AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 92 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1256

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for fiscal year ending September 30, 2009, and for other purposes, with Mr. TIERNEY in the chair.

The Clerk read the title of the bill.

The CHAIR. When the Committee of the Whole rose on Tuesday, January 27, 2009, all time for general debate pursuant to House Resolution 88 had expired.

Pursuant to House Resolution 92, further general debate shall be confined to the bill and amendments specified in that resolution and shall not exceed 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I yield to the gentlewoman from New York for a unanimous consent request.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. I thank the gentleman for yielding and for his leadership on this tremendously important bill, and I place in the RECORD my statement in strong support of the American Recovery and Reinvestment Act.

Mr. Chair, the current economic crisis requires bold solutions that address the enormity of our economic woes, and the American Recovery and Reinvestment Plan will do just that.

The $825 billion recovery package that we are voting on will create or save an estimated 4 million jobs and will make key investments in our future.

But first and foremost, the economic recovery package focuses on blunting the effects of the recession and helping families in need.

In addition to increasing food stamp benefits and expanding unemployment benefits, our plan protects health care coverage for roughly 20 million Americans during this recession by increasing the Federal Medicaid Assistance Percentage (FMAP) so that no state has to cut eligibility for Medicaid and SCHIP, the children's health insurance program, because of budget shortfalls.

For my home state of New York it more than doubles the FMAP match resulting in roughly $10.42 billion over 9 quarters. This is critical funding for our state which is seeing an increase in caseloads as a result of the recession.

The recovery plan also invests in important needs that have been neglected over the past eight years. America's school, roads, bridges, and water systems are in disrepair and this is creating a drag on economic growth.

Our plan will spread job creation out over the next two years, which will soften the downturn and foster a solid economic recovery.

We have an historic opportunity to make the investments necessary to modernize our public infrastructure, transition to a clean energy economy, and make us more competitive in the 21st century.

It's time to get our economy back on track. I urge my colleagues to support the American Recovery and Reinvestment Plan.

Mr. OBEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this economy is in crisis. The financial system of the country is in crisis. Retirement plans of millions of Americans have been destroyed. Families are angered and terrified. They see layoffs happening all around them. They and their friends are not only losing their jobs, they are losing health coverage. They are losing their ability to help their kids pay for college education.

President Bush, when he saw the initial stages of the problem, got Congress to give him $750 billion to try to calm the chaos on Wall Street.

□ 1300

President Obama is now looking for action to help Main Street. This package is designed to create jobs through construction and through changing the way we do business in the field of energy. It attempts to try to help victims of the recession by providing unemployment insurance, by increasing their ability to get Medicaid coverage if they lose their health care coverage and by increasing their ability to be able to afford COBRA payments if they lose their health insurance. This proposal is also aimed at rebuilding the economy, especially by changing the way this economy works in the energy area, in the science area and in the technology area. And I think we need to be about getting that done.

This bill is hugely expensive. But it is not nearly so costly as continuing business as usual. It has a big price tag because we are dealing with a big problem.

Unfortunately, the debate has been incredibly trivialized. Last night, for instance, we heard speaker after speaker discuss the need to act. But then they would say, ''Well, I can't vote for this package because it contains money for the arts or money for the Mall.'' I would like to put those two items in perspective.

The arts funding in this bill is a tiny fraction of this entire bill. The arts expenditure in this bill represents about 6 cents out of every $1,000 contained in this legislation. People ask, well, what does funding for the arts have to do with jobs? It is very simple. People in the arts field are losing their jobs just like anybody else. You have local arts agencies, you have local orchestras, local symphonies and local arts groups of all kinds who are shutting down, laying people off, and in a number of instances going bankrupt. This is a small, tiny effort to keep some of those people employed over the next 2 years. I make no apology for it. We have an obligation to salvage as many jobs as we can regardless of the fields in which people work.

The second issue is the Mall. People say, ''Well, goodness gracious, what on Earth does spending for the Mall have to do with creating jobs?'' Well, Mr. Chairman, I would point out that, again, the funding for the Mall represents about 25 cents of every $1,000 in this bill, a tiny, tiny fraction. Three-quarters of that amount was directed at trying to preserve the Jefferson Memorial which is slowly sinking into the Tidal Basin and needs to be salvaged. But because these items have become such distractions, we've decided to take several items out. So the Mall is gone. We don't have to worry about refurbishing the Mall any more. That will have to wait for another time.

My point in discussing these two items is to simply express my regret at the way this debate has been trivialized. But I also think that it is revealing because I think it tells us what is really going on. And in my view, what is going on is this. At least one of the leaders in the Republican Caucus advised his caucus members that the way for the Republican minority to behave was to behave ''like a thousand mosquitoes'' to harass the majority. That may suit somebody's legislative style. It would not suit mine.

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself 3 additional minutes.

But I think that comment is revelatory because that, for all practical purposes, is what we saw last night, many Members behaving like mosquitoes, focusing on trivia and ignoring the big picture. Some people will say, ''Oh, you're moving too fast.'' I would point out, this work should have been done 3 and 4 months ago. Some of us tried in September to pass a very small economic recovery package. The then-Bush White House would have no part of it. They were not interested. So we've had to wait until now. But it is now essential for us to move. We've got to get this job on the road. Every week that we delay is another 100,000 or more people unemployed. I don't think we want that on any of our consciences.

This package is aimed at creating jobs. It's aimed at helping people who

are most impacted by the recession. And it is aimed at trying to modernize and freshen parts of the economy so that we can rebuild the ability of middle-income families to actually increase their income over time.

Mr. Chairman, the main reason we're in this fix today is because over the last almost 20 years or more, we have had very little wage growth and very little income growth on the part of average working families in this country. In fact, if you go back to the year 2001, 95 percent of the income growth in this country has gone into the pockets of the wealthiest 10 percent of American families. That means that the other 90 percent, the great middle American family swath, those families have been trying to keep their heads above water. And how have they been doing it? By borrowing. So they borrowed for housing. They borrowed for tuition. They borrowed for health care. They borrowed for a lot of other things. And now the rubber band has finally snapped. The markets are in chaos, people are panicked, and we've got to try to do something to stabilize the situation. We have to try to reinflate the purchasing power of consumers, and we have to do it in such a way that we build an opportunity for average working families to raise their income again so that they aren't beset by the same economic problems that they were beset by the last 10 years.

With that, Mr. Chairman, I would urge an ''aye'' vote for this package.

I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I very much appreciate your recognizing this mosquito who is rising to urge people to look very, very carefully at this package before they decide to vote ''yes'' or ''no,'' but specifically for those who really want to see our new President have a chance at success over these next couple of years. Indeed we are going to need as many people positively addressing this huge package as we possibly can.

The CHAIR. Does the gentleman from California wish to yield himself such time as he may consume?

Mr. LEWIS of California. I very much appreciate the Chairman asking that question, and since you did, I will yield myself such time as I may consume.

I am very, very intrigued by my colleague suggesting that this bill really shouldn't bother too many people because it's long overdue and certainly desperately needed. And indeed, he was almost mocking some of those questions raised yesterday about programs, people suggesting that the money that we're talking about for the arts in some way is not stimulus, that the money that we might put in the National Mall in some ways isn't really meaningful stimulus. I have the bill here on my desk. Someone wrote earlier that the cost of this bill is approximately $1.18 billion per page.

It's about time we began to recognize that the money we're talking about is not just huge in terms of numbers of dollars, but potentially a very huge burden on future generations of Americans. As we debate this stimulus package, we're throwing around an awful lot of big numbers. But let's be very clear that these big numbers are real dollars and that real families are involved. In my own family, we have seven children, my wife and I, and from that some 11 grandchildren. Those grandchildren are going to be paying for this all their lifetime, long after the chairman and I are angels. If every American family were asked equally to shoulder the burden of this $816 billion stimulus package, it would be like asking to take on an additional $10,247 for each family.

Our constituents are already facing unprecedented economic challenges. They want credible economic stimulus.

I remember the chairman suggesting throughout this discussion that he spent an awful lot of time with us in consultation looking for input as to what ought to be in this package. I remember the first session that he and I had in his office. It wasn't a long session, but it was a stimulating one in which he suggested that the package that was going to come forth would likely be designed to stimulate the economy to create jobs. And he talked about infrastructure as being one of the major items. My goodness. The infrastructure in this bill, the infrastructure spending is something less than 10 percent of the whole package. And for shovel-ready projects, it is smaller than that. I also remember the second session I had with my chairman regarding this matter. We spent almost a whole hour together in that discussion. He asked if I had a pencil so I could write down some of the numbers. He was going to describe what might be a part of the package. I was really thrilled he was going to be that personal with his ranking member on the committee and actually get involved so we would have a chance to evaluate it. And my chairman, as he was watching me make notes and my staff making notes, decided probably not to tell me that a day and a half later he was issuing a 15-page press release before the bill had been filed that went into a considerable amount of detail, considerably more than he shared with either his ranking member or any of the rest of the members, at least on my side of the aisle, in the Appropriations Committee.

It is my understanding that many a subcommittee chairman, or at least their staff, were told very specifically that there was an embargo relative to their communicating and sharing information with our subcommittee staff people as well as subcommittee members. The minority was not included in developing this package. And it has become a horrendous package that is going to place a burden on the American people for a lifetime.

While Members are proceeding with nothing but good intentions in this package, let us be mindful of the fact that this additional burden will be placed squarely on the backs of our children. But also let us be mindful of the fact that next week we are going to be considering an omnibus package that involves over 410 billion additional dollars. And we didn't get the work done. Indeed, that package is going to come to us with all kinds of funding that should have been done and should be available already. But the chairman chose to put that spending on the shelf in order to develop this stimulus package with others in his leadership.

I presume what that really means is that within this bill is all kinds of funding that had its beginning within those nine other bills that now we are going to eventually get to next week. You combine TARP with this package, you take a look at that 400 plus billion dollars, people have been talking about additional interest costs—we are talking about in a very short period of time over $1.5 trillion that the majority is running forward with, with very little concern about the impact that this might very well have on our grandchildren.

□ 1315

I must say that many of us feel a little sorry for what this work will do to our families.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the minority continually spouts the myth that the minority was not allowed to be involved in the development of this legislation. Here are the facts:

In September, when we developed our first recovery package, I specifically asked the ranking minority member of this committee to please let us know what he felt ought to be in that package and what shouldn't.

In December, we held a hearing with a number of governors and other witnesses on the issue of a stimulus or recovery package. The ranking minority member urged Republican members of the committee not to show up at that hearing, and only three did.

In December again, I sent a letter to every member of the Appropriations Committee, Republican and Democratic alike, asking them for their input. We got a lot of suggestions from both sides of the aisle, although obviously a number of the Republican members preferred to provide their information on a confidential basis because they evidently felt——

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield myself an additional minute. They evidently felt they were being discouraged from participating so that it would be easier for them to vote ''no'' on the final package.

On January 11, I sat down with the ranking member of this committee and discussed in general terms where I

thought the bill was going and again urged that we be given any information about what program levels they thought were appropriate; got no real indication of interest.

On January 13, I met and went over what we were thinking about doing in detail with the ranking member of this committee. And again, we got very little indication that there was any real interest at the top of the power ladder in the Republican Caucus in having the Republicans participate in this process.

So if someone says, ''I'm sorry I was shut out,'' but it is they who turned the key in the lock that kept them on the outside, that certainly isn't our fault. We have tried to welcome any advice, any suggestions from any source—not just Members of Congress, but others in this society—and this product reflects that.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I normally would not proceed in this fashion, but I could have guessed that the chairman might react to some of those remarks that I made—especially remarks about his falling over backwards to cooperate with the minority—so I would like to take a little time to be very specific about this.

I appreciate Chairman OBEY making the point that he reached out to the minority on the stimulus package. He did reach out to me, as the ranking member of the Appropriations Committee, and I made three suggestions relating to how the bill could become a bill that many Republicans could support.

I suggested that Chairman OBEY consider less spending, and especially removing spending for those items that are not stimulus and should be funded through the regular appropriations process. What happened? Spending on programs that don't create jobs actually increased, particularly those in the Labor, Health and Human Services Subcommittee that Chairman OBEY chairs himself.

I suggested that Chairman OBEY consider lowering the top line of spending on this package. What happened? The top line on spending actually increased.

I suggested a greater emphasis on targeted tax cuts for low-income families and small businesses. What happened? The tax relief portion of this stimulus bill got smaller as the top line on spending increased.

It's one thing to seek constructive input in the hopes of building bipartisan consensus on a bill as important as this package, but that clearly has not happened. Judging from the legislation as presently written, it's quite clear that the majority's desire is less about creating jobs and stimulating the economy and more about spending the public's money.

Do not for one minute believe that this bill reflects the input of House Republicans or even many House Democrats. This bill was largely written by two people. Any suggested negotiations on this legislation occurred between the Speaker and my chairman, Mr. OBEY. That's not a negotiation, that is a travesty, a mockery, a sham. Wow! What a shame to waste a historic opportunity to bring Republicans and Democrats together to roll up our sleeves and work in a bipartisan fashion.

It's not too late to make this a better bill, a bipartisan bill. As I said in my opening remarks, I sincerely want the President to be successful. The challenges we face do transcend politics. If the President or his staff are listening, I ask them to pursue bipartisanship so this can be a package both Democrats and Republicans will support.

I say one more time, travesty begins when there's a flat embargo at a subcommittee level when our majority staff is told they shouldn't be communicating with the minority staff. Bipartisanship is the best of our committee, and if this pattern continues, our committee is not going to be able to continue to produce products worthy of its name.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished majority whip.

Mr. CLYBURN. I thank the gentleman for yielding time and thank him so much for all that he's done to put together this great package.

Mr. Chairman, I rise in strong support of this balanced, responsible recovery package that will put America back to work. I want to thank—in addition to Chairman OBEY—Speaker PELOSI, Chairman RANGEL, Chairman OBERSTAR, Chairman MILLER, Chairwoman SLAUGHTER, and all the other chairmen who have made sure that the bill reflected the pressing needs of our economy.

I also would like to thank the staffs who worked so diligently in constructing this bill, particularly Amy Rosenbaum in the Speaker's office, Beverly Pheto of the Appropriations Committee, Janice Mayes of Ways and Means, and David Hensfelt of Transportation and Infrastructure.

I have listened intently to the opponents of this legislation, and per their usual prescription, they tell us that only tax cuts can cure this recession. But Mr. Chairman, what good is a tax cut when you don't have a job? America works when Americans work.

In South Carolina, my home State, the unemployment rate is 9.5 percent, the third highest in the Nation. More than 26,000 South Carolinians joined the jobless ranks last month, raising the total number of unemployed in the State to a record 210,000.

Our package is balanced. It has middle class tax cuts, it has business tax cuts, it has investments in our physical infrastructure. It is the right mix of spending and tax breaks to get America working again.

This legislation is pro-growth and pro-business. Allow me to quote from the letter that the National Association of Manufacturers sent yesterday. ''We strongly support a number of provisions in the American Recovery and Reinvestment Act. This legislation—which combines targeted tax incentives and increased investments in areas critical to our competitiveness—will help get our Nation's economy back on track and ensure job creation and sustainable economic growth.''

The CHAIR. The time of the gentleman has expired.

Mr. OBEY. I yield 1 additional minute.

Mr. CLYBURN. I also have a stack of letters from business organizations, all endorsing this package, including the National Black Chamber of Commerce, the Community Bankers, and the National Association of Realtors.

President Obama was joined by a dozen CEOs this morning who have endorsed this package. We have a letter from 120 high-tech CEOs endorsing the investments we make in our digital infrastructure.

So in closing, Mr. Chairman, Fortune 100 CEOs from all sectors are telling us that this is the right course of action. I urge my colleagues to choose progress over partisanship. Vote ''yes'' on this recovery package. And let's put Americans back to work.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, January 27, 2009.

Hon. NANCY PELOSI,
Speaker of the House, House of Representatives, Washington, DC.

Hon. JOHN BOEHNER,
Minority Leader, House of Representatives, Washington, DC.

Hon. STENY HOYER,
Majority Leader, House of Representatives, Washington, DC.

Hon. ERIC CANTOR,
Minority Whip, House of Representatives, Washington, DC.

