4) of section 1814(l) applies), and other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that an eligible hospital (or critical access hospital) has the opportunity to review the other relevant data that are to be made public with respect to the hospital (or critical access hospital) prior to such data being made public.

"(5) CERTIFIED EHR TECHNOLOGY DEFINED.—The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

"(6) DEFINITIONS.—For purposes of this subsection:

"(A) EHR REPORTING PERIOD.—The term 'EHR reporting period' means, with respect to a payment year, any period (or periods) as specified by the Secretary.

"(B) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means a subsection (d) hospital.".

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

(A) in paragraph (1), by striking "paragraph (2)" and inserting "the subsequent paragraphs of this subsection"; and

(B) by adding at the end the following new paragraph:

Regulations. Applicability.

"(3)(A) The following rules shall apply in determining payment and reasonable costs under paragraph (1) for costs described in subparagraph (C) for a critical access hospital that would be a

meaningful EHR user (as would be determined under paragraph (3) of section 1886(n)) for an EHR reporting period for a cost reporting period beginning during a payment year if such critical access hospital was treated as an eligible hospital under such section:

"(i) The Secretary shall compute reasonable costs by expensing such costs in a single payment year and not depreciating such costs over a period of years (and shall include as costs with respect to cost reporting periods beginning during a payment year costs from previous cost reporting periods to the extent they have not been fully depreciated as of the period involved).

"(ii) There shall be substituted for the Medicare share that would otherwise be applied under paragraph (1) a percent (not to exceed 100 percent) equal to the sum of—

"(I) the Medicare share (as would be specified under paragraph (2)(D) of section 1886(n)) for such critical access hospital if such critical access hospital was treated as an eligible hospital under such section; and

"(II) 20 percentage points.

"(B) The payment under this paragraph with respect to a critical access hospital shall be paid through a prompt interim payment (subject to reconciliation) after submission and review of such information (as specified by the Secretary) necessary to make such payment, including information necessary to apply this paragraph. In no case may payment under this paragraph be made with respect to a cost reporting period beginning during a payment year after 2015 and in no case may a critical access hospital receive payment under this paragraph with respect to more than 4 consecutive payment years.

"(C) The costs described in this subparagraph are costs for the purchase of certified EHR technology to which purchase depreciation (excluding interest) would apply if payment was made under paragraph (1) and not under this paragraph.

"(D) For purposes of this paragraph, paragraph (4), and paragraph (5), the terms 'certified EHR technology', 'eligible hospital', 'EHR reporting period', and 'payment year' have the meanings given such terms in sections 1886(n).".

(b) INCENTIVE MARKET BASKET ADJUSTMENT.—

(1) IN GENERAL.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(A) in clause (viii)(I), by inserting "(or, beginning with fiscal year 2015, by one-quarter)" after "2.0 percentage points"; and

(B) by adding at the end the following new clause:

"(ix)(I) For purposes of clause (i) for fiscal year 2015 and each subsequent fiscal year, in the case of an eligible hospital (as defined in subsection (n)(6)(A)) that is not a meaningful EHR user (as defined in subsection (n)(3)) for an EHR reporting period for such fiscal year, three-quarters of the applicable percentage increase otherwise applicable under clause (i) for such fiscal year shall be reduced by 33⅓ percent for fiscal year 2015, 66⅔ percent for fiscal year 2016, and 100 percent for fiscal year 2017 and each subsequent fiscal year. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year.

Applicability.

"(II) The Secretary may, on a case-by-case basis, exempt a subsection (d) hospital from the application of subclause (I) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subclause for more than 5 years.

"(III) For fiscal year 2015 and each subsequent fiscal year, a State in which hospitals are paid for services under section 1814(b)(3) shall adjust the payments to each subsection (d) hospital in the State that is not a meaningful EHR user (as defined in subsection (n)(3)) in a manner that is designed to result in an aggregate reduction in payments to hospitals in the State that is equivalent to the aggregate reduction that would have occurred if payments had been reduced to each subsection (d) hospital in the State in a manner comparable to the reduction under the previous provisions of this clause. The State shall report to the Secretary the methodology it will use to make the payment adjustment under the previous sentence. Reports.

"(IV) For purposes of this clause, the term 'EHR reporting period' means, with respect to a fiscal year, any period (or periods) as specified by the Secretary.".

(2) CRITICAL ACCESS HOSPITALS.—Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(l)), as amended by subsection (a)(2), is further amended by adding at the end the following new paragraphs:

"(4)(A) Subject to subparagraph (C), for cost reporting periods beginning in fiscal year 2015 or a subsequent fiscal year, in the case of a critical access hospital that is not a meaningful EHR user (as would be determined under paragraph (3) of section 1886(n) if such critical access hospital was treated as an eligible hospital under such section) for an EHR reporting period with respect to such fiscal year, paragraph (1) shall be applied by substituting the applicable percent under subparagraph (B) for the percent described in such paragraph (1). Applicability.

"(B) The percent described in this subparagraph is— Applicability.

"(i) for fiscal year 2015, 100.66 percent;

"(ii) for fiscal year 2016, 100.33 percent; and

"(iii) for fiscal year 2017 and each subsequent fiscal year, 100 percent.

"(C) The provisions of subclause (II) of section 1886(b)(3)(B)(ix) shall apply with respect to subparagraph (A) for a critical access hospital with respect to a cost reporting period beginning in a fiscal year in the same manner as such subclause applies with respect to subclause (I) of such section for a subsection (d) hospital with respect to such fiscal year.

"(5) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of—

"(A) the methodology and standards for determining the amount of payment and reasonable cost under paragraph (3) and payment adjustments under paragraph (4), including selection of periods under section 1886(n)(2) for determining, and making estimates or using proxies of, inpatient-bed-days, hospital charges, charity charges, and Medicare share under subparagraph (D) of section 1886(n)(2);

"(B) the methodology and standards for determining a meaningful EHR user under section 1886(n)(3) as would apply if the hospital was treated as an eligible hospital under section 1886(n), and the hardship exception under paragraph (4)(C);

"(C) the specification of EHR reporting periods under section 1886(n)(6)(B) as applied under paragraphs (3) and (4); and

"(D) the identification of costs for purposes of paragraph (3)(C).".

(c) APPLICATION TO CERTAIN MA-AFFILIATED ELIGIBLE HOSPITALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4101(c), is further amended by adding at the end the following new subsection:

"(m) APPLICATION OF ELIGIBLE HOSPITAL INCENTIVES FOR CERTAIN MA ORGANIZATIONS FOR ADOPTION AND MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY.—

"(1) APPLICATION.—Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1886(n) and 1886(b)(3)(B)(ix) shall apply with respect to eligible hospitals described in paragraph (2) of the organization which the organization attests under subsection (l)(6) to be meaningful EHR users in a similar manner as they apply to eligible hospitals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

"(2) ELIGIBLE HOSPITAL DESCRIBED.—With respect to a qualifying MA organization, an eligible hospital described in this paragraph is an eligible hospital (as defined in section 1886(n)(6)(A)) that is under common corporate governance with such organization and serves individuals enrolled under an MA plan offered by such organization.

"(3) ELIGIBLE HOSPITAL INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—In applying section 1886(n)(2) under paragraph (1), instead of the additional payment amount under section 1886(n)(2), there shall be substituted an amount determined by the Secretary to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such hospitals was payable under part A instead of this part. In implementing the previous sentence, the Secretary—

"(i) shall, insofar as data to determine the discharge related amount under section 1886(n)(2)(C) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such discharge related amount as the Secretary determines appropriate; and

"(ii) shall, insofar as data to determine the medicare share described in section 1886(n)(2)(D) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such share, which data and methodology may include use of the inpatient-bed-days (or discharges) with respect to an eligible hospital during the appropriate period which are attributable to both individuals for

whom payment may be made under part A or individuals enrolled in an MA plan under a Medicare Advantage organization under this part as a proportion of the estimated total number of patient-bed-days (or discharges) with respect to such hospital during such period.

"(B) AVOIDING DUPLICATION OF PAYMENTS.—

"(i) IN GENERAL.—In the case of a hospital that for a payment year is an eligible hospital described in paragraph (2) and for which at least one-third of their discharges (or bed-days) of Medicare patients for the year are covered under part A, payment for the payment year shall be made only under section 1886(n) and not under this subsection.