Hon. JAMES CLYBURN,
Majority Whip, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER, LEADER HOYER, LEADER BOEHNER, CONGRESSMAN CLYBURN, AND CONGRESSMAN CANTOR: The National Association of Manufacturers (NAM) is gratified by the commitment of the bipartisan, bicameral Congressional leadership and the Obama Administration to move quickly on a legislative package to help get America working again. Manufacturers recognize that immediate action is needed to address the unprecedented challenges faced by all sectors of the economy.

NAM members believe a balanced tax and investment package designed to have an immediate impact on job providers and the people who depend on them, will go a long way to spur economic revitalization. To this end, we strongly support a number of provisions in the American Recovery and Reinvestment Act scheduled for debate this week. This legislation—which combines targeted tax incentives and increased investment in areas critical to our competitiveness—will help get our nation's economy back on track and ensure job creation and sustainable economic growth.

In particular, the NAM supports the following measures:

Tax Relief for Struggling Companies: Net operating loss (NOL) relief has a proven

track record of helping companies through tough times. Extending the carry back period to five years will provide an immediate infusion of cash for struggling companies of all sizes, in a broad, cross-section of industries. The loss carry back extension will help companies retain jobs, make critical investments and, in some cases, simply keep their doors open.

Broad Investment Incentives: Capital investment is key to sustainable economic growth and job creation. Extending the 2008 ''enhanced'' expensing and ''bonus depreciation'' provisions that allow all companies to take a current 50 percent write-off will help spur needed investment.

Housing: The housing market collapse remains at the core of our nation's economic crisis and it is critical that any economic recovery plan include proposals to stabilize and revitalize the housing industry. The proposed enhancements to the home buyers' tax credit will encourage people to reenter the housing market, helping to retain and create job opportunities in numerous housing-related industry sectors.

Energy Efficiency and Renewable Energy: Energy efficiency upgrades can reduce energy costs. Proposed new incentives and extensions and enhancements of existing provisions will encourage investment in energy efficient equipment and sources of renewable energy. While we support an investment strategy to achieve energy efficiency, the NAM would oppose mandates that lock in higher energy costs for manufacturers. We continue to believe that the adequacy of domestic energy supply remains one of the biggest challenges impacting manufacturers and their decisions on where to locate.

Highway, Aviation and Waterways: Providing additional funding to states and localities struggling to make progress on the growing backlog of transportation infrastructure projects will go a long way to strengthen our nation's transportation infrastructure, a critical priority for manufacturers. Similarly, funding a 21st century satellite-based air traffic control system will significantly enhance safety and energy efficiency while relieving congestion at our nation's crowded airports. Likewise, fully funding the Army Corps of Engineers water resources program will address millions of dollars of unmet needs related to high priority operations and maintenance along the inland waterway system.

Water and Sewer Facilities: Funding to update and modernize our nation's drinking and wastewater infrastructure will help promote sound environmental policy and manufacturing competitiveness, while providing manufacturing and construction jobs.

Health Information Technology: Rising health care costs are a significant concern because they limit manufacturers' ability to create new jobs or invest in new technologies, ideas, or products. New funding and incentives to promote the widespread adoption of a uniform, interoperable system of health information technology (HIT) will increase transparency, reduce medical costs and improve the quality of patient care.

Workforce Development: Many unemployed workers are not trained in the techniques and technologies necessary to fill a number of the jobs existing today and those that would be created by the stimulus package. These technical jobs require either post-secondary training or specific skills, which is why this must be an important component of any economic stimulus.

Broadband: Initiatives to promote the deployment of high-speed broadband infrastructure in unserved and underserved areas will help ensure that high-speed Internet service is available everywhere in America. Benefits will be felt immediately in business, education and healthcare.

Basic R&D: Federal funding for basic research and development by the Department of Energy's Office of Science, the Department of Commerce's National Institute of Standards and Technology (NIST) and the National Science Foundation will support our nation's ability to strengthen innovation in industries, foster a green economy and create new jobs in cutting-edge technologies.

The NAM recognizes that action by the House of Representatives will be a significant step. We urge you to move expeditiously to address our economic crisis. Throughout the debate in the House and Senate, we are committed to working with you to strengthen the American Recovery and Reinvestment Act with additional provisions that will also create jobs and have a highly beneficial impact on our economy, including needed pension changes, additional tax relief to accelerate clean coal technologies, incentives to bring foreign earnings back to the United States, expansion of domestic energy resources, such as offshore exploration, and expansion of our nuclear energy infrastructure.

If the National Association of Manufacturers can provide any information on these or any other issues, please do not hesitate to call me at (202) 637–3000.

Thank you for your leadership.

Sincerely,

JOHN ENGLER,
President and CEO.

BUSINESS ROUNDTABLE,
Washington, DC, January 27, 2009.

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: Business Roundtable supports the Administration and Congress' goal to develop an economic package to put our economy back on the path of long-term growth and urges swift action.

In working with the Congress and Administration to put together this critically important economic package, Business Roundtable relied on several key principles that we believe are necessary to ensure growth and which are being incorporated into both the House and Senate bills: provide middle class tax relief, which will increase American families' net incomes and bolster consumer confidence; repair and modernize our infrastructure, which will help put Americans back to work and enhance American competitiveness; stabilize the deteriorating housing market; enhance access to education and training so American workers can develop the skills needed to take on new jobs and more effectively compete in the global economy; and stimulate business investment.

We are facing one of the most difficult periods in the history of the U.S. economy. Business Roundtable believes that a stimulus package that targets projects that can be rapidly deployed in the economy is the quickest way to stabilize the economy and create new jobs. With more than two million jobs lost in 2008—and accelerating job losses in the past three months—decisive action is needed if we are to return our economy to a path for growth and full employment and provide American workers and families with the opportunity to enhance their standards of living.

To be effective quickly, the stimulus package needs to focus on areas of the economy that provide maximum effects in terms of new jobs and investments that will enhance our nation's ability to compete in the global economy. At the same time, it must reject policies, such as ''Buy American'' and other restrictions, which would lead to further net job loss or cause additional economic deterioration. It is also important that the economy's response to any stimulus initiatives be carefully measured to ensure we are on a path to long-term, sustainable growth before the initiatives are withdrawn. As the Congress moves forward in shaping the stimulus package, it must ensure that these objectives are met.

We recognize that the stimulus package will increase an already significant deficit in 2009. Business Roundtable always has placed a high priority on deficit reduction as a means to achieving sustained economic growth. However, an increase in the deficit is an unavoidable outcome at this critical time if we are to avert a prolonged and potentially deep recession. Nevertheless, high deficits are unacceptable over the long term. Once we return to solid economic footing, the Congress, the Administration and private sector need to work together quickly to implement measures to control future spending, including a comprehensive ''top down'' review of all federal spending.

Business Roundtable's highest priority is to drive sustained growth in the U.S. economy in order to achieve higher living standards for all Americans. Our membership includes the CEOs of leading U.S. corporations. With a combined workforce of nearly 10 million employees and $5 trillion in annual revenues we are on the front-lines of the battle to prevent a prolonged and deep recession and to return the economy to strong growth with new jobs.

We look forward to working further with the House and Senate to finalize an emergency economic package that will work for all Americans—our workers, families, communities and companies.

Sincerely,

JOHN J. CASTELLANI,
President.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, I rise in opposition to this so-called stimulus bill which seems only to stimulate one sector of our economy—the government.

As a person who was a small business person—a realtor and restauranteur and a member of small business organizations—I can tell you that most small businesses out there are in opposition to this legislation.

There is no doubt that our country is going through some difficult economic times. There are many steps Congress can and should take to get our economy back on a path to prosperity. Unfortunately, it appears that the majority party is using our current economic woes to grow government spending to epic and historic proportions.

By way of comparison, in 1934, government spending reached about 11 percent of GDP in response to the Great Depression, and if passed, this stimulus bill will increase government spending to 23 percent of GDP. The question remains, what will all this spending get the American people? Will it truly provide more middle class jobs or improve infrastructure? The answer, sadly, is no. The bill provides a mind-boggling $365 billion for Labor, Health and Human Services programs.

The strategy under this bill is to throw billions of dollars in every bureaucratic direction, cross our fingers, and hope for the best. Not only are we wagering our future with this bill, but we're crossing a point of no return. This bill moves us dramatically closer

to a welfare state. It is forcing people who are the backbone of our economy, the middle class, into a troubling kind of public dependency.

Mr. Chairman, let us take time to truly do what is right for the American people and provide targeted and limited stimulus through tax cuts and spending on ready-to-build infrastructure that will really put Americans back to work immediately. That's what my constituents want, that's what they deserve.

Let's not exploit this economic crisis to push legislation that will increase the size and scope of the Federal Government above and beyond anything our country has seen in its 233 years.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished majority leader.

Mr. HOYER. I thank the chairman of Appropriations for yielding, and I want to thank him for the extraordinary work he has done to put this package together. I want to thank Mr. LEWIS for the work that he has done as well, even though he may not agree with the final product.

I want to start by remarks—and I may take a little bit of time—I want to start my remarks talking about bipartisanship, and how we got here and why we're here.

Over a year ago, it appeared to us that the economic program adopted in 2001 and 2003 was not working. It also appeared to the administration that it was not working. It appeared to Mr. BOEHNER that it was not working, that we were in real trouble, and that we weren't producing jobs. We had the worst 8 years of job production that we've had in any administration since Herbert Hoover. And as a result of the failure to produce jobs, our country was in great distress and our people were challenged and at risk.

And so the administration and the Democratic leadership of the Congress and the Republican leadership of the Congress sat down at the table together and came up with a program to stimulate the economy, about $160 billion. And we worked together in a bipartisan fashion. It was a Republican President, but a Democratic-led Congress—in fact, agreed to the administration's increase in that program, as you recall, because we had suggested $100 billion—and we worked in a bipartisan fashion.

And then in September, some months later, Secretary Paulson, the Republican Secretary of the Treasury, came to us, met with the leadership, and said we have a crisis. Indeed, we had invited him down because we thought that there was real trouble. He said we have a crisis, we need to act, and we need to act immediately. A Democratic-led Congress responded to Secretary Paulson and said, we'll work with you. We'll work with you because our country needs a joint response. And we did that.

And when that legislation came to the floor, very frankly, a majority of Democrats supported the Republican administration's request; a majority of his party in this House did not. We now have a Democratic administration and a Democratic-led Congress, and I'm hopeful that we'll have bipartisan work continuing to meet this crisis caused, from my perspective, by the failure of policies that we've been pursuing economically over the last 8 years.

□ 1330

I do not say that for the purposes of being partisan. I say that for the purposes of our being instructed on what has worked and what has not worked.

As you know, we're dealing with one of the worst economic climates in memory: 2.6 million jobs last year; the worst housing market since the Great Depression; financial turmoil that has threatened the savings and retirement of millions. That's the context in which this administration is taking office.

As we move to confront this crisis, we welcome the criticism of our Republican friends and others. But let's put that criticism in some context, again, not for a partisan sense but for a sense of instruction of the perception of what worked and what did not. I would suggest that, frankly, much of what I have heard from my Republican colleagues over the last 20 years in terms of what would work and what would not work was inaccurate.

Let's remember President Bush's saying, ''My administration remains focused on economic growth that will create more jobs.'' Let's remember how the minority party reacted to the Clinton economic plan in 1993. Newt Gingrich said of that plan that it would lead to ''a job-killing recession.'' A leader of the Republican Party made that observation. He was dead, flat, 100 percent wrong. In fact, we created 22 point some odd million jobs in those 8 years, an average of 256,000 per month. This administration has averaged less than 40. You need 100 to stay even.

JOHN BOEHNER, the Republican leader, said at that point in time, ''The message is loud and clear, cut spending first and shrink the size of this Federal Government,'' in opposing the economic program.

In reality, the Democratic plan led to unprecedented economic growth. We all know that. The 1990s were the best economic period of time statistically that we have had in this country in the service of anybody in this Congress including the Reagan years.

Let's remember how Republicans reacted to Budget Reconciliation Act in 1990 when George Bush the first was President of the United States. Tom DeLay said, ''The Democratic package will destroy our economy.'' Now, the Democratic package was, of course, an accommodation made between President Bush; Dick Darman, head of OMB; and ourselves. In reality, that program, opposed overwhelmingly by Republicans, reduced the budget deficit by approximately $482 billion.

What we have seen from our Republican colleagues is history, frankly, of overstatement of what their program would do and a great understatement of what the programs and policies that we pursued would do. I would suggest that we consider the representations being made today in that context. Today, I hope that our Republican colleagues will put that history aside and join with us to pass this bill and try to help restore our prosperity.

None of us have served in this Congress at a lower ebb of the economy than today. Nobody in this Congress including JOHN DINGELL, the Dean of the Congress of the United States.

The American Recovery and Reinvestment Act is projected to create or save 3 to 4 million jobs. What does it do? I know Mr. OBEY has said this, but let me repeat it. Tax relief, $275 billion to working Americans and to small businesses. States will be helped. Policemen, teachers won't have to be laid off so that we can keep our communities safe and our children educated. Core investments in infrastructure. I know we'd like to do more in infrastructure. The sad news is it's tough to spend it quickly in the infrastructure field. We need to do more. We will do more.

Protecting vulnerable populations. People are in food lines historically long. People are unemployed in historic numbers. States are stretched with their Medicaid assistance to people who need health care.

In energy, we have all talked about energy independence. We had a big debate last year about energy independence and how to get there. This bill deals with energy independence and creating jobs in the course of getting to energy independence.

Health care, we all know JOHN MCCAIN talked about it in his campaign. Barack Obama talked about it in his campaign. Everybody knows that if we don't get soon to health care reform and health care progress, we won't be able to afford the kind of health care that Americans need and want accessible to them and their families.

Education, training, we're not going to be competitive in this world if we don't make sure our children are well educated. We're pricing young people and their families out of an education. We can't afford to do that or we won't compete with the Japanese, the Chinese, the Germans, the Indians, and others.

Mark Zandi, a former economic adviser to Senator MCCAIN's presidential election, found that ''the jobless rate will be more than 2 percentage points lower by the end of 2010 than without the fiscal stimulus.''

I'm sure almost every Member of the House could find something that he or she thinks should not be in here. I know I could. I know others could. Some people want more in, some people want less in. But, frankly, most of the economists I have talked to think

this is about the right mix. It may not be specifically what each wants but about the right mix between tax cuts and spending.

This legislation is a result of an honest, urgent effort to include the best ideas from economic experts from across the spectrum as well as both sides of the aisle. It's an effort that cannot become weighed down by bipartisanship or parochial interests. There are no earmarks in this bill. Overall, this plan contains what is widely viewed as the right mix of spending and tax cuts to spur our economy. It will include tax relief for 95 percent of working families; tax cuts for job-creating small businesses; projects to put Americans to work renewing our crumbling roads and bridges; and nutrition, unemployment, and health care assistance to those families who are being hit hardest by this recession.

This administration inherited the situation in which we find ourselves. The Democratic leadership tried to work with the Bush administration to get us out of it. Hopefully, we will continue to do that in a bipartisan fashion.

The Congressional Budget Office estimates that two-thirds of the recovery funds will be spent in the first 18 months, which means an immediate jolt to our economy. And we will continue working with President Obama to increase that number.

The CBO also estimates that if we pass this bill, by the end of next year, America will have up to 3.6 million more jobs, 3.6 million more Americans working and being able to support their families.

Besides creating jobs immediately, we will invest in new energy technology, upgrade our schools with 21 Century classrooms, and computerize health records to reduce costs and improve care.

All of those are investments that promise growth and savings in the years to come to ensure that our Nation does not slip back after bringing us out of recession, which is what this is designed to do. We don't want it to slip back. So we have medium-term investment as well as short-term investment.

Finally, we have included in the recovery plan unprecedented levels of accountability and transparency so we and our constituents will know that their tax dollars are being spent on getting us out of a rescission, not siphoned off to the politically connected. So there will be no earmarks or pet projects in this bill. The new Accountability and Transparency Board will be working to keep waste and fraud far away from this bill. And all of the plan's details, all, will be published online so that we and our constituents can track the success of these efforts to turn our economy back into the productive engine that it's been in the past.