"(ii) METHODS.—In the case of a hospital that is an eligible hospital described in paragraph (2) and also is eligible for an incentive payment under section 1886(n) but is not described in clause (i) for the same payment period, the Secretary shall develop a process—

"(I) to ensure that duplicate payments are not made with respect to an eligible hospital both under this subsection and under section 1886(n); and

"(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

"(4) PAYMENT ADJUSTMENT.—

"(A) Subject to paragraph (3), in the case of a qualifying MA organization (as defined in section 1853(l)(5)), if, according to the attestation of the organization submitted under subsection (l)(6) for an applicable period, one or more eligible hospitals (as defined in section 1886(n)(6)(A)) that are under common corporate governance with such organization and that serve individuals enrolled under a plan offered by such organization are not meaningful EHR users (as defined in section 1886(n)(3)) with respect to a period, the payment amount payable under this section for such organization for such period shall be the percent specified in subparagraph (B) for such period of the payment amount otherwise provided under this section for such period.

"(B) SPECIFIED PERCENT.—The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of—

"(i) the number of the percentage point reduction effected under section 1886(b)(3)(B)(ix)(I) for the period; and

"(ii) the Medicare hospital expenditure proportion specified in subparagraph (C) for the year.

"(C) MEDICARE HOSPITAL EXPENDITURE PROPORTION.—The Medicare hospital expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for inpatient hospital services.

"(D) APPLICATION OF PAYMENT ADJUSTMENT.—In the case that a qualifying MA organization attests that not all eligible hospitals are meaningful EHR users with respect to an applicable period, the Secretary shall apply the payment adjustment under this paragraph based on a methodology specified by the Secretary, taking into account the proportion of such eligible hospitals, or discharges from such hospitals, that are not meaningful EHR users for such period.

"(5) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format—

"(A) a list of the names, business addresses, and business phone numbers of each qualifying MA organization receiving an incentive payment under this subsection for eligible hospitals described in paragraph (2); and

"(B) a list of the names of the eligible hospitals for which such incentive payment is based.

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

"(A) the methodology and standards for determining payment amounts and payment adjustments under this subsection, including avoiding duplication of payments under paragraph (3)(B);

"(B) the methodology and standards for determining eligible hospitals under paragraph (2); and

"(C) the methodology and standards for determining a meaningful EHR user under section 1886(n)(3), including specification of the means of demonstrating meaningful EHR use under subparagraph (C) of such section and selection of measures under subparagraph (B) of such section.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended—

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting ", subject to section 1886(d)(3)(B)(ix)(III)," after "then"; and

(B) by adding at the end the following: "For purposes of applying paragraph (3), there shall be taken into account incentive payments, and payment adjustments under subsection (b)(3)(B)(ix) or (n) of section 1886.".

(2) Section 1851(i)(1) of the Social Security Act (42 U.S.C. 1395w–21(i)(1)) is amended by striking "and 1886(h)(3)(D)" and inserting "1886(h)(3)(D), and 1853(m)".

(3) Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4101(d), is amended—

(A) in subsection (c)—

(i) in paragraph (1)(D)(i), by striking "1848(o)" and inserting ", 1848(o), and 1886(n)"; and

(ii) in paragraph (6)(A), by inserting "and subsections (b)(3)(B)(ix) and (n) of section 1886" after "section 1848"; and

(B) in subsection (f), by inserting "and subsection (m)" after "under subsection (l)".

SEC. 4103. TREATMENT OF PAYMENTS AND SAVINGS; IMPLEMENTATION FUNDING.

(a) PREMIUM HOLD HARMLESS.—

(1) IN GENERAL.—Section 1839(a)(1) of the Social Security Act (42 U.S.C. 1395r(a)(1)) is amended by adding at the end the following: "In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).".

(2) PAYMENT.—Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended—

(A) in paragraph (2), by striking the period at the end and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(3) a Government contribution equal to the amount of payment incentives payable under sections 1848(o) and 1853(l)(3).".

(b) MEDICARE IMPROVEMENT FUND.—Section 1898 of the Social Security Act (42 U.S.C. 1395iii), as added by section 7002(a) of the Supplemental Appropriations Act, 2008 (Public Law 110–252) and as amended by section 188(a)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275; 122 Stat. 2589) and by section 6 of the QI Program Supplemental Funding Act of 2008, is amended—

(1) in subsection (a)—

(A) by inserting "medicare" before "fee-for-service"; and

(B) by inserting before the period at the end the following: "including, but not limited to, an increase in the conversion factor under section 1848(d) to address, in whole or in part, any projected shortfall in the conversion factor for 2014 relative to the conversion factor for 2008 and adjustments to payments for items and services furnished by providers of services and suppliers under such original medicare fee-for-service program"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "during fiscal year 2014," and all that follows and inserting the following: "during—

"(A) fiscal year 2014, $22,290,000,000; and

"(B) fiscal year 2020 and each subsequent fiscal year, the Secretary's estimate, as of July 1 of the fiscal year, of the aggregate reduction in expenditures under this title during the preceding fiscal year directly resulting from the reduction in payment amounts under sections 1848(a)(7), 1853(l)(4), 1853(m)(4), and 1886(b)(3)(B)(ix).";

and

(B) by adding at the end the following new paragraph:

"(4) NO EFFECT ON PAYMENTS IN SUBSEQUENT YEARS.—In the case that expenditures from the Fund are applied to, or otherwise affect, a payment rate for an item or service under this title for a year, the payment rate for such item or service shall be computed for a subsequent year as if such application or effect had never occurred.".

(c) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services

Program Management Account, $100,000,000 for each of fiscal years 2009 through 2015 and $45,000,000 for fiscal year 2016, which shall be available for purposes of carrying out the provisions of (and amendments made by) this subtitle. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4104. STUDIES AND REPORTS ON HEALTH INFORMATION TECHNOLOGY.

(a) STUDY AND REPORT ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment incentives (such as under title XVIII or XIX of the Social Security Act) and other funding for purposes of implementing and using certified EHR technology (as defined in section 1848(o)(4) of the Social Security Act, as added by section 4101(a)) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XIII of division A, under title XVIII or XIX of such Act, or otherwise, for such purposes.

(B) DETAILS OF STUDY.—Such study shall include an examination of—

(i) the adoption rates of certified EHR technology by such health care providers;

(ii) the clinical utility of such technology by such health care providers;

(iii) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;

(iv) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other funding under this Act, under title XIII of division A, under title XVIII or XIX of the Social Security Act, or otherwise;

(v) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(vi) any other issues the Secretary deems to be appropriate.

(2) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under paragraph (1).

(b) STUDY AND REPORT ON AVAILABILITY OF OPEN SOURCE HEALTH INFORMATION TECHNOLOGY SYSTEMS.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall, in consultation with the Under Secretary for Health of the Veterans Health Administration, the Director of the Indian Health Service, the Secretary of Defense, the Director of the Agency for Healthcare Research and Quality, the Administrator of the Health Resources and Services Administration, and the Chairman

of the Federal Communications Commission, conduct a study on—

(i) the current availability of open source health information technology systems to Federal safety net providers (including small, rural providers);

(ii) the total cost of ownership of such systems in comparison to the cost of proprietary commercial products available;

(iii) the ability of such systems to respond to the needs of, and be applied to, various populations (including children and disabled individuals); and

(iv) the capacity of such systems to facilitate interoperability.

(B) CONSIDERATIONS.—In conducting the study under subparagraph (A), the Secretary of Health and Human Services shall take into account the circumstances of smaller health care providers, health care providers located in rural or other medically underserved areas, and safety net providers that deliver a significant level of health care to uninsured individuals, Medicaid beneficiaries, SCHIP beneficiaries, and other vulnerable individuals.

(2) REPORT.—Not later than October 1, 2010, the Secretary of Health and Human Services shall submit to Congress a report on the findings and the conclusions of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

Subtitle B—Medicaid Incentives

SEC. 4201. MEDICAID PROVIDER HIT ADOPTION AND OPERATION PAYMENTS; IMPLEMENTATION FUNDING.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(3)—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking "plus" at the end of subparagraph (E) and inserting "and"; and

(C) by adding at the end the following new subparagraph:

"(F)(i) 100 percent of so much of the sums expended during such quarter as are attributable to payments to Medicaid providers described in subsection (t)(1) to encourage the adoption and use of certified EHR technology; and

"(ii) 90 percent of so much of the sums expended during such quarter as are attributable to payments for reasonable administrative expenses related to the administration of payments described in clause (i) if the State meets the condition described in subsection (t)(9); plus"; and

(2) by inserting after subsection (s) the following new subsection:

"(t)(1) For purposes of subsection (a)(3)(F), the payments described in this paragraph to encourage the adoption and use of certified EHR technology are payments made by the State in accordance with this subsection —

"(A) to Medicaid providers described in paragraph (2)(A) not in excess of 85 percent of net average allowable costs (as defined in paragraph (3)(E)) for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) with respect to such providers; and

"(B) to Medicaid providers described in paragraph (2)(B) not in excess of the maximum amount permitted under paragraph (5) for the provider involved.