I close the way I started. We worked in a bipartisan fashion with the Bush administration. When they saw a crisis, we responded. The majority of our Members supported the programs suggested, promoted by the Bush administration. We did so because we believed it was in the best interest of our country. We move on this bill because we believe it's in the best interest of our country.

So I ask all of us, Democrats and Republicans, but people who care about their country, their constituents, our families and our children, to join together. Lyndon Johnson said once, ''It's not difficult to do the right thing; it's difficult to know what the right thing is.'' We have worked together over the last months to try to come up with as close to the right thing as we can.

We urge all of the Members on this floor to vote for America, its people, its economic health. Support this legislation.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Chairman, this magnificent Capitol Building houses the greatest legislative bodies ever created in the history of humanity, which were created because of a terrible abuse of power in this Nation's history. And this legislation we are being asked to vote on today, this 647-page bill, represents one of the worst abuses of power I think that we've probably ever seen in the history of the Congress.

The legislative process has been terribly abused in the creation of this bill because in a short 15-day legislative period, a short 21 days, the new ruling majority of Congress has in a single bill spent more money than the entire annual budget of the United States. In a short 21-day period, with virtually no committee hearings and a hearing in the Appropriations Committee which lasted a matter of hours and a hearing in Ways and Means which lasted a matter of hours, they've created a bill which spends over $800 billion. In a period of 21 days, the new majority, this new President has spent about $1.5 trillion, in the first 21 days. That's the change America, unfortunately, has to look forward to.

We already face, Mr. Chairman, in this country an $11 trillion national debt, a $1.5 trillion deficit, about $60 trillion in unfunded liabilities. The most urgent question facing us as a Nation is how do we pay for this massive accumulation of debt? A debt-based economy, as my friend DENNIS KUCINICH said, who often votes on the other end of the spectrum but shares with me the concern I have for the debt we are passing on to our kids.

And it is utterly irresponsible, it is immensely destructive to the financial health of our Nation to govern in a way that shuts out the American people. Shutting out the minority doesn't mean shutting out a representative. It means shutting out the people we represent.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. Mr. Chairman, I yield the gentleman an additional minute.

Mr. CULBERSON. You're not shutting out JOHN CULBERSON or JERRY LEWIS or JACK KINGSTON. You're shutting out the 651,000 people that I represent. Every one of us has a job description as representative, an obligation to be accountable, open, responsive, transparent to our constituents. This legislative process works best when the American people are truly involved and have an opportunity to be educated and told what we are voting on. And this bill was written in secret by dedicated professional staff people but not with the involvement of the American people.

We have already been notified formally by Moody's that they're considering beginning the process of downgrading the AAA bond rating of the United States. And before you reach the merits of the bill, Mr. Chairman, we must remember the process that we all have a sacred obligation to preserve. The involvement, the advice, the input of the American people is essential.

I urge the majority to stand by their promise to be open, accountable, and transparent. Lay it all out there on the Internet for everyone to see. What are you afraid of? You've got the votes. Give the public a chance to be heard. Let them read the bill.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds.

We are on the Internet. That's all I would say to the gentleman.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. LARSON).

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Mr. LARSON of Connecticut. I thank the distinguished chairman for his incredible work bringing this legislation forward.

Last week, 2 million of our fellow citizens stood on our Nation's front lawn and brought their aspirations and hope as they listened to President Barack Obama. His message was clear and realistic and hopeful.

We face, as they do here in this Chamber this day, at this moment, a rendezvous with reality, the crushing reality of what the last 8 years has brought to our American citizens. Our budget deficits, trade deficits and debt have reached record levels.

Unemployment has reached its highest level in 15 years. On Monday of this week alone, 71,000 jobs were lost. Inflation is on the rise. States are facing enormous budget shortfalls and are being forced to cut services. My own home State of Connecticut is facing a $1 billion deficit just this year.

Our economy is in a deep, cavernous hole. Our climb out will be steep, but it will be steady, and it will take hard work and sacrifice that the President called upon, but it will also take innovation by the American people, an investment in this country that we are

making in putting forward here today in this package, this package, this effort. This work is for those citizens who are not concerned about 15 days, they are living moment to moment and counting on us as we face this daunting reality to bring recovery, investment and hope by redressing the reality that our constituents, who we are sworn to serve, face every day.

Mr. LEWIS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. I thank the chairman, and I wanted to respond to some of the comments that my Democrat friends have been making. Number one, we do want to work with them on this package. We met with President Obama yesterday to pledge our support of turning this economy around. We have offered a lot of good ideas, ideas that the House Democrats have not embraced as of yet, but we hope that they will, because we think President Obama and we made some progress yesterday.

One of the things we talked about is extending tax breaks for small businesses so that they can create more jobs. We think that is very important.

We talked about easing the credit crisis so people can go out and borrow money and make investments in new jobs. We also talked about housing, stabilizing the housing market so that people can become homeowners.

One of the things that's not in this package is also tax credits for small businesses to purchase health care for their employees. We think that would be very, very helpful. And also ending some of the unfunded mandates that are strapping our cities and local governments.

We believe we have a lot of good ideas. We are very disappointed that this committee, Appropriations, only had one hearing and we were shut out of some of the subsequent negotiation and crafting of this bill that we think could have been helpful to do on a bipartisan basis.

Now Mr. HOYER had talked about history and how stimulus bills work. Let's talk about the stimulus bills and let's talk about recent history. I don't need to go back to Ronald Reagan.

Last year, 2008, $29 billion for Bear Stearns, $168 billion for the other stimulus package we just passed in May, $200 billion for Fannie Mae bailout, $85 billion for AIG bailout, $700 billion for the TARP, the Wall Street bailout. If this kind of spending worked, we would be in great shape in our economy right now. But we keep throwing more and more money on the problem to the extent that this country now has a $10.6 trillion national debt.

In fact, the interest on this package alone, Mr. Chairman, will be $347 billion a year. And so this really isn't just an $825 billion package, this is a $1.1 trillion expenditure. Who is going to pay for it? Not people here today but our children and our children's children. We are digging a hole.

And where does this money come from? Three sources. You can tax people, and I can tell you the working man is taxed to death right now. And I am glad there is some tax relief in here for some people, but not tax relief for everybody in the middle-income bracket, which is what we desperately need. The second way we can do that is to print the money. We print money, and it just leads to inflation. Or we can borrow the money. Right now we owe foreign governments $3 trillion, China being the number one lender to us at 22 percent, followed by Japan and followed by Great Britain. We are digging a huge hole.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 1 additional minute.

Mr. KINGSTON. Let me say this. I do think there should be a balance of tax credits and a balance of public works spending in this bill, but it is sad that while the National Endowment For the Arts gets $50 million—I don't know what kind of job creation that's going to do—but $50 million, we only spend 7 percent on shovel-ready projects in the year 2009, only 7 percent, and total public work spending for roads, highways and bridges is about 13 percent.

We can do better, and I would like to work with the Democrats and the President, as would all the other Republicans, and try to make a better package than what we are looking at today.

Mr. OBEY. Mr. Chairman, I have only one remaining speaker, the Speaker herself.

The CHAIR. The gentleman from Wisconsin has the right to close.

Mr. LEWIS of California. Mr. Chairman, I have many people who want to speak on the bill, but they don't happen to be present, and I am very anxious to hear the close.

I yield back the balance of my time.

Mr. OBEY. I thank the gentleman for his cooperation, and I yield our remaining time to the distinguished Speaker, the gentlewoman from California.

Ms. PELOSI. I thank the gentleman for yielding and I thank him for his tremendous leadership.

Mr. Chairman, one week and one day ago our new President delivered a great inaugural address that offered hope to the American people and a new direction for our Nation. President Obama pledged ''action bold and swift, not only to create new jobs but to lay a new foundation for growth.''

Today we are passing historic legislation that honors the promises our new President made from the steps of the Capitol, promises to make the future better for our children and our grandchildren. Only 8 days after the President's address, this House will act boldly and swiftly—by passing the American Recovery and Reinvestment Act to create and save 3 million jobs by rebuilding America.

That is why the bill has the support of 146 eminent economists, including five Nobel Prize winners who, in a letter to Congress this week stated, and I quote, ''The plan proposes important investments that can start to overcome the Nation's damaging loss of jobs by saving or creating millions of jobs and put the United States back onto a sustainable long-term growth path.''

On the steps of the Capitol, President Obama pledged to ''build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together'' and to ''restore science to its rightful place, and wield technology's wonders to raise health care's quality and lower its cost.''

Today, we are acting swiftly and boldly to do just that. To assert America's role as a world leader in a competitive global economy, we are renewing America's investments in basic research and development, in health care IT and in deploying new technologies into the marketplace.

That is why this legislation has the support of more than 100 high-tech CEOs and business leaders who have endorsed these job-creating investments. As these innovative leaders expressed in their letter to Congress supporting this bill, and I quote, ''Investments in America's digital infrastructure will spur significant job creation in the immediate term. An investment of $40 billion in America's IT network infrastructure in 2009 will create more than 949,000 U.S. jobs, more than half of which will be in small businesses.''

Then President Obama pledged that we ''will harness the sun and the wind and the soil to fuel our cars and run our factories.'' Today we are acting swiftly and boldly to do just that. This act makes a historic, job-creating investment in clean, efficient, American energy. To put people back to work and reduce our dependence on foreign oil, we set the goal of doubling our renewable energy production and renovating public buildings to make them more energy efficient.

That is why the Apollo Alliance, a coalition of many, many groups committed to an energy independent future for our country and reversing climate change, has said that this package is ''big, bold and will serve as a down payment on long-neglected investments in a clean energy, good jobs, made-in-America economy.''

President Obama pledged to ''transform our schools and colleges and universities to meet the demands of a new age.'' The American Recovery and Renewal Act, which we are voting on today, will make bold investments to provide children with a 21st century education, create hundreds of thousands of jobs by investing in school and other infrastructure, make college more affordable and build a top-notch workforce trained for the jobs of the future. It's about the future.

That is why the Committee for Education Funding, another coalition, endorsed this bill saying, ''The package would retrain displaced and unemployed workers, create new jobs by

modernizing the country's classrooms, and increase America's competitiveness in the global economy.''

Education groups from across the spectrum and across the country, from the American Association of Community Colleges to the United States Student Association, support this bill.

President Obama pledged that ''those of us who manage the public's dollars will be held to account—to spend wisely, reform bad habits, and do our business in the light of day—because only then can we restore the vital trust between a people and their government.''

This act that we are passing today has unprecedented accountability measures built in, providing strong oversight, a historic degree of public transparency and no earmarks. That is why the National Governors Association strongly supports this legislation and our efforts to ensure that these investments are effective uses of tax dollars.

With the adoption of the bipartisan Platts-Van Hollen amendment today, a broad-ranging coalition of public interest groups say we have set ''a new standard of accountability and transparency by empowering Federal employees to call attention to waste, fraud, and abuse of tax dollars without fear of retaliation.''

As we know, my colleagues, last year 2.6 million Americans lost their jobs. Some say we are moving too quickly with this legislation. I say this legislation is long overdue. For all the time that we do not pass it, each month 500,000 Americans will lose their jobs. We simply cannot wait. And we say to the families of America who are affected by this, or fear to be, by this downturn in this economy, we are all in this together. The success of America is dependent upon the success of America's families. By investing in new jobs, science, innovation, energy and education, and doing so with strict accountability and fiscal responsibility, we are investing in America's families, which is the best guarantee for the success of our Nation.

My colleagues, the ship of state is difficult to turn, but that is what we must do, and that is what President Obama called upon us to do in his inaugural address, which I believe is a great blueprint for the future. With swift and bold action today, we are doing just that. We are moving the ship of state in a new direction in favor of the many, not the few. With this vote today, we are taking America in a new direction.

I thank all of my colleagues who worked so hard to make this legislation the great statement of values, principles and action that it is. I urge a ''yes'' vote from our colleagues. I look forward to working together in a bipartisan way as we go into the future in this new direction under the leadership of our new President, President Barack Obama.

Mr. GENE GREEN of Texas. I want to thank you, the rest of Leadership, and the chairmen of the committees that put this bill together for your work to create a package that will create jobs, invest in America's infrastructure needs, address pressing healthcare needs, and expand opportunities for education and worker training. I strongly support the provisions in the American Recovery and Reinvestment Act and urge my colleagues to join me in supporting it.

Our district and the surrounding areas in southeast Texas were devastated by Hurricane Ike last September. People are getting back on their feet, but there is still a significant need for additional federal funding. I would have liked to seen that included in this package as it is one of the most pressing recovery needs in our country, but since it was not, I hope it can be included in either in upcoming omnibus or supplemental appropriations bill.

In Texas we've seen the unemployment rate jump from 4.2% a year ago to 6% in December of 2008—the unemployment rate in the Houston-Baytown area is 5.5% and will likely only rise with the significant drop in the price of oil and refined product, and the impact that has on our energy sector jobs. It is important we invest in this sector and this legislation makes valuable contributions to diversify our nation's energy and environmental resources.

It makes critical improvements to the smart grid provisions established in the Energy Independence and Security Act of 2007 by eliminating the cap on the allowable number of smart grid demonstration projects and increasing the grant funding available for these efforts.

My hometown of Houston is a leader in moving toward smart grid solutions. Center Point Energy, a leading energy delivery company in Texas, will invest over $600 million in automatic metering systems, or AMS, over the next five years to support smart grid infrastructure. AMS technology is the first step in moving toward an automatic grid which will allow consumers to manage and monitor the electric use in real-time, reduce energy consumption, and improve grid reliability.

I also support Representative ED MARKEY's (D–MA) amendment to this section that will expand the protocols smart grid projects can use to obtain grants authorized in this bill.

I am also pleased with the increase in funding and changes to the Weatherization Assistance Program which will help low-income families make their homes more energy efficient, as well as the additional $1 billion provided for the Low-Income Home Energy Assistance Program (LIHEAP) that will help more Texans heat and cool their homes during these troubled economic times.

While I support the temporary Department of Energy loan guarantee program created under Section 5003 for renewable energy and electric transmission projects, I hope the Committee does not forget about the strategic importance of funding the larger DOE loan guarantee program so that other valuable projects can move forward that reduce carbon emissions and that employ new innovative technologies.

In addition to the extension of the renewable production tax credits, I also believe Congress should provide a long-term extension of the biodiesel blenders tax incentive to help this critical renewable energy industry. Houston is home to several biodiesel producers that directly or indirectly employ hundreds of workers in good-paying jobs, and over 50,000 jobs are currently supported by this industry nationwide. Without a long-term extension of this tax credit, producers are not able to provide the certainty required to bring in much needed capital for renewable energy projects. In addition to creating and sustaining jobs, the biodiesel industry helps our nation reduce greenhouse gas emissions and is developing next generation feedstocks such as algae that will further enhance our energy security.

Finally, I appreciate the inclusion of an additional $100 million for the National Estuary Program, which could help protect the Galveston Bay Estuary Program. Galveston Bay is a critical ecosystem home to an abundance of plant and animal species that are vital to our region's way of life and local economy. These funds can be used for such useful purposes as restoring wetlands or habitat restoration, and can be leveraged with public and private sector funds to generate large returns on investment. The Port of Houston Authority also actively participates and supports this key environmental program.

The legislation also makes significant investments in health care services and coverage in this country during these tough economic times.

Unfortunately, when individuals lose their jobs they often cannot afford medical care or COBRA premiums and often forgo treatment due to the cost.

AARA will provide COBRA premium assistance for 12 months for workers who have been involuntarily terminated and their families. COBRA premium assistance will allow individuals who would typically be unable to afford COBRA maintain coverage and obtain medical treatment.

States like my own have asked Congress for assistance with the States Federal Medical Assistance Percentage to help assist them the rising number of individuals needing Medicaid coverage. In order to avoid state deficits, many states may have to reduce their standards for Medicaid eligibility, which will actually increase the number of uninsured.

A temporary increase in FMAP funding until December 31, 2010 will help avert this potential problem and allow states to continue to provide Medicaid coverage to this uninsured population. The American Recovery and Reinvestment Bill of 2009 contains a 4.9% increase in FMAP for states. Texas, in particular, will benefit from an FMAP increase and the temporary formula and hold harmless provision.