Definition.

"(2) In this subsection and subsection (a)(3)(F), the term 'Medicaid provider' means—

"(A) an eligible professional (as defined in paragraph (3)(B))—

"(i) who is not hospital-based and has at least 30 percent of the professional's patient volume (as estimated in accordance with a methodology established by the Secretary) attributable to individuals who are receiving medical assistance under this title;

"(ii) who is not described in clause (i), who is a pediatrician, who is not hospital-based, and who has at least 20 percent of the professional's patient volume (as estimated in accordance with a methodology established by the Secretary) attributable to individuals who are receiving medical assistance under this title; and

"(iii) who practices predominantly in a Federally qualified health center or rural health clinic and has at least 30 percent of the professional's patient volume (as estimated in accordance with a methodology established by the Secretary) attributable to needy individuals (as defined in paragraph (3)(F)); and

"(B)(i) a children's hospital, or

"(ii) an acute-care hospital that is not described in clause (i) and that has at least 10 percent of the hospital's patient volume (as estimated in accordance with a methodology established by the Secretary) attributable to individuals who are receiving medical assistance under this title.

An eligible professional shall not qualify as a Medicaid provider under this subsection unless any right to payment under sections 1848(o) and 1853(l) with respect to the eligible professional has been waived in a manner specified by the Secretary. For purposes of calculating patient volume under subparagraph (A)(iii), insofar as it is related to uncompensated care, the Secretary may require the adjustment of such uncompensated care data so that it would be an appropriate proxy for charity care, including a downward adjustment to eliminate bad debt data from uncompensated care.

Applicability.

In applying subparagraphs (A) and (B)(ii), the methodology established by the Secretary for patient volume shall include individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

Definitions.

"(3) In this subsection and subsection (a)(3)(F):

"(A) The term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an

ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

"(B) The term 'eligible professional' means a—

"(i) physician;

"(ii) dentist;

"(iii) certified nurse mid-wife;

"(iv) nurse practitioner; and

"(v) physician assistant insofar as the assistant is practicing in a rural health clinic that is led by a physician assistant or is practicing in a Federally qualified health center that is so led.

"(C) The term 'average allowable costs' means, with respect to certified EHR technology of Medicaid providers described in paragraph (2)(A) for—

"(i) the first year of payment with respect to such a provider, the average costs for the purchase and initial implementation or upgrade of such technology (and support services including training that is for, or is necessary for the adoption and initial operation of, such technology) for such providers, as determined by the Secretary based upon studies conducted under paragraph (4)(C); and

"(ii) a subsequent year of payment with respect to such a provider, the average costs not described in clause (i) relating to the operation, maintenance, and use of such technology for such providers, as determined by the Secretary based upon studies conducted under paragraph (4)(C).

"(D) The term 'hospital-based' means, with respect to an eligible professional, a professional (such as a pathologist, anesthesiologist, or emergency physician) who furnishes substantially all of the individual's professional services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital. The determination of whether an eligible professional is a hospital-based eligible professional shall be made on the basis of the site of service (as defined by the Secretary) and without regard to any employment or billing arrangement between the eligible professional and any other provider.

"(E) The term 'net average allowable costs' means, with respect to a Medicaid provider described in paragraph (2)(A), average allowable costs reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government) that is directly attributable to payment for certified EHR technology or support services described in subparagraph (C).

"(F) The term 'needy individual' means, with respect to a Medicaid provider, an individual—

"(i) who is receiving assistance under this title;

"(ii) who is receiving assistance under title XXI;

"(iii) who is furnished uncompensated care by the provider; or

"(iv) for whom charges are reduced by the provider on a sliding scale basis based on an individual's ability to pay.

"(4)(A) With respect to a Medicaid provider described in paragraph (2)(A), subject to subparagraph (B), in no case shall—

"(i) the net average allowable costs under this subsection for the first year of payment (which may not be later than 2016), which is intended to cover the costs described in paragraph (3)(C)(i), exceed $25,000 (or such lesser amount as the Secretary determines based on studies conducted under subparagraph (C));

"(ii) the net average allowable costs under this subsection for a subsequent year of payment, which is intended to cover costs described in paragraph (3)(C)(ii), exceed $10,000; and

"(iii) payments be made for costs described in clause (ii) after 2021 or over a period of longer than 5 years.

"(B) In the case of Medicaid provider described in paragraph (2)(A)(ii), the dollar amounts specified in subparagraph (A) shall be ⅔ of the dollar amounts otherwise specified.

Study.

"(C) For the purposes of determining average allowable costs under this subsection, the Secretary shall study the average costs to Medicaid providers described in paragraph (2)(A) of purchase and initial implementation and upgrade of certified EHR technology described in paragraph (3)(C)(i) and the average costs to such providers of operations, maintenance, and use of such technology described in paragraph (3)(C)(ii). In determining such costs for such providers, the Secretary may utilize studies of such amounts submitted by States.

"(5)(A) In no case shall the payments described in paragraph (1)(B) with respect to a Medicaid provider described in paragraph (2)(B) exceed—

"(i) in the aggregate the product of—

"(I) the overall hospital EHR amount for the provider computed under subparagraph (B); and

"(II) the Medicaid share for such provider computed under subparagraph (C);

"(ii) in any year 50 percent of the product described in clause (i); and

"(iii) in any 2-year period 90 percent of such product.

"(B) For purposes of this paragraph, the overall hospital EHR amount, with respect to a Medicaid provider, is the sum of the applicable amounts specified in section 1886(n)(2)(A) for such provider for the first 4 payment years (as estimated by the Secretary) determined as if the Medicare share specified in clause (ii) of such section were 1. The Secretary shall establish, in consultation with the State, the overall hospital EHR amount for each such Medicaid provider eligible for payments under paragraph (1)(B). For purposes of this subparagraph in computing the amounts under section 1886(n)(2)(C) for payment years after the first payment year, the Secretary shall assume that in subsequent payment years discharges increase at the average annual rate of growth of the most recent 3 years for which discharge data are available per year.

"(C) The Medicaid share computed under this subparagraph, for a Medicaid provider for a period specified by the Secretary, shall be calculated in the same manner as the Medicare share under section 1886(n)(2)(D) for such a hospital and period, except that there shall be substituted for the numerator under clause (i) of such section the amount that is equal to the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals who are receiving medical assistance

under this title and who are not described in section 1886(n)(2)(D)(i). In computing inpatient-bed-days under the previous sentence, the Secretary shall take into account inpatient-bed-days attributable to inpatient-bed-days that are paid for individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

"(D) In no case may the payments described in paragraph (1)(B) with respect to a Medicaid provider described in paragraph (2)(B) be paid—

"(i) for any year beginning after 2016 unless the provider has been provided payment under paragraph (1)(B) for the previous year; and

"(ii) over a period of more than 6 years of payment.

"(6) Payments described in paragraph (1) are not in accordance with this subsection unless the following requirements are met:

"(A)(i) The State provides assurances satisfactory to the Secretary that amounts received under subsection (a)(3)(F) with respect to payments to a Medicaid provider are paid, subject to clause (ii), directly to such provider (or to an employer or facility to which such provider has assigned payments) without any deduction or rebate.

"(ii) Amounts described in clause (i) may also be paid to an entity promoting the adoption of certified EHR technology, as designated by the State, if participation in such a payment arrangement is voluntary for the eligible professional involved and if such entity does not retain more than 5 percent of such payments for costs not related to certified EHR technology (and support services including maintenance and training) that is for, or is necessary for the operation of, such technology.

"(B) A Medicaid provider described in paragraph (2)(A) is responsible for payment of the remaining 15 percent of the net average allowable cost.

"(C)(i) Subject to clause (ii), with respect to payments to a Medicaid provider—

"(I) for the first year of payment to the Medicaid provider under this subsection, the Medicaid provider demonstrates that it is engaged in efforts to adopt, implement, or upgrade certified EHR technology; and

"(II) for a year of payment, other than the first year of payment to the Medicaid provider under this subsection, the Medicaid provider demonstrates meaningful use of certified EHR technology through a means that is approved by the State and acceptable to the Secretary, and that may be based upon the methodologies applied under section 1848(o) or 1886(n).

"(ii) In the case of a Medicaid provider who has completed adopting, implementing, or upgrading such technology prior to the first year of payment to the Medicaid provider under this subsection, clause (i)(I) shall not apply and clause (i)(II) shall apply to each year of payment to the Medicaid provider under this subsection, including the first year of payment.

"(D) To the extent specified by the Secretary, the certified EHR technology is compatible with State or Federal administrative management systems.

For purposes of subparagraph (B), a Medicaid provider described in paragraph (2)(A) may accept payments for the costs described

in such subparagraph from a State or local government. For purposes of subparagraph (C), in establishing the means described in such subparagraph, which may include clinical quality reporting to the State, the State shall ensure that populations with unique needs, such as children, are appropriately addressed.

"(7) With respect to Medicaid providers described in paragraph (2)(A), the Secretary shall ensure coordination of payment with respect to such providers under sections 1848(o) and 1853(l) and under this subsection to assure no duplication of funding. Such coordination shall include, to the extent practicable, a data matching process between State Medicaid agencies and the Centers for Medicare & Medicaid Services using national provider identifiers. For such purposes, the Secretary may require the submission of such data relating to payments to such Medicaid providers as the Secretary may specify.

"(8) In carrying out paragraph (6)(C), the State and Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State governments to demonstrate meaningful use of certified EHR technology under this title and title XVIII. In doing so, the Secretary may deem satisfaction of requirements for such meaningful use for a payment year under title XVIII to be sufficient to qualify as meaningful use under this subsection. The Secretary may also specify the reporting periods under this subsection in order to carry out this paragraph.

"(9) In order to be provided Federal financial participation under subsection (a)(3)(F)(ii), a State must demonstrate to the satisfaction of the Secretary, that the State—

"(A) is using the funds provided for the purposes of administering payments under this subsection, including tracking of meaningful use by Medicaid providers;

"(B) is conducting adequate oversight of the program under this subsection, including routine tracking of meaningful use attestations and reporting mechanisms; and

"(C) is pursuing initiatives to encourage the adoption of certified EHR technology to promote health care quality and the exchange of health care information under this title, subject to applicable laws and regulations governing such exchange.

Reports.

"(10) The Secretary shall periodically submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on status, progress, and oversight of payments described in paragraph (1), including steps taken to carry out paragraph (7). Such reports shall also describe the extent of adoption of certified EHR technology among Medicaid providers resulting from the provisions of this subsection and any improvements in health outcomes, clinical quality, or efficiency resulting from such adoption.".

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, $40,000,000 for each of fiscal years 2009 through 2015 and $20,000,000 for fiscal year 2016, which shall be available for purposes of carrying out the provisions of (and the amendments made by) this section. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

Subtitle C—Miscellaneous Medicare Provisions

SEC. 4301. MORATORIA ON CERTAIN MEDICARE REGULATIONS.

(a) DELAY IN PHASE OUT OF MEDICARE HOSPICE BUDGET NEUTRALITY ADJUSTMENT FACTOR DURING FISCAL YEAR 2009.—Notwithstanding any other provision of law, including the final rule published on August 8, 2008, 73 Federal Register 46464 et seq., relating to Medicare Program; Hospice Wage Index for Fiscal Year 2009, the Secretary of Health and Human Services shall not phase out or eliminate the budget neutrality adjustment factor in the Medicare hospice wage index before October 1, 2009, and the Secretary shall recompute and apply the final Medicare hospice wage index for fiscal year 2009 as if there had been no reduction in the budget neutrality adjustment factor.

(b) NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.—

Applicability.

(1) IN GENERAL.—Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or after October 1, 2008, as if such paragraph had never been in effect.

(2) NO EFFECT ON SUBSEQUENT YEARS.—Nothing in paragraph (1) shall be construed as having any effect on the application of paragraph (d) of section 412.322 of title 42, Code of Federal Regulations.

(c) FUNDING FOR IMPLEMENTATION.—In addition to funds otherwise available, for purposes of implementing the provisions of subsections (a) and (b), including costs incurred in reprocessing claims in carrying out such provisions, the Secretary of Health and Human Services shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) to the Centers for Medicare & Medicaid Services Program Management Account of $2,000,000 for fiscal year 2009.

SEC. 4302. LONG-TERM CARE HOSPITAL TECHNICAL CORRECTIONS.

(a) PAYMENT.—Subsection (c) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

42 USC 1395ww note.

(1) in paragraph (1)—

(A) by amending the heading to read as follows: "DELAY IN APPLICATION OF 25 PERCENT PATIENT THRESHOLD PAYMENT ADJUSTMENT";

(B) by striking "the date of the enactment of this Act" and inserting "July 1, 2007,"; and

(C) in subparagraph (A), by inserting "or to a long-term care hospital, or satellite facility, that as of December 29, 2007, was co-located with an entity that is a provider-based, off-campus location of a subsection (d) hospital which did not provide services payable under section 1886(d) of the Social Security Act at the off-campus location" after "freestanding long-term care hospitals"; and

(2) in paragraph (2)—

(A) in subparagraph (B)(ii), by inserting "or that is described in section 412.22(h)(3)(i) of such title" before the period; and

(B) in subparagraph (C), by striking "the date of the enactment of this Act" and inserting "October 1, 2007 (or July 1, 2007, in the case of a satellite facility described in section 412.22(h)(3)(i) of title 42, Code of Federal Regulations)".

(b) MORATORIUM.—Subsection (d)(3)(A) of such section is amended by striking "if the hospital or facility" and inserting "if the hospital or facility obtained a certificate of need for an increase in beds that is in a State for which such certificate of need is required and that was issued on or after April 1, 2005, and before December 29, 2007, or if the hospital or facility".

42 USC 1395ww note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective and apply as if included in the enactment of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173).

TITLE V—STATE FISCAL RELIEF

SEC. 5000. PURPOSES; TABLE OF CONTENTS.

42 USC 1396a note.

(a) PURPOSES.—The purposes of this title are as follows:

(1) To provide fiscal relief to States in a period of economic downturn.

(2) To protect and maintain State Medicaid programs during a period of economic downturn, including by helping to avert cuts to provider payment rates and benefits or services, and to prevent constrictions of income eligibility requirements for such programs, but not to promote increases in such requirements.

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

TITLE V—STATE FISCAL RELIEF

Sec. 5000. Purposes; table of contents.
Sec. 5001. Temporary increase of Medicaid FMAP.
Sec. 5002. Temporary increase in DSH allotments during recession.
Sec. 5003. Extension of moratoria on certain Medicaid final regulations.
Sec. 5004. Extension of transitional medical assistance (TMA).
Sec. 5005. Extension of the qualifying individual (QI) program.
Sec. 5006. Protections for Indians under Medicaid and CHIP.
Sec. 5007. Funding for oversight and implementation.
Sec. 5008. GAO study and report regarding State needs during periods of national economic downturn.

42 USC 1396d note.

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FMAP.—Subject to subsections (e), (f), and (g), if the FMAP determined without regard to this section for a State for—

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

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted

for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first calendar quarter in fiscal year 2011.

(b) GENERAL 6.2 PERCENTAGE POINT INCREASE.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g) and paragraph (2), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(3)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) by 6.2 percentage points.

Applicability.

(2) SPECIAL ELECTION FOR TERRITORIES.—In the case of a State that is not one of the 50 States or the District of Columbia, paragraph (1) shall only apply if the State makes a one-time election, in a form and manner specified by the Secretary and for the entire recession adjustment period, to apply the increase in FMAP under paragraph (1) and a 15 percent increase under subsection (d) instead of applying a 30 percent increase under subsection (d).

(c) ADDITIONAL RELIEF BASED ON INCREASE IN UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), if a State is a qualifying State under paragraph (2) for a calendar quarter occurring during the recession adjustment period, the FMAP for the State shall be further increased by the number of percentage points equal to the product of—

(A) the State percentage applicable for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) after the application of subsection (a) and after the application of ½ of the increase under subsection (b); and

(B) the applicable percent determined in paragraph (3) for the calendar quarter (or, if greater, for a previous such calendar quarter).

(2) QUALIFYING CRITERIA.—

(A) IN GENERAL.—For purposes of paragraph (1), a State qualifies for additional relief under this subsection for a calendar quarter occurring during the recession adjustment period if the State is 1 of the 50 States or the District of Columbia and the State satisfies any of the following criteria for the quarter:

(i) The State unemployment increase percentage (as defined in paragraph (4)) for the quarter is at least 1.5 percentage points but less than 2.5 percentage points.

(ii) The State unemployment increase percentage for the quarter is at least 2.5 percentage points but less than 3.5 percentage points.

(iii) The State unemployment increase percentage for the quarter is at least 3.5 percentage points.

(B) MAINTENANCE OF STATUS.—If a State qualifies for additional relief under this subsection for a calendar quarter, it shall be deemed to have qualified for such relief for each subsequent calendar quarter ending before July 1, 2010.

(3) APPLICABLE PERCENT.—

(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B), the applicable percent is—

(i) 5.5 percent, if the State satisfies the criteria described in paragraph (2)(A)(i) for the calendar quarter;

(ii) 8.5 percent if the State satisfies the criteria described in paragraph (2)(A)(ii) for the calendar quarter; and

(iii) 11.5 percent if the State satisfies the criteria described in paragraph (2)(A)(iii) for the calendar quarter.