AARA will also place a moratorium on 7 Medicaid regulations. My home state of Texas is affected by all seven of these cuts but most affected will be the payments for graduate education, Targeted Case Management Rule, Cost Limits to Public Providers, Coverage for Rehabilitation Services. These regulations would reduce funding to these valuable programs and leave states in a significant budgetary crisis.

AARA also provides valuable funding for Health Information Technology. We're all aware of the benefits that improved IT would bring the health care sector and the patients it serves. With integrated information technology, patients could manage their electronic health records and avoid having to haul multiple records to their various physicians.

If implemented correctly, Health IT can improve patient safety and garner cost savings.

The funds provided in AARA are an investment in the future of health care in this country. Providers will have to pay some up front costs to obtain the technology, but they will receive $40,000 to $60,000 in financial incentives for adopting interoperable health IT systems.

Another key component that this package contains provides an investment of critical funds into our state and local transportation agencies. This is the quickest way to create jobs immediately. The Texas Department of Transportation alone has 853 ''shovel-ready'' projects. One of these projects in my district will create 1200–1350 new engineering and construction jobs in the Houston area in the next ninety days. This is significant in an economy where thousands of job cuts are announced every day.

It is easy to make the case for an infusion of transportation dollars when our state departments of transportation have run out of money. However, some of my colleagues on the other side of the aisle are asking why we should invest billions of dollars in education around the country. The answer to this question is simple. Investing in our children's education is investing in our economic competitiveness.

When states came across hard fiscal times in the last year, education funding is typically one of the first areas where they cut back. Additionally, with the increase in foreclosures, property tax revenues are down and cities have also cut back on financing critical education services. If we do not invest in our children's education and give them an opportunity at a better economic future, then we are setting ourselves up even more federal spending on social services in the future.

By increasing the amount of the Pell Grant by $500, we give students across the country the financial help they need to get the certification or degree necessary to pursue and keep a job in this economy. By investing in Head Start, we are setting a whole generation of students on a path towards economic viability. Head Start has been proven to help close the achievement gap between students of differing socio-economic status across the country.

Finally, I am encouraged that this bill will lower the child tax credit eligibility level making it available to all working tax filers with children. This will help our constituents put food on the table and pay their essential bills as the cost of living continues to increase.

Mr. Chair, I again state my strong support for this package which will provide an immediate infusion of funding into shovel-ready projects, creating jobs and starting our economy on the road to recovery, and I urge all my colleagues to join me in supporting the American Recovery and Reinvestment Act.

Mrs. MALONEY. Mr. Chair, the current economic crisis requires bold solutions that address the enormity of our economic woes, and the American Recovery and Reinvestment Plan will do just that.

The $825 billion recovery package that we are voting on will create or save an estimated 4 million jobs and will make key investments in our future.

But first and foremost, the economic recovery package focuses on blunting the effects of the recession and helping families in need.

In addition to increasing food stamp benefits and expanding unemployment benefits, our plan protects health care coverage for roughly 20 million Americans during this recession by increasing the Federal Medicaid Assistance Percentage (FMAP) so that no state has to cut eligibility for Medicaid and SCHIP, the children's health insurance program, because of budget shortfalls.

For my home state of New York it more than doubles the FMAP match resulting in roughly $10.42 billion over 9 quarters. This is critical funding for our state which is seeing an increase in caseloads as a result of the recession.

The recovery plan also invests in important needs that have been neglected over the past eight years. America's school, roads, bridges, and water systems are in disrepair and this is creating a drag on economic growth.

Our plan will spread job creation out over the next two years, which will soften the downturn and foster a solid economic recovery.

We have an historic opportunity to make the investments necessary to modernize our public infrastructure, transition to a clean energy economy, and make us more competitive in the 21st century.

It's time to get our economy back on track. I urge my colleagues to support the American Recovery and Reinvestment Plan.

Mrs. LOWEY. Mr. Chair, I rise in support of H.R. 1, the American Recovery and Reinvestment Act of 2009.

In every part of our country, people are hurting from the economic downturn. Our nation lost 2.6 million jobs last year, and just this week major employers announced the elimination of 70,000 more. The need for bold and aggressive federal action is clear.

The American Recovery and Reinvestment Act will quickly stimulate the economy and create and save three to four million jobs in critical sectors of our economy like transportation and infrastructure, health information technology, and green energy. It will provide vital assistance to states like New York facing severe budget shortfalls and tax relief to 95 percent of Americans. In addition, critical support for education and health initiatives will bolster our economy in the short and long term. Unprecedented accountability measures will provide strong oversight and a historic degree of public transparency. I continue my work to support initiatives critical to New York like water treatment infrastructure and relief from the Alternative Minimum Tax.

I commend President Obama for his leadership through this process. Digging out of this economic hole will take time, and I am hopeful Congress will quickly approve a final economic recovery package for President Obama's signature.

Mr. Chair, I urge all of my colleagues to support this vital legislation.

Ms. ESHOO. Mr. Chair, the legislation before us today is the first step in an effort to pull our country out of an historic economic crisis. Credit markets are frozen, consumer purchasing power is in decline, and in the last four months we've lost nearly 2 million jobs, with another 3 to 5 million likely disappearing in the coming months.

At a 1959 campaign rally in Indianapolis John Kennedy said ''the Chinese use two brush strokes to write the word 'crisis'. One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger, but recognize the opportunity.''

The opportunity we have today is to make a down payment on research and innovation in our nation. We recognized this need in the Speaker's Innovation Agenda and President Obama's inaugural address noted the inventiveness of the American people and issued a call to ''dust ourselves off and begin the work to remake our country.'' A successful economic recovery plan must tap into the spirit of innovation that has driven our country since its founding.

This legislation does more than create jobs and stimulate the economy. It invests $6 billion in broadband grants to elevate us from 16th in the world in broadband quality, behind countries like Slovenia, Latvia, and Denmark. The country that invented the Internet should be #1. While I'm pleased that broadband funding is included in this package, we must do more and it must be more forward thinking.

The Recovery and Reinvestment bill invests $20 billion in Health Information Technology (HIT) to enhance patient safety, reduce medical errors, improve the quality of care, and importantly, reduce healthcare costs.

We live in the Information Age but healthcare, one of the most information-intensive segments of our economy, remains mired in a pen-and-paper past. We can buy airline tickets from a home computer, we can pay our income taxes online, and we can even buy a car with a few mouse clicks, but our healthcare system remains dangerously disconnected. Patient medical histories are largely disaggregated among various treating physicians and they are often inaccessible to a new doctor or even to the patients themselves.

These inefficiencies in the healthcare information system create unnecessary risks and costs. It's time to use technology to move toward a model of integrated care, focusing on overall health and not simply disease. Health IT promises to revolutionize the health care delivery system and have a powerful effect on enhancing patient safety, reducing medical errors, improving the quality of care, and reducing healthcare costs.

The recovery package also includes important building blocks for our path toward energy independence. I'm pleased the bill makes critical and sensible investments in our country by increasing funding and implementation of Smart Grid projects, promoting renewable energy research, and expanding the number of eligible participants in the Weatherization Assistance Program.

While millions of Americans are losing their jobs, and subsequently their health insurance, we are also helping people maintain coverage for themselves and their families. Subsidies for COBRA payments and increased Medicaid assistance to states will help keep people insured during this tumultuous time.

I'm proud to support the American Recovery and Reinvestment Bill and I urge my colleagues to do the same.

Mr. KANJORSKI. Mr. Chair, I rise today to offer my thoughts about H.R. 1, the American Recovery and Revitalization Act.

I regret that I cannot support the legislation in its current form. While I absolutely agree that we must stimulate our economy to help it recover from its troubled state, I am concerned that this bill does not represent an effective plan to ensure our economic recovery.

We face the most challenging economic crisis since the Great Depression, yet this bill merely throws money at the problem by ex-

panding existing programs. We have not taken the time to fully understand the nature and the full scope of the collapse of our economy, and so we have not taken the time to understand how to target the problems with innovative solutions. While I recognize the urgency of the situation, we would do better to follow the advice of an old civil engineer friend of mine who often cautioned that to do a job correctly, it is better to go slow in the planning to allow you to go fast in the implementation.

Just one example of the difficulty we will have in getting this money spent well was described in today's Washington Post, which quoted a state energy office director lamenting how he was going to have to figure out how to spend 35 times as much money as he normally gets in a year, using new funds allocated in this stimulus. Pennsylvania's own transportation department has indicated that its "shovel-ready" projects are not so ready that they can be started within the ninety days sought by Transportation Chairman OBERSTAR, who rightfully is seeking to expedite these funds to get spent as quickly as possible. Having dealt with publicly-financed projects for more than forty years, I can assure you that numerous federal, state and local regulations will provide numerous obstacles to getting this money spent both quickly and wisely. I sought to offer an amendment which would have allowed a waiver of many of these restrictions because—to the best of my knowledge—there is no provision in this bill to allow federal administrators to waive regulations under these extraordinary circumstances.

My Republican colleagues raise a reasonable objection that they were not fully included as the framework of this legislation was constructed. Perhaps I am one of the few Democrats who will acknowledge publicly that most Democrats were also not included. This is wrong. When undertaking the most significant and certainly most expensive program of my Congressional career and maybe in our Nation's history, it is vitally important that all Members of Congress first understand the problem we are addressing and then fully participate in determining how best to solve that problem. It has been my experience that the most successful policies are those which many minds have constructed.

In addition to Members of Congress fully understanding what we are trying to do and why, it is vitally important in a representative democracy for the American people to understand both the problem and the proposed solution. We rushed through the so-called TARP program without educating the American people, and they are convinced it was a bailout of Wall Street. I helped to draft the TARP program and voted for it because I believed that it was absolutely essential that we act immediately, despite the suspicions voiced by my constituents. The need for an economic stimulus is indeed urgent, but it is not so much of an emergency that we cannot afford to take the time to think so that we can do it right.

No piece of legislation is ever perfect; I recognize that compromise is always necessary to reflect the diverse interests of a country as heterogeneous as ours. Had we reached this bill through a more orderly, bipartisan basis, I very well may have cast my vote for it. I still hope that the Senate will make enough necessary corrections that I will be able to support a final version. Let me now highlight my substantive objections to this bill.

First, infrastructure projects were an initial focus of a recovery package, but that focus has dwindled to just $90 billion out of an $825 billion bill. For every $1 billion we spend in infrastructure, we create upwards of 30,000 jobs. It seems to me that this is a proven method of creating jobs and additional funds should be put towards this area of spending.

In addition, from my perspective, we need to focus more on helping those who are unemployed or retired. While many people are struggling, we must help those without jobs feed their families immediately. One of the major tax provisions of this bill is the $500 tax credit for individuals and $1,000 for couples. While this tax credit may provide relief to working families, it will not help individuals who are unemployed since the credit will be provided through a reduction in payroll taxes for workers.

Moreover, I am concerned about the disproportionate impact this bill will have. Without doubt, much of the funding will go to large urban areas, while areas like my Congressional District which are more rural, will receive much less funding, even though our unemployment rate is higher than the national average. Residents of my Congressional district are struggling just as much as those living in urban areas.

Finally, a recovery bill should include funding for localities. Many counties, cities and municipalities across the country are facing significant funding shortfalls as a result of the ongoing economic downturn. These budget shortfalls have resulted in local officials having to make difficult decisions about cutting jobs, reducing services, or raising taxes on their citizens.

That is why I offered an amendment to H.R. 1 to reinstate a General Revenue Sharing program. More than 30 years ago, as our country experienced another period of prolonged economic stress, we put in place a General Revenue Sharing grant program. Between 1972 and 1986, $83 billion was transferred from the federal government under this program. This funding provided localities with a needed source of revenue for undertaking job-creating infrastructure projects and maintaining public safety networks. I am disappointed that this amendment was not allowed under the rule.

In closing, I support a recovery package that creates jobs and builds our infrastructure. Americans and our economy are struggling and we must act to help them. But, I strongly believe that we can make improvements to this bill so it will be as effective and efficient as possible in restoring our economy and helping Americans.

Mr. Chair, I appreciate the opportunity to share my thoughts.

Ms. HARMAN. Mr. Chair, the American economy is foundering in some very troubled waters.

Business after business—including some of the biggest names in corporate America—is collapsing. Hundreds of thousands of Americans have lost their jobs in the last few months alone—more than 55,000 in just the last few days. The unemployment rate is skyrocketing, approaching levels not seen in generations.

Millions of Americans have lost their homes, and millions more may lose theirs as adjustable rate mortgages reset and the foreclosure crisis spreads. Lending has barely improved since the credit markets froze last fall, despite a $350 million (and soon to be $700 million) infusion of taxpayer funds.

California has been particularly hard hit. 523,624 Californians lost their homes last year—a five-fold increase from 2006 levels. The state is running a $42 billion budget deficit, and may have little alternative but to cut health and education funding to the bone. Los Angeles County alone is looking at a $173 million shortfall in health care funding next year—the amount it takes to keep the Harbor-UCLA Medical Center operating.

My constituents are hurting. Credit unions and small banks, which do much of the day-to-day lending that keeps communities functioning, have laid off hundreds of workers. Car dealerships that have been pillars of the community for decades are closing. Reductions in state funding are forcing school districts to consider drastic staff reductions.

In times like these, the federal government has an obligation to take swift, decisive action. The American Recovery and Reinvestment Act includes the stimulus needed at this perilous moment, and I intend to support it.

A few provisions of the bill stand out as particularly crucial.

This legislation includes nearly $200 billion to help states maintain essential health care and education programs. In California, these funds could be the vital lifeline that keeps hospitals operating, avoids the layoffs of thousands of teachers, and helps the state stave off bankruptcy.

The bill includes a $20 billion investment in the development of health information technology systems. Health IT will not only generate thousands of new high-paying jobs, it will reduce costs of providing care, help reduce errors, and provide a down-payment on the development of a universal health care system.

The bill includes $30 billion to help build a new clean energy infrastructure that will grow green jobs now and lay the foundation for long-term energy independence. The $11 billion investment to upgrade our electric grid is an especially crucial first step toward the deployment of energy efficiency programs, the widespread adoption of electric vehicles, and the transmission of energy produced by renewable sources.

The bill also makes a long-overdue investment in our nation's education system, with more than $150 billion going to Head Start, kindergarten, public elementary and secondary schools, and college programs. This spending—along with a renewed focus on performance standards and new, creative approaches to teaching—will help ensure that our children

have the skills to compete in the global economy in the years to come.

This is not a perfect bill. One can question whether some of this spending would be more appropriately considered in an ordinary appropriations bill, and whether a small uptick in paychecks caused by tax cuts will lead to much new spending. I hope that the bill can be improved as it moves through the legislative process.

But the package is, on the whole, worthy of support. It may not be the only step we must take to revitalize our economy, but it is a necessary one. I urge its swift passage.

Mr. REHBERG. Mr. Chair, while I'm going to vote against this particular version of the so-called stimulus package, doing so does not indicate that I don't support a real stimulus package that gives the economy an instantaneous jolt.

Nor does it mean that I am unwilling to work closely with my friends on the other side of the aisle in the spirit of bipartisanship that President Obama has urged us all to take.

We worked together and got Children's Health Insurance done. That issue, like this one, is important to Montana, and today I ask you to come to the table and listen to the ideas that people from Montana have to offer. It's what the President has asked us all to do.

Working separately, we will fail. Working together, we can accomplish more for the American people.

Mr. TANNER. Mr. Chair, our nation faces very grim challenges. Families in Tennessee and across the country are struggling to make ends meet, and thousands of workers are losing their jobs. There have been hundreds of job losses announced just this week in our district in West and Middle Tennessee.

It has become clear to many of us that inaction is not an option, and that we must work to help create jobs and rebuild our economy. The American Recovery and Reinvestment Act addresses the immediate economic concerns of the American people and specifically Tennesseans.

This legislation could create or save more than 63,000 jobs in our state by the end of next year, according to analysis from independent economist Mark Zandi of Moody's Economy.com.

More than 95 percent of Tennessee taxpayers will receive direct tax relief—$500 for single filers and $1000 for joint-filers—in 2009 and 2010 as a result of this bill. Many students and parents will be eligible for additional tax credits to help pay for college so students are prepared to enter the job market. Thousands of Tennesseans have lost their jobs in recent months, and the American Recovery and Reinvestment Act will ensure these hard-working men and women receive assistance while looking for new jobs.

To help create jobs, this legislation provides immediate tax cuts for Tennessee small businesses, including incentives to make the capital investments necessary for job growth. The bill allows employers unable to sustain their profits in today's difficult economic climate to recover some past tax payments to avoid closing their doors and laying off workers.

To further encourage job creation in our area, this legislation includes more than $760 million to invest in infrastructure in Tennessee, which could help us work on dozens of important economic development improvements in West and Middle Tennessee, such as road completions, bridge repairs and other transportation projects that fuel job creation and help us recruit new industry.

As we all know, high fuel prices over the past summer contributed in part to our economic downturn. This legislation includes energy tax credits and other provisions to help reduce our dependence on foreign oil sources—which many of us see as a national security issue—and diversify our country's energy sources to include alternative energy, such as wind, solar, biomass and geothermal energy. This investment in our long-term energy future will also provide immediate and much-needed jobs in construction and engineering.

Tennessee faces one of the largest budget deficits in our state's history, which will lead to drastic reductions in the level of service to state taxpayers, including possible cuts in the important economic development investments that help create jobs. This legislation will help our state meet some of those needs for Tennesseans. The bill also expands local cities' and counties' access to tax credit bonds for investments in schools, infrastructure, conservation and job training.

At the request of those of us in the fiscally conservative Blue Dog Coalition, this bill no longer includes some provisions that many of us felt were unrelated to the immediate needs of our country's economy. In particular, we insisted that the House remove language funding contraceptives and new sod on the National Mall outside the U.S. Capitol Building. These expenditures were clearly not related to short-term economic growth and did not need to be addressed in legislation designed to address immediate needs.

The Blue Dog Coalition also saw this dialogue as an opportunity to talk with the new Administration about our country's fiscal situation. We have been assured that President Obama shares our commitment to long-term fiscal reform and will work with us to weed out waste, fraud, abuse and mismanagement in federal government spending after our country has begun to overcome these most extraordinary challenges.

In a letter to Appropriations Committee Chairman DAVID OBEY and others, White House Office of Management and Budget Director Peter Orszag wrote that "[p]utting the country back on the path of fiscal responsibility will mean tough choices and difficult trade-offs, but for the long-term health of our economy, the President believes that they must be made." I look forward to talking more with President Obama about these shared goals.

I realize that no member of this body—myself included—will be entirely pleased with this bill as we are voting on it today. After some improvements I discussed before and much reflection, however, I have come to the conclusion that this House must take action to help the American people meet the financial challenges facing them. For that reason, I rise to support the American Recovery and Reinvestment Act and am optimistic that it will help save and create Tennessee jobs.

Mr. HONDA. Mr. Chair, I rise today in support of H.R. 1, the American Recovery and Reinvestment Act. I thank my Chairman, Mr. OBEY, for his hard work and the hard work of his staff on the Appropriations Committee's portion of the bill, and I thank the other committee chairs and staff for their work on the other portions of this bill.

This recovery package is the first crucial step in a concerted effort to create and save up to 4 million jobs and jumpstart our economy while transforming it for the 21st century.

As a former teacher and principal, I firmly believe that education is the key to our nation's future. H.R. 1 makes bold investments to provide children with a 21st century education, create hundreds of thousands of education related jobs, and build a top-notch workforce trained for jobs of the future. The bill includes $20 billion for school modernization, $79 billion in state fiscal relief to prevent the layoff of teachers and other cutbacks in education, $13 billion to help disadvantaged students reach high academic standards through Title I grants, and $13 billion to help special needs children succeed through IDEA special education grants.

I had suggested some specific ideas that could provide a significant "bang for our buck" and stimulate the economy in the short-term while also making a long-term investment in education, which unfortunately did not make it into the bill. In particular, I think there is value in the idea of prizes for educational innovation in areas of high need such as multimedia video lessons, individualized interactive learning software, rigorous assessments that measure critical thinking and problem solving, longitudinal data systems, and affordable portable computers. Small investments in prizes for achievements in each of these areas, $10 million for each for a total of $50 million, can leverage private contributions immediately and produce teaching tools that will be useful for years to come. I plan to continue to seek support for this and other novel approaches to education funding in the coming year.

As a representative from Silicon Valley, I am pleased that the bill renews America's investment in basic research and development and in deploying new technologies, including broadband internet access, into the marketplace. Internet connectivity is essential to giving everyone in America an equal chance to succeed. One particular area deserving attention as we move forward is the usefulness of broadband access for first responders. President Obama's inauguration was incident free because the Washington region's first responders had access to a dedicated wireless broadband network. Establishing similar systems around the country could generate jobs and enhance public safety.

Silicon Valley has been focusing an ever greater portion of its resources on developing clean, efficient, renewable energy solutions, and so I support the inclusion of investments and incentives for the development and deployment of both renewable energy and energy efficiency technologies. The steps we can take to help reduce our dependence on fossil fuels will both save people much needed money and put people to work. Some are as simple as installing attic insulation in insufficiently efficient homes, others are more technically advanced efforts to research and develop new energy technologies. I am glad this bill includes all of these.

I appreciate the inclusion of $300 million for Diesel Emissions Reduction Act programs. These grants and loans will put people to work retrofitting vehicles and manufacturing the needed equipment. Again, this is both a good government measure, in that it will help achieve clean air goals, and it is a temporary stimulative effort. My only regret is the bill

does not include even more funding—my state of California alone can make use of $1.6 billion. If there is an opportunity to increase the funding for DERA during conference, I would support that effort.

In Silicon Valley, we face many of the same transportation challenges as other communities across our nation—deteriorating roads and bridges, traffic congestion, limited transit capacity, and limited state and local funds that are keeping construction workers out of work. H.R. 1 will create more than 800,000 jobs nationwide through investment in transportation, with $30 billion for highway construction and additional funding for transit and rail to reduce traffic congestion.

In these difficult economic times, all Americans are worried about the rising cost of health care. H.R. 1 invests $20 billion in health information technology, which will bring Silicon Valley innovation to the health care field to cut red tape, prevent medical mistakes, and help reduce health care costs. As the saying goes, ''an ounce of prevention is worth a pound of cure,'' and this bill makes a real investment of $3 billion in prevention, which will help reduce health care spending, saving billions of dollars per year. I note that a few diseases are singled out in the bill, and I have some concerns that all of it could be taken up by HIV/AIDS programs, and look forward to working with Chairman OBEY and Secretary Daschle to ensure that some of the funding is available for the Division of Viral Hepatitis in CDC.

I would like to express my thanks to Chairman OBEY for including of $1 billion in sorely needed funding for the decennial census, particularly for the $150 million for expanded communications and outreach programs. Not only is this funding essential for good government, but it will put people to work right away in essential jobs. This funding is by definition temporary because the Census is a periodic effort, so it meets all the criteria for an economic stimulus.

Finally, I would like to highlight an area that is at the core of our current economic crisis, housing affordability and the freeze up of the credit markets. Well meaning efforts to develop affordable housing are currently facing significant challenges in getting started because they cannot find financing in today's credit markets. The Ways and Means Committee has included some provisions related to the Low Income Housing Tax Credit programs in the bill, including a grant program to help fill the capital gap and get construction on these projects started. I support the inclusion of appropriations for this grant program to the level needed so that these tax credits can provide the benefit they were designed to deliver.

Again, I thank Chairman OBEY, Chairman RANGEL, Chairman WAXMAN, and all of the other committee chairs and their staff for their hard work on this legislation and their efforts to help all those across our nation who desperately need the programs included in this bill and who are calling upon us to return our nation's economy return to health.

Mr. YOUNG of Florida. Mr. Chair, I rise to express my concerns about H.R. 1, the American Recovery and Reinvestment Act of 2009. They are concerns about its cost, estimated at more than $1.1 trillion; its ability to really create jobs stimulate our economy; and about the procedure with which it was written and brought before this House.

The Congressional Budget Office estimates the cost of this legislation at $815 billion. But that is before we factor in the cost of the interest payments—totaling $347 billion over the next 10 years—that Americans will incur to finance this, the largest spending bill every brought before Congress.

And what do we get for our ''investment?'' Nobody knows how many jobs, if any, this legislation will create. The Congressional Budget Office estimates that only 15 percent of the spending in this bill will even take place between now and the end of the fiscal year on September 30th. The agency further estimates that by the end of the next fiscal year on September 30, 2010 that just half of the funds provided in this legislation will be expended. One can only wonder how this legislation, with the intended goal of creating sustainable jobs, can do so with such a slow obligation of funds.

Instead, this legislation puts our nation on the hook by creating 32 new programs totaling some $137 billion. This includes a $79 billion State Fiscal Stabilization Fund at the Department of Education which the State of Florida I represent and our public schools and their students will not even qualify for because of the complicated formula under which the funds will be given to the states.

How many jobs will these new programs create? How would the money be spent? Who would receive the money? These are all questions I would have asked if our Appropriations Committee, which has the responsibility of overseeing discretionary spending, had ever held a single hearing on these programs. The truth is, none of our subcommittees ever held a hearing on any of the programs in this bill. This legislation was drafted by a small handful of members with little if any input from Republican members of this House.

President Obama met with the Republican members of the House Tuesday to ask for bipartisan support for this stimulus legislation. Instead, I sense there is bipartisan opposition to the process under which we consider this legislation. Democrats and Republicans alike are on record as saying we should slow down the process and do it right.

We need only look back four months ago to the way in which the House and Senate handled the $700 billion financial bailout to see what happens when we act in haste, with little deliberation, and virtually no input from the members of Congress. We wind up with wasteful federal programs, managed by government bureaucrats, with little or no oversight, and with few if any positive results.

Last year, we considered legislation to help individual homeowners with their mortgages. I supported that bill, because it tried to help people keep their homes. Last October, we considered legislation to bailout the financial industry and financial executives. I voted against that legislation twice because it was a $700 billion mistake that did not help people. Now we are on the verge of repeating that mistake with a new $815 billion bailout that likewise does little to help people get back on their feet and find work.

Mr. Chair, no one in this chamber would deny that our nation faces unprecedented economic challenges in the days and months ahead. Many of my colleagues in this House who oppose this legislation want to provide help to get Americans back to work. But we want to do it the right way without driving our nation further into the economic doldrums and passing the debt on to our children and our grandchildren.

We also want to do so in a fiscally responsible manner. The Congressional Budget Office, in its analysis of this legislation, concluded that ''federal agencies, along with states and other recipients of that funding, would find it difficult to properly manage and oversee a rapid expansion of existing programs so as to expend the added funds as quickly as they expend the resources provided for their ongoing programs.''

Let us heed the calling of the American people last November 4th. They asked us to put the elections and politics behind us and start working together to solve America's problems. President Obama came to Congress this week to ask for our help. But we cannot help if we do not have any input. We cannot help if we have no committee hearings. We cannot help if our subcommittees do not have a hand in writing this legislation. And we cannot help if we have little opportunity to amend this bill when it is brought before the House. No legislation is perfect, let alone one that will spend $815 billion and create 32 new programs.

Mr. Chair, let us vote down this legislation to send it back to the committees and signal that the American people demand a thoughtful and deliberative process in deciding how to spend their hard earned dollars. This is their money, not ours, and we have the responsibility to be good stewards of it.

Mr. ETHERIDGE. Mr. Chair, I rise in support of H.R. 1, American Recovery and Reinvestment Act of 2009. This package will stimulate our economy, provide relief to struggling individuals and small businesses, and create 3 to 4 million desperately needed jobs across our country.

As of last week, the unemployment rate in my state of North Carolina had jumped to 8.7 percent, the highest mark in a quarter century. Each week, we hear more bad news about employment, with North Carolina reporting nearly 16,000 new claims in the last week. A record of almost 400,000 North Carolinians are currently unemployed but seeking work. These rates are rising all across our country while Americans continue to face a faltering economy. In addition to the unemployed, there are many who still have jobs but have seen wages or hours cut. I have heard from North Carolinians from across the Second District about the urgent need for action. H.R. 1 addresses the need through strategic investments that will create new jobs and provide tax relief for 95 percent of Americans.

As the former Superintendant of Schools in North Carolina, I am especially pleased that this recovery bill invests in our future by focusing on education. I am pleased that H.R. 1 includes the America's Better Classrooms Act which provides tax credits to enable $25 billion in school construction and modernization, an initiative I have been working on with my colleagues for 12 years now. Along with $20 billion in grant funding, these tax credits will enable local communities to address overcrowding and deteriorating classrooms and make sure that students have facilities that prepare them to enter the 21st Century workforce. The tax credits will create 10,000 jobs in North Carolina alone. In addition, H.R. 1 provides $21 billion for local school districts for IDEA and education technology programs, as well as $79 billion in state fiscal relief to prevent cutbacks to key services including education, a $500 increase to Pell Grants, and a new tax credit to help students pay for higher education costs.

H.R. 1 will put Americans back to work with strategic investments to create 3 to 4 million jobs. This bill primes the economic pump by investing in many of our top priorities. H.R. 1 provides billions of dollars to targeted infrastructure projects like new schools, improved bridges and roads, modernized public buildings, and expanded mass transit. These projects will create thousands of jobs while helping to bring our nation's infrastructure into the 21st Century.

H.R. 1 also helps our economy by investing heavily in alternative and environmentally-friendly energy, like the biofuels we grow and produce in North Carolina. In addition to the expansion of energy tax provisions like the Production Tax Credit and Clean Renewable Energy Bonds, this bill provides over $30 billion for transforming our energy distribution and production systems and focuses on renewable energy and technology. H.R. 1 also provides funds for energy efficient retrofitting of public housing and buildings and weatherizing homes. These initiatives boost a critical sector of our slumping economy and lessen our dependence on foreign oil.

As a Member of the Ways and Means Committee, I am especially proud of the many tax provisions included in H.R. 1 that will provide immediate and much-needed relief to millions of Americans. In fact, 95 percent of Americans will receive tax relief that will show up directly in their weekly paycheck through reduced withholding. The ''Making Work Pay'' provision in this recovery package will result in a refundable tax credit of up to $500 for working individuals and $1000 for married couples. This bill also extends and expands critical tax breaks like the Earned Income Tax Credit and the child credit that target working Americans. These provisions of provide relief to low and middle income families while also putting dollars back into the economy to support business activity. H.R. 1 also provides tax relief to the many small businesses that form the backbone of our economy. This recovery package extends bonus depreciation for small businesses, allowing them to write-off more capital expenses made through 2009. It also includes 5-year carryback of net operating losses which extends the period of time businesses can use to minimize their tax liability. Finally, H.R. 1 creates new bond initiatives that provide for the recovery of cash-strapped state and local governments and targets new bonds for the economic recovery zones across the country that need the funding the most.

This is a bold package that creates jobs, spurs economic growth, and provides relief to millions of struggling Americans. I support H.R. 1, American Recovery and Reinvestment Act of 2009, and I urge my colleagues to join me in voting for its passage.

Mr. DICKS. Mr. Chair, the arts community in America not only represents a tremendous cultural resource, it also serves to create jobs in local communities all across our nation, an important factor as we consider federal efforts to revive our economy. While some of my colleagues may still not realize the significant number of people who are employed directly and indirectly by the arts community in their congressional districts, I have been encouraged by the vibrant debates we have had in the House in recent years that have helped to broaden the recognition of the arts sector as a major contributor to the economic health of our nation. I have participated in all of those debates regarding the budget for the National Endowment for the Arts, and I am proud that the margin of support for the NEA has been steadily increasing. One of the key factors in increasing that margin has been the activism of the arts community in stressing the economic impact of local arts programming and the jobs created through the growth and development of museums, musical productions, dance, theater and public art projects. In these debates it has been emphasized that each dollar the federal government provides to NEA leverages another seven dollars in private contributions, which in turn generate substantial investment in local communities.

The NEA portion of this economic stimulus legislation will fund small grants to non-profit arts agencies that have been especially hard hit by the economic crisis. The bill specifies that $50 million is "to be distributed to projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support." These funds are distributed either through formula grants to the states or through the established competitive review system at the NEA.