(B) MAINTENANCE OF HIGHER APPLICABLE PERCENT.—

(i) HOLD HARMLESS PERIOD.—If the percent applied to a State under subparagraph (A) for any calendar quarter in the recession adjustment period beginning on or after January 1, 2009, and ending before July 1, 2010, (determined without regard to this subparagraph) is less than the percent applied for the preceding quarter (as so determined), the higher applicable percent shall continue in effect for each subsequent calendar quarter ending before July 1, 2010.

Deadline.

(ii) NOTICE OF LOWER APPLICABLE PERCENT.—The Secretary shall notify a State at least 60 days prior to applying any lower applicable percent to the State under this paragraph.

(4) COMPUTATION OF STATE UNEMPLOYMENT INCREASE PERCENTAGE.—

(A) IN GENERAL.—In this subsection, the "State unemployment increase percentage" for a State for a calendar quarter is equal to the number of percentage points (if any) by which—

(i) the average monthly unemployment rate for the State for months in the most recent previous 3-consecutive-month period for which data are available, subject to subparagraph (C); exceeds

(ii) the lowest average monthly unemployment rate for the State for any 3-consecutive-month period preceding the period described in clause (i) and beginning on or after January 1, 2006.

(B) AVERAGE MONTHLY UNEMPLOYMENT RATE DEFINED.—In this paragraph, the term "average monthly unemployment rate" means the average of the monthly number unemployed, divided by the average of the monthly civilian labor force, seasonally adjusted, as determined based on the most recent monthly publications of the Bureau of Labor Statistics of the Department of Labor.

(C) SPECIAL RULE.—With respect to—

(i) the first 2 calendar quarters of the recession adjustment period, the most recent previous 3-consecutive-month period described in subparagraph (A)(i)

shall be the 3-consecutive-month period beginning with October 2008; and

(ii) the last 2 calendar quarters of the recession adjustment period, the most recent previous 3-consecutive-month period described in such subparagraph shall be the 3-consecutive-month period beginning with December 2009, or, if it results in a higher applicable percent under paragraph (3), the 3-consecutive-month period beginning with January 2010.

(d) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (f) and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 6 U.S.C. 1308) shall each be increased by 30 percent (or, in the case of an election under subsection (b)(2), 15 percent). In the case of such an election by a territory, subsection (a)(1) of such section shall be applied without regard to any increase in payment made to the territory under part E of title IV of such Act that is attributable to the increase in FMAP effected under subsection (b) for the territory.

Applicability.

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

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

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.) and, for purposes of the application of this section to the District of Columbia, payments under such part shall be deemed to be made on the basis of the FMAP applied with respect to such District for purposes of title XIX and as increased under subsection (b));

(3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

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

(5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008, (including as such standards were proposed to be in effect under a State law enacted but not effective as of such date or a State plan amendment or waiver request under title XIX of such Act that was pending approval on such date).

(f) STATE INELIGIBILITY; LIMITATION; SPECIAL RULES.—

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES.—A State shall not be ineligible under subparagraph (A)—

(i) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to July 1, 2009, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as in effect on July 1, 2008, and would have been in effect as of such date, but for a delay in the effective date of a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—

(A) APPLICATION TO PRACTITIONERS.—

(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, no State shall be eligible for an increased FMAP rate as provided under this section for any claim received by a State from a practitioner subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) for such days during any period in which that State has failed to pay claims in accordance with such section as applied under title XIX of such Act.

(ii) REPORTING REQUIREMENT.—Each State shall report to the Secretary, on a quarterly basis, its compliance with the requirements of clause (i) as such requirements pertain to claims made for covered services during each month of the preceding quarter.

(iii) WAIVER AUTHORITY.—The Secretary may waive the application of clause (i) to a State, or the

reporting requirement imposed under clause (ii), during any period in which there are exigent circumstances, including natural disasters, that prevent the timely processing of claims or the submission of such a report.

(iv) APPLICATION TO CLAIMS.—Clauses (i) and (ii) shall only apply to claims made for covered services after the date of enactment of this Act.

(B) APPLICATION TO NURSING FACILITIES AND HOSPITALS.—

(i) IN GENERAL.—Subject to clause (ii), the provisions of subparagraph (A) shall apply with respect to a nursing facility or hospital, insofar as it is paid under title XIX of the Social Security Act on the basis of submission of claims, in the same or similar manner (but within the same timeframe) as such provisions apply to practitioners described in such subparagraph.

(ii) GRACE PERIOD.—Notwithstanding clause (i), no period of ineligibility shall be imposed against a State prior to June 1, 2009, on the basis of the State failing to pay a claim in accordance with such clause.

(3) STATE'S APPLICATION TOWARD RAINY DAY FUND.—A State is not eligible for an increase in its FMAP under subsection (b) or (c), or an increase in a cap amount under subsection (d), if any amounts attributable (directly or indirectly) to such increase are deposited or credited into any reserve or rainy day fund of the State.

(4) NO WAIVER AUTHORITY.—Except as provided in paragraph (2)(A)(iii), the Secretary may not waive the application of this subsection or subsection (g) under section 1115 of the Social Security Act or otherwise.

(5) LIMITATION OF FMAP TO 100 PERCENT.—In no case shall an increase in FMAP under this section result in an FMAP that exceeds 100 percent.

Time period.

(6) TREATMENT OF CERTAIN EXPENDITURES.—With respect to expenditures described in section 2105(a)(1)(B) of the Social Security Act (42 U.S.C. 1397ee(a)(1)(B)), as in effect before April 1, 2009, that are made during the period beginning on October 1, 2008, and ending on March 31, 2009, any additional Federal funds that are paid to a State as a result of this section that are attributable to such expenditures shall not be counted against any allotment under section 2104 of such Act (42 U.S.C. 1397dd).

(g) REQUIREMENTS.—

(1) STATE REPORTS.—Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2011, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(2) ADDITIONAL 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) or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions

pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(h) DEFINITIONS.—In this section, except as otherwise provided:

(1) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(2) POVERTY LINE.—The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(3) RECESSION ADJUSTMENT PERIOD.—The term "recession adjustment period" means the period beginning on October 1, 2008, and ending on December 31, 2010.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" has the meaning given such term in section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) SUNSET.—This section shall not apply to items and services furnished after the end of the recession adjustment period.

(j) LIMITATION ON FMAP CHANGE.—The increase in FMAP effected under section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 shall not apply in the computation of the enhanced FMAP under title XXI or XIX of the Social Security Act for any period (notwithstanding subsection (i)).

SEC. 5002. TEMPORARY INCREASE IN DSH ALLOTMENTS DURING RECESSION.

Section 1923(f)(3) of the Social Security Act (42 U.S.C. 1396r–4(f)(3)) is amended—

(1) in subparagraph (A), by striking "paragraph (6)" and inserting "paragraph (6) and subparagraph (E)"; and

(2) by adding at the end the following new subparagraph:

"(E) TEMPORARY INCREASE IN ALLOTMENTS DURING RECESSION.—

"(i) IN GENERAL.—Subject to clause (ii), the DSH allotment for any State—

"(I) for fiscal year 2009 is equal to 102.5 percent of the DSH allotment that would be determined under this paragraph for the State for fiscal year 2009 without application of this subparagraph, notwithstanding subparagraphs (B) and (C);

"(II) for fiscal year 2010 is equal to 102.5 percent of the DSH allotment for the State for fiscal year 2009, as determined under subclause (I); and

"(III) for each succeeding fiscal year is equal to the DSH allotment for the State under this paragraph determined without applying subclauses (I) and (II).

"(ii) APPLICATION.—Clause (i) shall not apply to a State for a year in the case that the DSH allotment for such State for such year under this paragraph determined without applying clause (i) would grow higher than the DSH allotment specified under clause (i) for the State for such year.".

SEC. 5003. EXTENSION OF MORATORIA ON CERTAIN MEDICAID FINAL REGULATIONS.

(a) FINAL REGULATIONS RELATING TO OPTIONAL CASE MANAGEMENT SERVICES AND ALLOWABLE PROVIDER TAXES.—Section 7001(a)(3)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252) is amended by striking "April 1, 2009" and inserting "July 1, 2009".

(b) FINAL REGULATION RELATING TO SCHOOL-BASED ADMINISTRATION AND SCHOOL-BASED TRANSPORTATION.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 7001(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252), is amended by inserting "(July 1, 2009, in the case of the final regulation relating to school-based administration and school-based transportation)" after "April 1, 2009,".