The non-profit arts sector includes local theaters, opera companies, orchestras, and other visual arts and music programs. These programs play a vital role in all of our cities and towns, representing an economic force with annual revenues estimated at more than $166 billion, supporting 5.7 million jobs. This activity results in billions of dollars in tax revenue on the local, state and federal levels. In the District I represent in the State of Washington, the latest study conducted by Americans for the Arts found that there were 1,626 arts-related businesses which employ 4,646 people.

Unfortunately it is a sector of the economy which has been inordinately impacted by the severe economic downturn we have been experiencing in this past year. Beyond ticket sales and admissions revenues, this sector is heavily dependent on philanthropic contributions and on local government support. The downturn in the stock market during the last year and the large declines in local and state revenues have resulted in large cutbacks in both of these sources of funding, and the result has been disastrous for many of our nation's arts agencies and programs.

We see tragic examples of how the economic crisis has impacted the arts sector on a regular basis. A few examples of this growing problem include:

The Baltimore Opera Company has filed for Chapter 11 bankruptcy and reduced its performance schedule.

State support has been reduced for cultural agencies with Florida reporting a 52 percent reduction, South Carolina 25 percent and New Jersey by 22 percent.

The Pasadena Symphony has curtailed its season due to budget circumstances.

And large businesses such as General Motors have significantly reduced philanthropy for the arts. In Detroit alone this reduction has had a very negative impact on the Michigan Opera Theater, the Detroit Music Hall for Performing Arts and the Detroit Symphony.

The amount in this bill is intended to provide small grants to try to restore some of the jobs which have been lost in the arts communities over the past year. I believe it's the right thing to do . . . it is absolutely critical to maintain these vital programs during times of personal and economic crisis in our nation. In addition to retaining jobs, these funds will support programs which provide entertainment and richness in the lives of our communities at a time when they are badly needed. In the context of this large economic stimulus legislation, I believe this is a prudent investment, and that it will contribute measurably to restoring the fiscal health of our nation.

I also want to insert an article that questions whether the stimulus package includes $300,000 for a sculpture garden.

DOES THE STIMULUS PACKAGE REALLY INCLUDE $300,000 FOR A SCULPTURE GARDEN?

As part of their attack on the Democratic-led $835 billion economic stimulus package, some Republicans have attempted to discredit the plan by singling out examples of what they consider the most outrageous spending.

In an interview with Fox News on Jan. 23, 2009, Rep. Eric Cantor, the House Republican Whip, said that in a meeting with President Obama, Cantor asked if he ''could use his influence on this process to try and get the pork barrel spending out of the bill. I mean, there's $300,000 for a sculpture garden in Miami.''

But do a word search on ''sculpture'' in the 647-page stimulus bill now before the House and you'll come up blank. That's because it's not in there.

So we asked Cantor's office where he came up with it.

Here's how spokesman Neil Bradley explained it: The House stimulus bill includes $50 million for the National Endowment for the Arts. The bill states that the money would 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.''

It's the lack of detail that particularly bothers Cantor, Bradley said.

''We don't know what they're going to spend it on,'' Bradley said. ''There is no direction to the NEA on how to spend it.''

So to give people an idea of how the NEA spends its money, Cantor's staff looked at some recent grants awarded by the NEA.

And in 2008, the NEA gave $300,000 to the Vizcaya Museum and Gardens in Miami to restore an outdoor statuary. The Vizcaya estate is one of the country's most intact remaining examples from the American Renaissance, a period when the very wealthy built estates to look European. The $300,000 grant was to help restore some of the outdoor sculptures—statues, urns and fountains—that had been severely deteriorating due to South Florida's salty, damp and subtropical climate, not to mention the hurricanes.

But again, this was an NEA grant from last year. It is not in the proposed $835 billion stimulus package that is being pushed by President Obama and congressional Democrats. In fact, because the sculpture garden's money's already been granted, it's probably pretty safe to say that this is one project that specifically won't be part of the spending.

We get the Cantor camp's argument that there are no specific projects tied to the funding in the proposed NEA allotment. When all is said and done, there may very well be plenty of NEA projects that some find objectionable or wasteful. This just isn't one of them.

Kirstin Brost, a spokeswoman for Rep. Dave Obey, (D–Wis.), House Appropriations Committee Chairman, defended the proposed funding to the NEA.

''Artists need jobs just like everyone else,'' Brost said. ''Fifty million out of $825 billion

doesn't seem like an extreme amount to support our artists.''

The bottom line here is that Cantor specifically identified the sculpture garden as part of the stimulus package when it just isn't—which his staff acknowledges. And he has made that false claim repeatedly. He was quoted saying something similar in a Richmond newspaper.

That's not just sculpting the facts. That's Pants on Fire wrong.

Ms. KILPATRICK of Michigan. Mr. Chair, the people of the 13th Congressional District of Michigan, the State of Michigan, and our nation voted for change. Perhaps more importantly, they want HOPE. The American Recovery and Reinvestment Act of 2009 is a beginning, a down payment, on turning around eight years worth of mismanagement, misunderstanding, and missed opportunities with the people's purse. This bill, which will soon be signed into law, is a bold, aggressive investment in Americans and American industry. I enthusiastically and emphatically endorse and support this bill and hope that the collective wisdom of Congress ensures its quick passage.

Investing in our nation's infrastructure not only rebuilds the bridges, sewers, railroads, streets, avenues, and buildings of our nation, but it also delivers employment and development opportunities. We must provide help, healing, and hope to America's urban and rural communities, communities that have lost more than 1½ million jobs since November of 2008. Every billion dollars of investment in our nation's infrastructure will create 30,000 jobs. Generating these jobs will provide cities and counties with tax revenues that will help ensure police officers, teachers, firefighters, and others have the resources they need to work together to stabilize our communities. These funds will also make our rail, highways, roads, bridges, water, and electrical grid more flexible and accessible to local officials and more affordable and reliable for our nation's senior citizens and families. This new stimulus package includes several important components valuable to families, businesses, and state and local elected officials.

This bill has no earmarks and it is not a perfect bill. I would have preferred a newer version of the Comprehensive Employment Training Act (CETA) that provided so many jobs to so many people in the late 1980s. I hoped for stronger ''Buy American'' language for our automobile manufacturers and steel, concrete, asphalt, and aggregate suppliers. As Congress moves forward, I will continue to fight for these programs. However, this bill is a down payment to the American people and American business.

This bill contains an increase in the Food Stamp Program, the most efficient and effective economic stimulus of all. According to the Center on Budget and Policy Priorities, ''food stamps are one of the most effective forms of economic stimulus because low-income individuals generally spend their available resources on meeting their daily needs, such as shelter, food, and transportation. Therefore, every dollar in food stamps that a low-income family receives enables the family to spend an additional dollar on food or other items. USDA research has found that $1 in food stamps generates $1.84 in total economic activity.'' With 37 million Americans living in poverty and 250,000 homeless veterans sleeping in our streets, Congress' increase in the Food Stamp program means very simply that people will be able to eat.

Today, the unemployment rate in many cities is over than eight percent. The American Recovery and Reinvestment Act focuses on addressing the needs of those who need assistance most by supporting initiatives that will create jobs, keep families in their homes, and provide all Americans with access to healthcare and higher education.

The bill contains an increase in The Supplemental Security Income (SSI) program. This program, which provides basic income support to poor elderly individuals and people with disabilities, is so desperately needed by our seniors and those with physical or mental challenges. How is this an economic stimulus? Again, according to the Center on Budget and Policy Priorities, ''because the beneficiaries of this payment have very low incomes, they are likely to spend the additional payment quickly, thereby providing effective stimulus.''

The Emergency Shelter Grant program, administered by HUD, provides formula grants to states and municipalities that may be used for homelessness prevention, emergency shelters, and street outreach. Twenty-five percent of the funds go to states; the rest go to our cities and counties. These grants are desperately needed in Michigan, a state with one of the highest rates of home foreclosure in our nation. These grants directly help families avoid homelessness, pay overdue rent or utility bills, and relocate into new apartments and homes. These funds are typically spent very, very quickly, therefore boosting the local economy. The Workforce Investment Act (WIA) provides funds to cities and counties for job training and employment services for dislocated workers, youth, and adults.

This bill contains $300 billion worth of tax cuts that will enable businesses to hire employees. It extends bonus depreciation that allows businesses to recover the cost of capital expenditures over time according to a depreciation schedule. This measure also extends [expands] small business expensing, which helps small businesses quickly recover the cost of specific capital expenses by choosing to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Most importantly, the bill has a tax cut that promotes the hiring of unemployed veterans and disconnected youth. Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: unemployed veterans and disconnected youth. Furthermore, ninety-five percent of all Americans will receive a tax break because of this bill.

This bill gives local elected leaders authority to oversee and administer the distribution of contracts, jobs, and funds. Local officials, particularly mayors and county executives, face severe and significant financial constraints as they try to resolve issues plaguing their communities. Congress has determined that a significant portion of the stimulus funds must remain in the hands of local government officials to ensure that we support people who need jobs and businesses that need contracting opportunities.

This bill allows small businesses and businesses owned by women and minorities to be able to compete fairly for contracts as primary contractors as we rebuild our country. Too often, these businesses are entirely excluded from the process or awarded smaller subcontracts by larger companies that receive the majority of the contracts. Qualified minority- and women-owned businesses must receive opportunities to compete and become primary contractors where possible. This bill does that. I am proud that this bill includes specific provisions that will ensure that qualified minority- and women-owned businesses will be able to compete and win.

Furthermore, we must promote green jobs, which are the future of our cities, counties, and states. We must explore renewable sources of energy, including wind, solar, biomass, and geothermal energy. We obtain more than 70% of the oil that we use from foreign sources; to ensure our protection, we must become more energy independent. By retrofitting buildings so that they are energy-efficient, developing ''smart'' electric grids, and extending local and state commuter rail, mass transit, and freight railroads, we can create an additional two million jobs, according to the Center for American Progress. We can also preserve the planet for future generations, which will strengthen national security. I am proud to have helped to lead the fight for Advanced Battery technology funding that will preserve American jobs in Michigan for the Big Three. I am also proud of the fact that this bill includes funding that will rebuild and retrofit our nation's public schools using green technology and American steel and iron.

Finally, we must make sure that 100% of the stimulus plan dollars uses American steel, lumber, electronics, cement, asphalt, and other materials, services, and workers. This will stimulate the growth and development of American companies and industries. This uniquely American investment in our people and products will rebuild our nation, revitalize our communities, renew our spirit, offer financial support to cities, and put unemployed people back to work. While the ''Buy American'' provisions in this bill are a good start, I will continue to work during the 111th Congress for even stronger provisions that ensure that American automobiles are used at American embassies throughout the world, that American steel and iron is poured for our bridges and buildings, and that Americans get the jobs that are fueled with American tax dollars.

I am proud to serve the people of the 13th Congressional District and the entire State of Michigan as part of this historic 111th Congress. We must use this moment to generate the momentum needed to improve America's infrastructure. We must increase contracting opportunities to local businesses, stimulate financial investments that will create jobs for local citizens, and give hope to all Americans as we rebuild America together.

The American Recovery and Reinvestment Act is a timely, targeted, and tremendous first step as Congress works to right the fiscal follies of the past eight years. This bill is not the conclusion, but the beginning, of the hope, change, and challenge that our President, Barack Obama, illustrated in his Inauguration Address a little more than a week ago. Congress must pass this bill so that we can preserve a future not only for ourselves, but for

our children and our children's children. America has not been at such an economic precipice, and Congress has not had such an economic challenge since the Great Depression. In the past three months, almost two million jobs have been lost; the stock market continues its downward death spiral; food banks cannot keep up with the demand from homeless families, seniors, and children; home foreclosures are skyrocketing; and more importantly, the American people demand results. As the Bible says, and the President stated in his Inauguration Address, it is time for us—Congress and Americans—to put away childish things. It is time for Congress to pass the American Recovery and Reinvestment Act of 2009.

Mr. POSEY. Mr. Chair, we have before us an $825 billion bill (H.R. 1). With a figure this large it is a little hard to get our hands around how much this is. One way to look at it is that it amounts to spending $7,052 for every family in America. Looked at another way this is enough money to pay for four years of college tuition to a private college for every senior graduating from high school this year and next and still have $150 billion left over. $825 billion is larger than the economies of all but 10% of the countries in the world.

As we consider this level of spending we must view it in the context of our current out of control federal spending. Just three weeks ago, the non-partisan Congressional Budget Office (CBO) projected that the federal government will have a $1.2 trillion deficit this year. This amounts to 8.3% of the Gross Domestic Product (GDP) which is far higher than the pervious record of 5.9% set in 1934 at the height of the Great Depression. In 2009, one out of every three dollars that the federal government will spend will be borrowed and our grandchildren will be stuck with the bill. And these figures do not even factor in the $825 billion in this bill. No country has ever borrowed and spent its way into prosperity, which is what this bill proposes to do. Adding further to this deficit as this bill does is unthinkable.

I appreciate the frankness of my Democrat Chairman, Rep. KANJORSKI (D–PA) who said of his own party "I think we've lost our way. . . ." He went on to add, "I think, to a large extent, many of the parts of the stimulus are programs that are going to take years and years and years to accomplish . . ."

After examining the bill and CBO's analysis, I couldn't agree more with my colleague. In fact, CBO estimates that only 7% of the "stimulus" will be spent in 2009. They report that only 38% of the stimulus money will be spent in the first 2 years, leaving over 60% to be spent three or more years down the road. In fact $3 billion will not be spent until 2019—ten years from now. How does spending money ten years from now or even three years from now stimulate the economy today? Clearly, those writing this bill in the Speaker's office are out of control.

We were told that a stimulus should focus on "shovel-ready" initiatives that are ready to go. But less than 4% of the total cost of this legislation consists of highway projects.

This bill includes $5 billion for the Public Housing Capital Fund. Yet, this fund already has an unspent balance of $7 billion. H.R. 1 also appropriates $1 billion for Community Development Block Grant program, yet this program currently has $23 billion in unspent funds. Why is this Congress adding spending to these cash rich accounts? If they were serious about stimulating the economy Congress should simply make them spend the money they already have. H.R. 1 takes steps to rollback provisions aimed at stopping ACORN—a group charged with voter fraud—from getting federal housing funds. Some of the spending is this bill parading as stimulus—like family planning spending—has little to do with stimulating the economy and more to do with opening the U.S. Treasury to political allies.

I am concerned that this bill has welfare payments parading as tax cuts. Tax cuts are supposed to go to those who pay taxes. H.R. 1 proposes to provide $145 billion in tax cuts for working families. However, on closer inspection we find out that $45 billion of what is labeled as a tax cut is instead a payment from the U.S. taxpayers to those who do not pay taxes. Furthermore, the bill increases the refundability of the child tax credit by $18 billion—increasing the child tax credit payment to those who don't pay taxes.

Let me also say that I appreciate all of the talk about the need to work together in a bipartisan fashion. I was pleased that several Republican amendments were adopted when portions of this bill were considered in several Congressional Committees. I was deeply disappointed that a number of the Republican Amendments disappeared from the bill between the time it was passed in committee and brought to the House floor for a vote. Bipartisanship is supposed to be a two-way street, not simply a demand to show bipartisanship by accepting the Speakers bill.

If we really want to stimulate the economy we should focus on what actually creates jobs in the country—small businesses. Small businesses create 70% of the new jobs in America. Unfortunately, this bill does virtually nothing to help small businesses.

I will be voting against the speaker's bill and in support of the Republican substitute. The bill that I am voting for will lower the 10% tax rate to 5% and the 15% tax rate to $10%. This will give all taxpaying Americans a tax cut. It will leave money in their pockets that they can use it to meet their own family expenses. We include small business tax relief, including a provision allowing small businesses to write off up to $250,000 in capital expenditures. We extend unemployment benefits through 2009 and we exempt these payments from income taxes. We also include other job-creating provisions and we do so without raising anyone's taxes. I have also cosponsored legislation that would reduce the 28% tax rate to 23%. This will cut taxes for individual and job-creating small businesses.

Lower taxes, not higher borrowing, spending and debt will put our economy back on track. I urge my colleagues to vote for lower taxes and against higher spending and debt.

Mr. BACA. Mr. Chair, I rise today to voice my strong support for H.R. 1, The American Recovery and Reinvestment Act.

The United States is in the middle of its worst economic crisis in a generation.

In my district, in the Inland Empire of California—we have the fifth highest rate of foreclosures in the nation; and the unemployment rate has soared above 10%.

Too many working families are caught in this economic tsunami;

Everyday that we sit by and do nothing—more families are losing their jobs, their homes, and their piece of the American Dream.

We must act boldly, and we must act quickly.

H.R. 1 contains the right mix of targeted government spending; and tax cuts to American workers and business—that will create 4 million jobs and get our economy moving again!

As Chairman of the Agriculture Subcommittee on nutrition—I am especially pleased that the stimulus package includes a $20 billion increase in SNAP funding.

This will help to put additional food on the table for over 30 million hungry people!

It will also immediately stimulate our economy. USDA economists estimate that this increase will result in $36 billion in new economic activity.

I urge my colleagues to support struggling families—and not sit idly by in this time of crisis. Vote yes on H.R. 1.

Mr. STARK. Mr. Chair, I rise in support of H.R. 1, the "American Recovery and Reinvestment Act of 2009."

American families are facing dire economic conditions. In my state of California, unemployment is nearing 10% and tens of thousands of families are losing their homes each month. Nationwide, family budgets and state budgets are stretched to the breaking point. Parents are forced to decide whether to pay for health care or the utility bill, while school districts contemplate laying-off teachers and state welfare and Medicaid caseloads expand. This crisis demands bold action to get people working again, strengthen our safety net, and build infrastructure for the 21st Century.

I am not a proponent of all of the provisions in this bill—especially the ill-conceived corporate tax breaks that will do nothing to create jobs or jump-start our economy. The good, however, greatly outweighs the bad.

Among the good, I count the necessary spending to bolster state Medicaid, Unemployment Insurance and Food Stamps programs. Economists tell us that these steps are some of the most effective ways to stimulate the economy. These provisions allow resources to go directly to individuals who have been hurt by the recession and to bolster weakened state budgets.

This package will also create jobs right away by funding "shovel ready" projects to improve mass transit, rebuild bridges and roads, modernize our water systems, retrofit energy inefficient buildings, and create a clean energy infrastructure.

To ensure that our children are ready to compete in a global economy, this legislation makes bold investments in education. These investments include funding for school modernization, an expansion of the successful Early Head Start program, child care assistance for an additional 300,000 children, increased Pell Grants and refundable education tax credits for college students, and a State Fiscal Stabilization Fund to prevent teacher layoffs.

As Chairman of the Ways and Means Health Subcommittee, I am most excited about the health components we've included in this legislation. When President Obama signs this bill, he will do more to advance the cause of repairing our broken health system than the previous Administration did in eight long years.

By investing $20 billion in health information technology, this act puts us on a path to a modern health care delivery system that improves patient outcomes, increases provider

efficiency, and decreases the cost of health care for all. In fact, the Congressional Budget Office tells us that this bill will incentivize 90% of America's doctors and 70% of hospitals to adopt electronic health records—resulting in lower health costs for both the public and private sectors.

I have received letters in support of this section from groups that include the American Hospital Association, Families USA, Health Care for America Now, the Healthcare Leadership Council, Information Technology Association of America, the Coalition for Patient Privacy, and many others. For example, Dr. John Halamka, Dean of Technology at Harvard Medical School recently wrote about this legislation that: ''With appropriate policies and requirements to implement Interoperable, certified EHRs, the dream of a fully electronic healthcare system in the US will move forward more in the next few years than in my entire career to date.''

Not only will this investment in health IT improve our health care system, but it will create high tech jobs for those who develop, train, and utilize the software—one study estimates that 30,000 jobs will be created for every $1 billion spent.

I am proud of the work that has gone into the health IT portion of this bill to invest in modernizing our health system, and I am excited about the enormous advantage this gives us as we move later this year to reform our health care system to cover everyone in America.

This bill also takes important steps to protect the health insurance of workers who have lost their jobs due to this economic crisis.

COBRA health continuation coverage is a lifeline for many people between jobs, but as anyone who has ever been on COBRA knows, it is expensive. On average, the monthly premium for COBRA coverage is $1069—an amount that exceeds many people's entire unemployment check.

This bill contains a 65% COBRA subsidy for up to 12 months for people who have been involuntarily terminated as a result of the recession. Because COBRA doesn't cover everyone, the bill also includes an option for states to temporarily open their Medicaid program—with 100% federal funding—to provide health coverage for unemployed workers and their families. Together, these provisions are projected to protect the health care of more than 8 million Americans.

In addition, this bill recognizes the special difficulties facing older and long time workers in a recession. It provides the ability for these workers to extend COBRA coverage beyond the standard 18 months until such time as they have obtained new group coverage or have become eligible for Medicare. This provision has no cost to the government, but will provide what could be the only opportunity for longtime workers to maintain their health coverage.

There is no doubt that the economic hole our country has been put into is deep. We will not pull ourselves out of it overnight. But the legislation before us today will provide a direct jolt to our economy and will protect those families who are struggling to get by. This is the kind of bold action that Americans voted for last November, and I urge all my colleagues to support this bill and get it to President Obama to be signed into law.

Mr. KIND. Mr. Chair, I rise today in support of H.R. 1, the American Recovery and Reinvestment Act of 2009.

Our country is in the midst of a crisis unlike anything we have seen since the Great Depression. The number of Americans filing for unemployment rose for every state last month, and the numbers for January are not promising. Our credit markets are still frozen, meaning businesses on Main Street are not able to borrow to make payroll. Manufacturing production has hit a 28-year low. Individuals and families are not able to pay their bills and all the while have watched their retirement accounts dwindle.

The bill before us today attempts to remedy these problems with a timely, targeted, and temporary stimulus program to get the economy up and running again, while at the same time addressing the negative effects that the current recession has had on individual Americans. This is not a time for Congress to be timid; we need bold action on several fronts to get people back to work and get the economy back on track. This plan is a nationwide effort to create jobs by investing in clean energy, health care, education and infrastructure, while cutting taxes for American families and businesses.

As a member of the House Ways & Means Committee, I am proud of the work that we did in assembling our part of the larger stimulus bill. Our plan provides tax relief to working families, assistance with healthcare costs, and extended and enhanced unemployment. The plan also gives small and large businesses tax incentives to hire people and purchase new capital.

Specifically, H.R. 1 includes a tax cut to 95 percent of all Americans through a refundable tax credit of $500 for individuals and $1000 for families. Instead of a refund check in the mail, workers will see an uptick in each of their paychecks when the tax cut takes effect. This will provide extra money each pay period for workers to purchase essential needs like food, clothing, and gas.

The American Recovery and Reinvestment Act also includes several small business tax items that will help stimulate the economy. Specifically, the bill contains an extension of bonus depreciation and small business expensing that was proven to be effective after the first stimulus bill was passed in January 2007. The bill also includes a provision that allows businesses that have suffered a net operating loss to carry back that loss to offset their current year's tax liability.

I would like to commend the Senate Finance Committee for including a provision that I have long championed in their version of this legislation. The provision would allow S corporations that convert from C status to sell assets they held at the time of conversion after 7 years—instead of 10, as required under current law—without incurring the 35% ''built-in gains'' (BIG) tax. This fix, which appeared in my broader S Corporation Modernization Act of 2007 (H.R. 4840), would temporarily release capital that is sorely needed by small businesses today. In fact, according to IRS statistics, hundreds of thousands of S corporations are potentially sitting on billions of dollars in appreciated assets that they cannot access or redeploy due to the prohibitive tax implications of the BIG tax. I look forward to working with Speaker PELOSI and Chairman RANGEL to ensure that BIG relief remains in the final recovery package sent to President Obama.

In addition to the many important tax provisions included in the American Recovery and Reinvestment Act, the bill also makes meaningful and important changes in our health care system. First, this legislation moves our hospitals and doctors towards a nationwide interoperable electronic health records system, a step that will not only improve the quality of care provided in this country but will help us all save money.

It is my hope that in implementing the Act's health information technology (HIT) provisions, Secretary-nominee Daschle will strike a careful balance on privacy standards to ensure that patients' personal health information is fully protected without precluding important activities from moving forward, such as quality improvement efforts, medical research, and outcomes-based reimbursement. In addition, as HIT adoption progresses under this legislation, it is crucial that Congress remains vigilant to ensure that all providers—especially those in rural areas, such as critical access hospitals—do not fall behind. We must not allow a technology divide to emerge in this country's health care system.

In addition to the investment in HIT, H.R. 1 also includes important funding for comparative effectiveness research, a crucial step that we must take if we are to move this country towards a value and outcomes based health care system. By arming both patients and providers with the best available information, we can ensure that data and the clinical evidence are guiding the care that is given. With both HIT and comparative effectiveness research in place, we can finally begin to control the overutilization and poor decision-making that have pushed the cost of health care in this country to untenable levels.

As critically important as the investments under the American Recovery and Reinvestment Act are to digging this country out of recession and economic stagnation, we must not use it as an opportunity to abandon fiscal discipline. In fact, the causes and roots of this financial crisis make it more important now than it ever has been to get the federal budget and our long-term unfunded obligations under control. Once our economy returns to stable footing, I would strongly urge Congress and President Obama to undertake significant budget reform efforts to ensure that we are not leaving a legacy of debt for our children and grandchildren.

Our current economic crisis is an extraordinary challenge, but also an extraordinary opportunity. If this country is to successfully address the many, serious challenges we are currently facing—from an expensive and failing health care system, to the need for a greater reliance on American-made renewable energy—we cannot be blind to fiscal realities. We must take a serious, thoughtful approach to the money we both collect and spend as a federal government.

I know that many are skeptical of this plan before us today. I am skeptical as well. Though this package may not be perfect, I do not believe we have the luxury to wait as more Americans lose their jobs every day. This bill provides a shot in the arm for our economy which will start lifting the spirits of Americans and stop the oncoming economic chaos.

Mr. Chair, I support this important legislation that will jump start our economy and get Americans back to work.

Mr. GARY G. MILLER of California. Mr. Chair, there is no debate that the economy is

in serious trouble and it is clear that quick, responsible action must be taken to ensure struggling American families will be able to rebound from the current recession. What is even clearer is the package, which will ultimately be signed by the President, will not help struggling Americans nearly fast enough. Rather, it devotes billions of dollars to special interest groups' pet projects and commits vast sums of money to long term spending priorities that do nothing to stimulate the economy. What the American people need is a package that is timely, targeted, and temporary, which is why I am voting against H.R. 1, the American Recovery and Reinvestment Act.

This massive piece of legislation—equivalent to the entire yearly discretionary budget of the U.S. Congress—was developed in haste, behind closed doors, and without the input that was promised to the Minority party in Congress. The bill represents a litany of pork barrel spending that will do nothing to help hard working American families struggling to make ends meet. For example, this bill contains $600 million to buy new cars for the federal government, $50 million to fund the National Endowment of the Arts, $44 million to repair the U.S. Department of Agriculture Headquarters, $400 million for NASA to conduct climate change research, and $335 million for sexually transmitted disease education and prevention programs. These items represent an increase in government spending, not job creation. Further, the bill creates 32 more government programs, directs $248 billion in mandatory spending, and according to the non-partisan Congressional Budget Office, only 40 percent of the discretionary funds will be spent in the next year and a half.

All in all, based on the Democrats' estimation of the number of jobs they wish to create with this legislation, Congress will be spending $275,000 per job created or saved. Americans should be asking; how will we pay for all this spending once the economy recovers? The fact remains that once this bill becomes law, the total federal deficit will be approaching $2 trillion. We must make sure that the relief we provide is immediate, effective, and temporary.

To accomplish this we must focus the stimulus on providing tax relief to struggling families and small businesses. Small businesses remain the life blood of the American economy and we must ensure that resources are in place to allow them to thrive. House Republicans propose to allow small businesses to take a tax deduction equal to 20% of their income, and allowing businesses to write asset depreciation off on their taxes at an accelerated rate, which will immediately free up funds for small businesses to retain and hire new employees. This is in addition to retaining the net operating loss carryback and expensing for small businesses, currently contained in the bill. To ensure business only hire legal workers and U.S. citizens, I am pleased the bill includes a four year reauthorization of the E-verify program and will work to make it mandatory and permanent.

Rather than a refundable credit based on payroll taxes, House Republicans propose reducing the lowest individual tax rates from 15% to 10% and from 10% to 5% As a result every taxpaying-family in America will see an immediate increase in their income with an average benefit of $500 in tax relief from the drop in the 10% bracket and $1,200 for the drop in the 15% bracket. A married couple filing jointly could save up to $3,200 a year in taxes. The Alternative Minimum Tax is again threatening to affect millions of middle class Americans and needs to be addressed immediately so taxpayers can be confident that this burdensome tax will not strike them this year. Additionally, House Republicans propose to make unemployment benefits tax free so that those individuals between jobs can focus on providing for their families.

The stimulus proposal pending in Congress includes record levels of government spending that will substantially increase the current deficit. As stewards of the economy, Congress must ensure that the proposals adopted here are the most effective at turning the economy around. Wasteful spending and new government programs will only place the American people at a greater risk in the future. Americans deserve a stimulus package that addresses their needs, not a stimulus package that devotes millions of dollars to pet projects and interest group demands.

Mr. HALL of Texas. Mr. Chair, I rise today to express my deep disappointment at a missed opportunity in this Stimulus Bill. Before us is a package that many claim will stimulate the American economy and create jobs. But we are on the verge of losing thousands of highly skilled American jobs and this bill has done nothing to address the situation.

As Ranking Member of the Science and Technology Committee, I am particularly concerned about a section aimed at the National Aeronautics and Space Administration. As many of us are aware, NASA is currently on a path to retire the Space Shuttle in 2010 and develop the next generation launch system, but without sufficient funding that replacement system cannot be ready before 2015 at the earliest. During this five year gap, America will pay cash to Russia to provide transportation for our astronauts to our International Space Station.

The bill calls for $600 million, but none of that money will help close this impending gap. This one-time addition will not keep an estimated 5,600 jobs from disappearing during the gap, and it will not reduce our dependency on and payments to Russia. I want to be clear—because this bill fails to include funding to reduce the gap, we will be forced to lay off high tech workers in the United States while we are paying Russia to do the job that these American workers used to do.

Many Members of Congress have been concerned by this situation. Last year's NASA Authorization Bill passed the House with a resounding vote of 409–15 and authorized an additional $1 billion to accelerate the development of the shuttle follow-on—known as Constellation System. Unless the Constellation System can be delivered sooner than 2015, we stand to lose thousands of highly-skilled aerospace jobs that will be very difficult and costly to replace. The sooner these systems are developed the sooner we eliminate our reliance on the Russians for access to the International Space Station, and give our Nation the systems necessary to explore beyond low-Earth orbit to the Moon and beyond.

Keeping American tax dollars working for us here at home would stimulate the creation of highly-skilled, well-paid jobs in this country. Furthermore these types of investments in our Nation's space transportation infrastructure would continue to pay dividends and have large multiplier effects throughout the economy by stimulating high-tech manufacturing and networks of suppliers around the country. It is exactly the kind of thing that should be part of this ''stimulus package.'' Not funding the acceleration of the Constellation Systems represents a failure of our national leadership that will be paid for on the backs of American aerospace workers and with a loss of our industrial competitiveness against our international competitors.

It makes me sick that we are bailing out failed banks and corporations while ignoring the support of a successful Space Station and space program—a program that could defend our nation from space and provide a cure for our most deadly diseases. By lessening the utility of a Space Station that provides a platform for lifesaving research, including growing white corpuscles that could be used to cure cancer, we are weakening our competitiveness. We are allowing Russia to reap the benefits of our space program—benefits that are badly needed here at home. It is comparable to buying energy from Saudi Arabia and other nations and not spending that same amount developing our own natural resources, such as those found in ANWR, off the coasts of Florida and California, and in the energy-rich Gulf of Mexico.

I am told that the total budget for NASA is less than 1% of the Federal budget (7/10ths to be exact). Surely, we can honor the request that Congresswoman KOSMAS had in her amendment that the Rules Committee rejected—a request that would have narrowed the gap—especially considering that we throw away billions on other nations through foreign aid. President Monroe is famous for saying ''hands off this hemisphere,'' but we should be saying ''hands on this hemisphere'' and protecting our own American citizens, and their jobs, first.