(c) FINAL REGULATION RELATING TO OUTPATIENT HOSPITAL FACILITY SERVICES.—Notwithstanding any other provision of law, with respect to expenditures for services furnished during the period beginning on December 8, 2008, and ending on June 30, 2009, the Secretary of Health and Human Services shall not take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to implement the final regulation relating to clarification of the definition of outpatient hospital facility services under the Medicaid program published on November 7, 2008 (73 Federal Register 66187). Time period.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Health and Human Services should not promulgate as final regulations any of the following proposed Medicaid regulations:

(1) COST LIMITS FOR CERTAIN PROVIDERS.—The proposed regulation published on January 18, 2007, (72 Federal Register 2236) (and the purported final regulation published on May 29, 2007 (72 Federal Register 29748) and determined by the United States District Court for the District of Columbia to have been "improperly promulgated", *Alameda County Medical Center, et al., v. Leavitt, et al.,* Civil Action No. 08-0422, Mem. at 4 (D.D.C. May 23, 2008)).

(2) PAYMENTS FOR GRADUATE MEDICAL EDUCATION.—The proposed regulation published on May 23, 2007 (72 Federal Register 28930).

(3) REHABILITATIVE SERVICES.—The proposed regulation published on August 13, 2007 (72 Federal Register 45201).

SEC. 5004. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

(a) 18-MONTH EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are

each amended by striking "September 30, 2003" and inserting "December 31, 2010".

42 USC 1396a note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 2009.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 of the Social Security Act (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting "but subject to paragraph (5)" after "Notwithstanding any other provision of this title";

(2) by adding at the end of subsection (a) the following:

"(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply."; and

(3) in subsection (b)(1), by inserting "but subject to subsection (a)(5)" after "Notwithstanding any other provision of this title".

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) of such Act (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting "subparagraph (B) and" before "paragraph (5)";

(2) by redesignating the matter after "REQUIREMENT.—" as a subparagraph (A) with the heading "IN GENERAL.—" and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

"(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.".

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 of such Act (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

"(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

"(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

"(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit

to Congress annual reports concerning enrollment and participation rates described in such paragraph.".

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on July 1, 2009. 42 USC 1396r–6 note.

SEC. 5005. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "December 2009" and inserting "December 2010".

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (K);

(B) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(M) for the period that begins on January 1, 2010, and ends on September 30, 2010, the total allocation amount is $412,500,000; and Time period.

"(N) for the period that begins on October 1, 2010, and ends on December 31, 2010, the total allocation amount is $150,000,000."; and Time period.

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking "or (L)" and inserting "(L), or (N)".

SEC. 5006. PROTECTIONS FOR INDIANS UNDER MEDICAID AND CHIP.

(a) PREMIUMS AND COST SHARING PROTECTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "and (i)" and inserting ", (i), and (j)"; and

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

"(j) NO PREMIUMS OR COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY INDIAN HEALTH PROGRAMS OR THROUGH REFERRAL UNDER CONTRACT HEALTH SERVICES.—

"(1) NO COST SHARING FOR ITEMS OR SERVICES FURNISHED TO INDIANS THROUGH INDIAN HEALTH PROGRAMS.—

"(A) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made under this title.

"(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS.—Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under contract health services for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost

sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.".

(2) CONFORMING AMENDMENT.—Section 1916A(b)(3) of such Act (42 U.S.C. 1396o–1(b)(3)) is amended—

(A) in subparagraph (A), by adding at the end the following new clause:

"(vii) An Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services."; and

(B) in subparagraph (B), by adding at the end the following new clause:

"(x) Items and services furnished to an Indian directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.".

(b) TREATMENT OF CERTAIN PROPERTY FROM RESOURCES FOR MEDICAID AND CHIP ELIGIBILITY.—

(1) MEDICAID.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by sections 203(c) and 211(a)(1)(A)(ii) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3), is amended by adding at the end the following new subsection:

"(ff) Notwithstanding any other requirement of this title or any other provision of Federal or State law, a State shall disregard the following property from resources for purposes of determining the eligibility of an individual who is an Indian for medical assistance under this title:

"(1) Property, including real property and improvements, that is held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

"(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

"(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

"(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.".

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by sections 203(a)(2),

203(d)(2), 214(b), 501(d)(2), and 503(a)(1) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3), is amended—

(A) by redesignating subparagraphs (C) through (I), as subparagraphs (D) through (J), respectively; and

(B) by inserting after subparagraph (B), the following new subparagraph:

"(C) Section 1902(ff) (relating to disregard of certain property for purposes of making eligibility determinations).".

(c) CONTINUATION OF CURRENT LAW PROTECTIONS OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.—Section 1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.".

(d) RULES APPLICABLE UNDER MEDICAID AND CHIP TO MANAGED CARE ENTITIES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS AND INDIAN MANAGED CARE ENTITIES.—

(1) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES WITH RESPECT TO INDIAN ENROLLEES, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

"(1) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH CARE PROVIDER AS PRIMARY CARE PROVIDER.—In the case of a non-Indian Medicaid managed care entity that—

"(A) has an Indian enrolled with the entity; and

"(B) has an Indian health care provider that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Indian health care provider and the Indian health care provider has the capacity to provide primary care services to such Indian, the contract with the entity under section 1903(m) or under section 1905(t)(3) shall require, as a condition of receiving payment under such contract, that the Indian shall be allowed to choose such Indian health care provider as the Indian's primary care provider under the entity.

"(2) ASSURANCE OF PAYMENT TO INDIAN HEALTH CARE PROVIDERS FOR PROVISION OF COVERED SERVICES.—Each contract with a managed care entity under section 1903(m) or under section 1905(t)(3) shall require any such entity, as a condition of receiving payment under such contract, to satisfy the following requirements:

"(A) DEMONSTRATION OF ACCESS TO INDIAN HEALTH CARE PROVIDERS AND APPLICATION OF ALTERNATIVE PAYMENT ARRANGEMENTS.—Subject to subparagraph (C), to—

"(i) demonstrate that the number of Indian health care providers that are participating providers with respect to such entity are sufficient to ensure timely access to covered Medicaid managed care services for those Indian enrollees who are eligible to receive services from such providers; and

"(ii) agree to pay Indian health care providers, whether such providers are participating or nonparticipating providers with respect to the entity, for covered Medicaid managed care services provided to those Indian enrollees who are eligible to receive services from such providers at a rate equal to the rate negotiated between such entity and the provider involved or, if such a rate has not been negotiated, at a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a participating provider which is not an Indian health care provider.

Procedures.

The Secretary shall establish procedures for applying the requirements of clause (i) in States where there are no or few Indian health providers.

"(B) PROMPT PAYMENT.—To agree to make prompt payment (consistent with rule for prompt payment of providers under section 1932(f)) to Indian health care providers that are participating providers with respect to such entity or, in the case of an entity to which subparagraph (A)(ii) or (C) applies, that the entity is required to pay in accordance with that subparagraph.

"(C) APPLICATION OF SPECIAL PAYMENT REQUIREMENTS FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—

"(i) FEDERALLY-QUALIFIED HEALTH CENTERS.—

"(I) MANAGED CARE ENTITY PAYMENT REQUIREMENT.—To agree to pay any Indian health care provider that is a federally-qualified health center under this title but not a participating provider with respect to the entity, for the provision of covered Medicaid managed care services by such provider to an Indian enrollee of the entity at a rate equal to the amount of payment that the entity would pay a federally-qualified health center that is a participating provider with respect to the entity but is not an Indian health care provider for such services.

"(II) CONTINUED APPLICATION OF STATE REQUIREMENT TO MAKE SUPPLEMENTAL PAYMENT.—Nothing in subclause (I) or subparagraph (A) or (B) shall be construed as waiving the application of section 1902(bb)(5) regarding the State plan requirement to make any supplemental payment due under such section to a federally-qualified health center for services furnished by such center to an enrollee of a managed care entity (regardless

of whether the federally-qualified health center is or is not a participating provider with the entity).

"(ii) PAYMENT RATE FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS.—If the amount paid by a managed care entity to an Indian health care provider that is not a federally-qualified health center for services provided by the provider to an Indian enrollee with the managed care entity is less than the rate that applies to the provision of such services by the provider under the State plan, the plan shall provide for payment to the Indian health care provider, whether the provider is a participating or nonparticipating provider with respect to the entity, of the difference between such applicable rate and the amount paid by the managed care entity to the provider for such services.

"(D) CONSTRUCTION.—Nothing in this paragraph shall be construed as waiving the application of section 1902(a)(30)(A) (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

"(3) SPECIAL RULE FOR ENROLLMENT FOR INDIAN MANAGED CARE ENTITIES.—Regarding the application of a Medicaid managed care program to Indian Medicaid managed care entities, an Indian Medicaid managed care entity may restrict enrollment under such program to Indians in the same manner as Indian Health Programs may restrict the delivery of services to Indians.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) INDIAN HEALTH CARE PROVIDER.—The term 'Indian health care provider' means an Indian Health Program or an Urban Indian Organization.

"(B) INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'Indian Medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C)) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization, or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

"(C) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian Medicaid managed care entity' means a managed care entity that is not an Indian Medicaid managed care entity.

"(D) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered Medicaid managed care services' means, with respect to an individual enrolled with a managed care entity, items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

"(E) MEDICAID MANAGED CARE PROGRAM.—The term 'Medicaid managed care program' means a program under sections 1903(m), 1905(t), and 1932 and includes a managed care program operating under a waiver under section 1915(b) or 1115 or otherwise.".

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(1)), as amended by subsection (b)(2), is amended—

(A) by redesignating subparagraph (J) as subparagraph (K); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) Subsections (a)(2)(C) and (h) of section 1932.".

42 USC 1320b–24.

(e) CONSULTATION ON MEDICAID, CHIP, AND OTHER HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.—

Establishment.

(1) CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG).—The Secretary of Health and Human Services shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group (TTAG), which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary of Health and Human Services shall include in such Group a representative of a national urban Indian health organization and a representative of the Indian Health Service. The inclusion of a representative of a national urban Indian health organization in such Group shall not affect the nonapplication of the Federal Advisory Committee Act (5 U.S.C. App.) to such Group.

(2) SOLICITATION OF ADVICE UNDER MEDICAID AND CHIP.—

(A) MEDICAID STATE PLAN AMENDMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 501(d)(1) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3), (42 U.S.C. 1396a(a)) is amended—

(i) in paragraph (71), by striking "and" at the end;

(ii) in paragraph (72), by striking the period at the end and inserting "; and"; and

(iii) by inserting after paragraph (72), the following new paragraph:

"(73) in the case of any State in which 1 or more Indian Health Programs or Urban Indian Organizations furnishes health care services, provide for a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of this title that are likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations and that—

"(A) shall include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations; and

"(B) may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its State plan under this title.".

(B) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(1)), as amended by subsections (b)(2) and (d) (2), is amended—

(i) by redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), and (K) as subparagraphs (D), (F), (B), (E), (G), (I), (H), (J), (K), and (L), respectively;

(ii) by moving such subparagraphs so as to appear in alphabetical order; and

(iii) by inserting after subparagraph (B) (as so redesiganted and moved) the following new subparagraph:

"(C) Section 1902(a)(73) (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).".

(3) RULE OF CONSTRUCTION.—Nothing in the amendments made by this subsection shall be construed as superseding existing advisory committees, working groups, guidance, or other advisory procedures established by the Secretary of Health and Human Services or by any State with respect to the provision of health care to Indians.

42 USC 1396a note.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2009.

42 USC 1396a note.

SEC. 5007. FUNDING FOR OVERSIGHT AND IMPLEMENTATION.

(a) OVERSIGHT.—For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $31,250,000 for fiscal year 2009, which shall remain available for expenditure until September 30, 2011, and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

(b) IMPLEMENTATION OF INCREASED FMAP.—For purposes of carrying out section 5001, there is appropriated to the Secretary of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, $5,000,000 for fiscal year 2009, which shall remain available for expenditure until September 30, 2011, and shall be in addition to any other amounts appropriated or made available to such Secretary for such purposes.

SEC. 5008. GAO STUDY AND REPORT REGARDING STATE NEEDS DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) IN GENERAL.—The Comptroller General of the United States shall study the period of national economic downturn in effect on the date of enactment of this Act, as well as previous periods of national economic downturn since 1974, for the purpose of developing recommendations for addressing the needs of States during such periods. As part of such analysis, the Comptroller General shall study the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(b) REPORT.—Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to the appropriate committees of Congress on the results of the study conducted under paragraph (1). Such report shall include the following:

(1) Such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance formula for temporary adjustment of the

Federal medical assistance percentage under Medicaid (also referred to as a "countercyclical FMAP") described in GAO report number GAO–07–97 to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for—

(A) improvements to the factors that would begin and end the application of such percentage;

(B) how the determination of the amount of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of the amount of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods.

(2) An analysis of the impact on States during such periods of—

(A) declines in private health benefits coverage;

(B) declines in State revenues; and

(C) caseload maintenance and growth under Medicaid, the Children's Health Insurance Program, or any other publicly-funded programs to provide health benefits coverage for State residents.

(3) Identification of, and recommendations for addressing, the effects on States of any other specific economic indicators that the Comptroller General determines appropriate.

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

SEC. 6000. TABLE OF CONTENTS.

The table of contents of this title is as follows:

TITLE VI—BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

Sec. 6000. Table of contents.
Sec. 6001. Broadband Technology Opportunities Program.

47 USC 1305.

SEC. 6001. BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM.

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

(b) The purposes of the program are to—

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

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

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

(A) schools, libraries, medical and healthcare providers, community colleges and other institutions of higher education, and other community support organizations and

entities to facilitate greater use of broadband service by or through these organizations;

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

(C) job-creating strategic facilities located within a State-designated economic zone, Economic Development District designated by the Department of Commerce, Renewal Community or Empowerment Zone designated by the Department of Housing and Urban Development, or Enterprise Community designated by the Department of Agriculture;

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

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

(c) The Assistant Secretary may consult a State, the District of Columbia, or territory or possession of the United States with respect to—

(1) the identification of areas described in subsection (b)(1) or (2) located in that State; and

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

(d) The Assistant Secretary shall—

(1) establish and implement the grant program as expeditiously as practicable; Grants.

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

(3) seek such assurances as may be necessary or appropriate from grantees under the program that they will substantially complete projects supported by the program in accordance with project timelines, not to exceed 2 years following an award; and

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

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

(1)(A) be a State or political subdivision thereof, the District of Columbia, a territory or possession of the United States, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)) or native Hawaiian organization;

(B) a nonprofit—

(i) foundation,

(ii) corporation,

(iii) institution, or

(iv) association; or

(C) any other entity, including a broadband service or infrastructure provider, that the Assistant Secretary finds by rule to be in the public interest. In establishing such rule, the Assistant Secretary shall to the extent practicable promote the purposes of this section in a technologically neutral manner;

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

(3) provide a detailed explanation of how any amount received under the program will be used to carry out the purposes of this section in an efficient and expeditious manner, including a showing that the project would not have been implemented during the grant period without Federal grant assistance;

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

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

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

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

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

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

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

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

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

(2) construct and deploy broadband service related infrastructure;

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

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

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

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

(h) The Assistant Secretary, in awarding grants under this section, shall, to the extent practical—

(1) award not less than 1 grant in each State;

(2) consider whether an application to deploy infrastructure in an area—

(A) will, if approved, increase the affordability of, and subscribership to, service to the greatest population of users in the area;

(B) will, if approved, provide the greatest broadband speed possible to the greatest population of users in the area;

(C) will, if approved, enhance service for health care delivery, education, or children to the greatest population of users in the area; and

(D) will, if approved, not result in unjust enrichment as a result of support for non-recurring costs through another Federal program for service in the area; and

(3) consider whether the applicant is a socially and economically disadvantaged small business concern as defined under section 8(a) of the Small Business Act (15 U.S.C. 637).

(i) The Assistant Secretary—

Reports. Deadlines. Public information.

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

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

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

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

Database. Web site. Records.

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

Publication.

(j) Concurrent with the issuance of the Request for Proposal for grant applications pursuant to this section, the Assistant Secretary shall, in coordination with the Commission, publish the non-discrimination and network interconnection obligations that shall be contractual conditions of grants awarded under this section, including, at a minimum, adherence to the principles contained in the Commission's broadband policy statement (FCC 05-15, adopted August 5, 2005).

Deadline. Reports. Broadband plan.

(k)(1) Not later than 1 year after the date of enactment of this section, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing a national broadband plan.

(2) The national broadband plan required by this section shall seek to ensure that all people of the United States have access to broadband capability and shall establish benchmarks for meeting that goal. The plan shall also include—

(A) an analysis of the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;

(B) a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public;

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

(D) a plan for use of broadband infrastructure and services in advancing consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.

(3) In developing the plan, the Commission shall have access to data provided to other Government agencies under the Broadband Data Improvement Act (47 U.S.C. 1301 note).

Broadband map.

(l) The Assistant Secretary shall develop and maintain a comprehensive nationwide inventory map of existing broadband service capability and availability in the United States that depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State. Not later than 2 years after the date of the enactment of this Act, the Assistant Secretary shall make the broadband inventory map developed and maintained pursuant to this section accessible by the public on a World Wide Web site of the National Telecommunications and Information Administration in a form that is interactive and searchable.

Deadline. Web posting. Public information.

Regulations.

(m) The Assistant Secretary shall have the authority to prescribe such rules as are necessary to carry out the purposes of this section.

TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

SEC. 7000. TABLE OF CONTENTS.

The table of contents of this title is as follows:

TITLE VII—LIMITS ON EXECUTIVE COMPENSATION

Sec. 7000. Table of contents.
Sec. 7001. Executive compensation and corporate governance.
Sec. 7002. Applicability with respect to loan modifications.

SEC. 7001. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

Section 111 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221) is amended to read as follows:

"SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

"(2) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' means any payment to a senior executive officer for departure from a company for any reason, except for payments for services performed or benefits accrued.

"(3) TARP RECIPIENT.—The term 'TARP recipient' means any entity that has received or will receive financial assistance under the financial assistance provided under the TARP.

"(4) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

"(5) PERIOD IN WHICH OBLIGATION IS OUTSTANDING; RULE OF CONSTRUCTION.—For purposes of this section, the period in which any obligation arising from financial assistance provided under the TARP remains outstanding does not include any period during which the Federal Government only holds warrants to purchase common stock of the TARP recipient.

"(b) EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.—

"(1) ESTABLISHMENT OF STANDARDS.—During the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, each TARP recipient shall be subject to—

"(A) the standards established by the Secretary under this section; and

"(B) the provisions of section 162(m)(5) of the Internal Revenue Code of 1986, as applicable.

"(2) STANDARDS REQUIRED.—The Secretary shall require each TARP recipient to meet appropriate standards for executive compensation and corporate governance.

"(3) SPECIFIC REQUIREMENTS.—The standards established under paragraph (2) shall include the following:

"(A) Limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding.

"(B) A provision for the recovery by such TARP recipient of any bonus, retention award, or incentive compensation paid to a senior executive officer and any of the next 20 most highly-compensated employees of the TARP recipient based on statements of earnings, revenues, gains, or other criteria that are later found to be materially inaccurate.

"(C) A prohibition on such TARP recipient making any golden parachute payment to a senior executive officer or any of the next 5 most highly-compensated employees of the TARP recipient during the period in which any

obligation arising from financial assistance provided under the TARP remains outstanding.

"(D)(i) A prohibition on such TARP recipient paying or accruing any bonus, retention award, or incentive compensation during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding, except that any prohibition developed under this paragraph shall not apply to the payment of long-term restricted stock by such TARP recipient, provided that such long-term restricted stock—

"(I) does not fully vest during the period in which any obligation arising from financial assistance provided to that TARP recipient remains outstanding;

"(II) has a value in an amount that is not greater than ⅓ of the total amount of annual compensation of the employee receiving the stock; and

"(III) is subject to such other terms and conditions as the Secretary may determine is in the public interest.

Applicability.

"(ii) The prohibition required under clause (i) shall apply as follows:

"(I) For any financial institution that received financial assistance provided under the TARP equal to less than $25,000,000, the prohibition shall apply only to the most highly compensated employee of the financial institution.

"(II) For any financial institution that received financial assistance provided under the TARP equal to at least $25,000,000, but less than $250,000,000, the prohibition shall apply to at least the 5 most highly-compensated employees of the financial institution, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

"(III) For any financial institution that received financial assistance provided under the TARP equal to at least$250,000,000, but less than $500,000,000, the prohibition shall apply to the senior executive officers and at least the 10 next most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

"(IV) For any financial institution that received financial assistance provided under the TARP equal to $500,000,000 or more, the prohibition shall apply to the senior executive officers and at least the 20 next most highly-compensated employees, or such higher number as the Secretary may determine is in the public interest with respect to any TARP recipient.

"(iii) The prohibition required under clause (i) shall not be construed to prohibit any bonus payment required to be paid pursuant to a written employment contract executed on or before February 11, 2009, as such valid employment contracts are determined by the Secretary or the designee of the Secretary.

"(E) A prohibition on any compensation plan that would encourage manipulation of the reported earnings of such

TARP recipient to enhance the compensation of any of its employees.

"(F) A requirement for the establishment of a Board Compensation Committee that meets the requirements of subsection (c).

"(4) CERTIFICATION OF COMPLIANCE.—The chief executive officer and chief financial officer (or the equivalents thereof) of each TARP recipient shall provide a written certification of compliance by the TARP recipient with the requirements of this section—

"(A) in the case of a TARP recipient, the securities of which are publicly traded, to the Securities and Exchange Commission, together with annual filings required under the securities laws; and

"(B) in the case of a TARP recipient that is not a publicly traded company, to the Secretary.

"(c) BOARD COMPENSATION COMMITTEE.—

"(1) ESTABLISHMENT OF BOARD REQUIRED.—Each TARP recipient shall establish a Board Compensation Committee, comprised entirely of independent directors, for the purpose of reviewing employee compensation plans.

"(2) MEETINGS.—The Board Compensation Committee of each TARP recipient shall meet at least semiannually to discuss and evaluate employee compensation plans in light of an assessment of any risk posed to the TARP recipient from such plans.

"(3) COMPLIANCE BY NON-SEC REGISTRANTS.—In the case of any TARP recipient, the common or preferred stock of which is not registered pursuant to the Securities Exchange Act of 1934, and that has received $25,000,000 or less of TARP assistance, the duties of the Board Compensation Committee under this subsection shall be carried out by the board of directors of such TARP recipient.

"(d) LIMITATION ON LUXURY EXPENDITURES.—The board of directors of any TARP recipient shall have in place a company-wide policy regarding excessive or luxury expenditures, as identified by the Secretary, which may include excessive expenditures on—

"(1) entertainment or events;

"(2) office and facility renovations;

"(3) aviation or other transportation services; or

"(4) other activities or events that are not reasonable expenditures for staff development, reasonable performance incentives, or other similar measures conducted in the normal course of the business operations of the TARP recipient.

"(e) SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—

"(1) ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.—Any proxy or consent or authorization for an annual or other meeting of the shareholders of any TARP recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding shall permit a separate shareholder vote to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of the Commission (which disclosure shall include the compensation discussion and analysis, the compensation tables, and any related material).

"(2) NONBINDING VOTE.—A shareholder vote described in paragraph (1) shall not be binding on the board of directors of a TARP recipient, and may not be construed as overruling

a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.

"(3) DEADLINE FOR RULEMAKING.—Not later than 1 year after the date of enactment of the American Recovery and Reinvestment Act of 2009, the Commission shall issue any final rules and regulations required by this subsection.

"(f) REVIEW OF PRIOR PAYMENTS TO EXECUTIVES.—

"(1) IN GENERAL.—The Secretary shall review bonuses, retention awards, and other compensation paid to the senior executive officers and the next 20 most highly-compensated employees of each entity receiving TARP assistance before the date of enactment of the American Recovery and Reinvestment Act of 2009, to determine whether any such payments were inconsistent with the purposes of this section or the TARP or were otherwise contrary to the public interest.

"(2) NEGOTIATIONS FOR REIMBURSEMENT.—If the Secretary makes a determination described in paragraph (1), the Secretary shall seek to negotiate with the TARP recipient and the subject employee for appropriate reimbursements to the Federal Government with respect to compensation or bonuses.

"(g) NO IMPEDIMENT TO WITHDRAWAL BY TARP RECIPIENTS.—Subject to consultation with the appropriate Federal banking agency (as that term is defined in section 3 of the Federal Deposit Insurance Act), if any, the Secretary shall permit a TARP recipient to repay any assistance previously provided under the TARP to such financial institution, without regard to whether the financial institution has replaced such funds from any other source or to any waiting period, and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price.

"(h) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.".

SEC. 7002. APPLICABILITY WITH RESPECT TO LOAN MODIFICATIONS.

Section 109(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219(a)) is amended—

(1) by striking "To the extent" and inserting the following: "(1) IN GENERAL.—To the extent"; and

(2) by adding at the end the following:

"(2) WAIVER OF CERTAIN PROVISIONS IN CONNECTION WITH LOAN MODIFICATIONS.—The Secretary shall not be required to apply executive compensation restrictions under section 111, or to receive warrants or debt instruments under section 113, solely in connection with any loan modification under this section.".

Approved February 17, 2009.

LEGISLATIVE HISTORY—H.R. 1 (S. 336) (S. 350):

SENATE REPORTS: No. 111–3 accompanying S. 336 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 155 (2009):
Jan. 27, 28, considered and passed House.
Feb. 2–7, 9, 10, considered and passed Senate, amended.
Feb. 13, House and Senate agreed to conference report.
DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2009):
Feb. 17, Presidential remarks and statement.

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