Mr. SKELTON. Mr. Chair, as the House considers H.R. 1, the American Economic Recovery and Reinvestment Act, let me express my support for the measure, which would appropriate additional funds for important rural development programs and invest in the future of the United States.

As a rural Missouri Congressman and Chairman of the House Armed Services Committee, I have examined our current economic crisis through the perspective of those who live in small town Missouri and through the lens of national security.

The United States is the world's indispensable nation. To remain so, we must utilize all elements of national power—military, diplomatic, and economic. Should our economy fail, it will dramatically undercut America's military and diplomatic strength and make it far more difficult to properly address international challenges.

To confront the recession, Congress and the President have an obligation to act boldly, yet wisely, to help avert the kind of economic downturn that could have lasting, severe consequences for the American people and for the future of our country.

Our economy has been in decline since December 2007, and the downturn has accelerated in recent months. Consumer confidence and spending have fallen, businesses have shed millions of jobs, housing values have diminished, and mortgage foreclosures have risen dramatically. Economists from all political

stripes warn us that without additional stimulus, deflation could sink the American economy for years to come.

While Congress and the Administration have acted over the past year to battle the recession, more must be done immediately to create jobs, to stimulate consumer spending, to promote small business development, and to mitigate the housing crisis.

I am pleased that the economic recovery bill being considered in the House takes important steps toward stimulating the sluggish economy.

The measure would invest heavily in our national infrastructure and in the health, education, and safety of the American people; provide important tax relief for working families and for businesses; and strengthen the safety net for workers who have fallen on hard times.

As someone who represents small town Missouri, I am particularly pleased that the legislation would commit plentiful resources for programs important to rural America, including rural water programs, rural highways and infrastructure projects, school modernization initiatives, Corps of Engineers projects, and Internet broadband expansion.

I also am grateful that the legislation would direct additional funds toward critical military construction projects, including military health care, child care, and housing facilities. These projects are so very important to our military personnel and their families.

While the economic recovery legislation is an important part of our country's effort to stimulate the economy, it should not be perceived as a silver bullet that will cure all economic ills.

Congress and the Administration must continue to examine the global economic turmoil and consider additional legislative solutions to it, especially as it relates to the housing sector. I remain troubled that mortgage foreclosures have risen sharply despite new laws that encourage banks to renegotiate troubled mortgages. The housing crisis is at the heart of our recession and more must be done on this front.

I urge my colleagues to support the economic rescue bill and look forward to working with the Senate to ensure the measure can be enacted swiftly.

Mr. DREIER. Mr. Chair, because the Committee on Education and Labor did not mark up its portions of H.R. 1, I am including in the record, at their request, their views on the portions of the bill that should have been marked up by the Education and Labor Committee. Had the Committee marked up the bill, these would have been included in the Committee report. I hope that in the future, we can do a better job of adhering to regular order so that it will not be necessary to take these steps.

MINORITY VIEWS ON H.R. 1

COMMITTEE ON EDUCATION AND LABOR REPUBLICANS

Although it is described by the Democratic majority as an ''economic stimulus package,'' this massive spending vehicle contains some of the most sweeping changes to the role of the federal government in elementary/secondary and postsecondary education policy in decades. And despite the far-reaching nature of the proposed policy shifts and spending expansions, these changes have not been approved or even reviewed by the U.S. House Committee on Education and Labor, the congressional committee with sole jurisdiction over these matters. Instead, less than a week after it was publicly released, Democrats are poised to approve a bill loaded with wasteful government spending; a bill that will not have the intended effect of creating jobs and stimulating our shaky economy; and a bill that makes broad, unprecedented education policy changes with little to no congressional guidance.

Committee Republicans believe that Congress should pass a real economic stimulus package that will provide middle-class families, job seekers, small business owners, and the self-employed with reforms that will create jobs and put the economy back on track. Instead of giving billions of dollars to federal and state government bureaucrats to spend on pet programs created and supported by the Congressional leadership and the new Administration, we need to put more money in the hands of American families and businesses and empower them to help in our nation's economic recovery.

WILL THE PROPOSED EDUCATION SPENDING MEASURES CREATE JOBS AND STIMULATE THE ECONOMY, OR SIMPLY SADDLE OUR CHILDREN WITH UNMANAGEABLE DEBT?

The Democrats' spending package could provide more than $145 billion in new spending for elementary/secondary and postsecondary education. This staggering funding level is more than double the Department of Education's current discretionary budget for all of its programs and activities.

In light of the fact that this bill is being considered outside of the normal authorization and appropriations processes, it is vitally important that we ask tough questions and demand satisfactory answers before committing hundreds of billions of taxpayer dollars to funding new and expanded programs. In each case, we must ask—

''Will every dollar allocated truly stimulate the economy?''

''Will the funding in the education portion of this bill actually create jobs?''

''How many private sector jobs will the bill create?''

''How long will these jobs last?''

''Is the funding sustainable once the initial infusion is gone?''

''Or will this simply create an unrealistic demand for federal dollars and expectations that will continue to drive our deficit into the trillions of dollars in the future?''

''Is the funding in the economic stimulus bill truly 'emergency' spending, or could it wait and be considered through the normal legislative process?''

Unfortunately, when one looks at the package proposed unilaterally by congressional Democrats and attempts to answer these questions, the only logical conclusion is that the spending in this bill will not provide the job creation or other benefits needed to support our economy in the short-term. Nor will it provide the necessary levels of immediate relief to struggling American families and businesses. The vast majority of spending being proposed would simply bloat the federal bureaucracy and expand the federal government's role in education in previously unseen directions.

Perhaps the Washington Post said it best in an editorial that appeared just days before this massive spending plan is scheduled for a vote in the U.S. House. It said, ''Helping hire, equip and pay police, a $4 billion item under the bill, might be a good idea, but writing checks to individual households for the same amount would do more to stimulate the economy. Ditto for $16 billion in Pell Grants for college students, $2.1 billion for Head Start and $50 million for the National Endowment for the Arts. All of those ideas may have merit, but why do they belong in an emergency measure aimed to kick-start the economy? . . .

''[G]iven their cost, and the inherent difficulty of forecasting their impact, Congress should vet them through the normal legislative process, weigh them against other priorities and pay for them.''

And although some of the money in the bill is intended for worthy goals that enjoy bipartisan support, such as those that will increase student awards in the Pell Grant program, the funding increase is slated to vanish after two years. For students entering college this year, with this temporary aid increase, we must ask: How will they make up the difference when the additional federal money is no longer there in two years? Either all low-income students will see their Pell Grants slashed by $500 or more, or Congress will need to find at least $16 billion each and every year going forward just to maintain this funding level. This scenario will not only play out on college campuses, but in states, school districts, public schools, Head Start centers, and local workforce centers all across the country that are slated to receive billions in temporary taxpayer dollars.

It is fiscally irresponsible and unfair to students and the American taxpayer to hold out the promise of additional money only to pull it back, or to set up a situation in which federal spending—and along with it, the deficit—has nowhere to go but up to relieve the tremendous pressure to continue programs at exorbitantly high levels once the stimulus is no longer in effect.

UNPRECEDENTED EXPANSION OF FEDERAL GOVERNMENT'S ROLE IN SCHOOL CONSTRUCTION WITH NO CONGRESSIONAL OVERSIGHT

Over the past decade, the condition of local public school facilities has become an important component of the education debate in communities throughout the nation. In both cities and suburbs, students, parents, teachers, and many public officials argue that school buildings are overcrowded, unsafe, and obsolete. As a result, the amount being spent on school construction, modernization, and renovation has become a significant issue in many states and local school districts.

While strongly supportive of public education, historically, the federal government has had an extremely limited, almost nonexistent role in financing school infrastructure projects and facility improvement programs, which have been a state and local responsibility. The federal government has chosen to maintain this limited role in school construction while focusing on adequately funding programs that increase student achievement, primarily through the Title I program for low-income students, and on helping states provide a free, appropriate public education to those students with special needs under the Individuals with Disabilities Education Act (IDEA). It has also chosen to focus limited federal resources on providing lasting and permanent increases to the Pell Grant program that directly benefits low-income students pursuing a college education.

Ignoring more than 40 years of deliberate effort by Congress to limit its focus to these national priorities since passage of the Elementary and Secondary Education Act, IDEA, and the Higher Education Act, the Democrats responsible for drafting this spending package have chosen to create an unprecedented $20 billion federal school construction program. The program would weaken efforts at the state level to fund school construction, dramatically increase the cost of building elementary and secondary schools and public colleges and universities, and dramatically expand the size and scope of the federal government.

With the unmet need for school construction and renovation at the elementary and

secondary level estimated at $112 billion, and with states and local school districts spending an average of $20.7 billion annually on school construction, it's a valid question to wonder how a new federal school construction program administered by the U.S. Department of Education (which received roughly $22 billion last year for all programs under the Office of Elementary and Secondary Education) could do a better job at building schools than state and local officials.

One of the most troubling aspects of the massive new federal school construction program authorized in this so-called economic stimulus bill is that it will be subject to the requirements of the Depression-era Davis-Bacon Act, which requires construction projects to be paid using flawed ''prevailing wages'' and favors union wage workers. It is estimated that this requirement raises the costs of school construction by as much as one-third in some parts of the country, especially in those local communities that have lower costs and are not subject to the flawed prevailing wage structure.

The federal government should maintain its longstanding focus on assisting states and local school districts to improve student academic achievement and providing low-income students with Pell Grants so that they can go to college. It should not undertake a $20 billion school construction experiment.

DENYING STUDENTS WITH DISABILITIES THE ABILITY TO RECEIVE A HIGH QUALITY EDUCATION AT PUBLIC OR PRIVATE SCHOOLS

The proposed economic stimulus package prohibits states and school districts from using funds under the State Stabilization Fund from assisting students that attend private elementary or secondary schools. This provision directly contradicts the rights guaranteed to students with disabilities under the Individuals with Disabilities Education Act or IDEA, and affirmed by the U.S. Supreme Court. Under IDEA, parents of children with disabilities have the right to place their children in an education environment that best meets the needs of the particular student—regardless of whether it is a public or private school. Under the statute, states and school districts can also place children with a disability in a private school in order to meet the law's requirement that a disabled child be provided a free and appropriate public education. In both cases, IDEA requires that children in private schools receive special education and related services in order to enhance their education. The economic stimulus package, which would prohibit states and school districts from using funding under the bill to educate students with disabilities in private school settings, jeopardizes the fundamental and basic tenet of IDEA, which is to ensure that all students with disabilities, regardless of where they attend school, are entitled to the same high quality elementary and secondary education as their peers. The provision is a major reversal in the federal government's effort to ensure that services are provided to students with disabilities and one that should be removed from the package.

NEW FEDERAL EDUCATION POLICY MANDATES JEOPARDIZE MONEY TO STATES THAT WANT FEDERAL ASSISTANCE

The Democrats' economic stimulus package also includes $79 billion for a new ''state stabilization fund'' to assist states in coping with their recent budget problems. Of the total funding, at least 61 percent must be spent in support of elementary/secondary and postsecondary education. In order for a state to receive assistance under this new program, it must: maintain state support for elementary/secondary education and postsecondary education at the level that it had in fiscal year 2006; address inequities in the distribution of teachers between high- and low-poverty schools; establish a statewide longitudinal data system; enhance reading and math assessments; and ensure that all students with disabilities and those who are Limited English Proficient (LEP) are included in state assessments and are offered proper accommodations to enable their participation in state assessments.

According to current data on just three of the five requirements outlined above, many states will be unable to qualify for the additional money under the state stabilization fund. Certainly, none will qualify in the near-term. Hence, we have to determine that the state stabilization fund is not likely to lead to any job creation or stimulate the economy in any meaningful way.

CONCLUSION

Under the guise of economic stimulus, this spending package makes unprecedented changes in the direction of federal education policy without observing the regular legislative process. Even more troubling, it is doubtful that the funding will actually create jobs or stimulate the economy. It is far more likely that the high levels of spending in the bill will only stimulate expectations for future spending to levels that are unrealistic and unsustainable. Our children will be saddled with debt, our states and schools will be left holding the bag when the funding disappears, and our economy may be left worse off than it is now.

HOWARD P. ''BUCK'' MCKEON.
PETER HOEKSTRA.
MARK E. SOUDER.
JOE WILSON.
JOHN KLINE.
ROB BISHOP OF UTAH.
BRETT GUTHRIE.
DAVID P. ROE.

Mr. BACHUS. Mr. CHAIR, I and Mr. NEUGEBAUER, Mr. LUCAS, Mr. MANZULLO, Mrs. BIGGERT, Mr. GARY MILLER of California, Mrs. CAPITO, Mr. HENSARLING, Mr. GARRETT of New Jersey, Mr. BARRETT of South Carolina, Mrs. BACHMANN, Mr. MARCHANT, Mr. POSEY, Ms. JENKINS and Mr. PAULSEN submit the following for the RECORD:

COMMITTEE ON FINANCIAL SERVICES
REPUBLICAN VIEWS
ON
H.R. 1, THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
JANUARY 28, 2009

$15 billion of the $1.16 trillion in costs (debt plus servicing) associated with H.R. 1, the ''American Recovery and Reinvestment Act of 2009'' (ARRA), falls within the jurisdiction of the Committee on Financial Services. The stated goal of this legislation is to provide immediate stimulus to our ailing economy. It is, therefore, imperative that this legislation target funds to programs and organizations which offer the maximum immediate economic stimulus, and ensures that bad actors are not rewarded.

Yet, several provisions included in the bill do not meet this standard. First, this legislation does not have important safeguards to prevent funds from being distributed to organizations—such as the Association of Community Organizations for Reform Now (ACORN)—implicated in illegal activities. Second, the $15 billion earmarked for existing housing programs in Title XII of ARRA cannot be spent in a timely and efficient manner that will provide the economic stimulus that is so sorely needed.

The majority of the housing programs funded under the stimulus bill have large unexpended balances sitting in their accounts. While the funds have been obligated, the programs have very slow spend-out rates. According to the Appropriations Committee staff:

Public Housing Capital Fund has $7 billion in unexpended balances ($2 B in 2008; $1.5 B 2007; $1 B 2006 and $500 million in 2005). Given the backlog in the pipeline, there is a legitimate question whether this new $5 billion can be spent in a timely enough manner to have a stimulative effect on the economy.

The Section 202 (elderly housing) program has an unexpended balance of $4.4 billion and the Section 811 (disabled housing) program has a $1 billion unexpended balance. This program allows for $2.5 billion in ''energy retrofit investments.'' While this may be a laudable long term goal, its relationship to economic stimulus seems tenuous.

Native American Block Grants Program currently has $1 billion in unexpended balances in its account; yet $500 million, which is essentially another year's worth of funding for this program, is included in H.R. 1.

The Neighborhood Stabilization Program, which was enacted seven months ago, has yet to disburse any of the $4 billion authorized under the program to states or localities eligible for funding. However, H.R. 1 includes another $4.19 billion for this program.

We are concerned that H.R. 1 includes billions of dollars in new spending on existing programs that are clearly in need of reform. In addition, H.R. 1 rewrites the Neighborhood Stabilization Program that Congress enacted last year, which was designed as a one-time appropriation. There is considerable disagreement on the merits of the Neighborhood Stabilization Program, and no evidence that it works, given that no funds have been disbursed to date. In an editorial dated January 25, 2009, the Washington Post stated:

For sheer irrationality, it would be hard to top the $4.19 billion the bill would give to the Neighborhood Stabilization Program, on top of $4 billion authorized last year. This program gives local governments money to buy and rehabilitate homes that have been foreclosed on—thus giving lenders an incentive to foreclose on more houses.

In addition to questioning the economic stimulus nature of the housing funds included in H.R. 1, we are concerned that the bill gives groups, such as ACORN, access to billions of taxpayer dollars. ACORN already qualifies for and receives millions of dollars in Federal funding as a HUD-certified housing counselor through HUD's HOME and Community Development Block Grant programs. According to a 2008 analysis conducted by House Republicans, ACORN has received at least $53 million in direct Federal funding since 1994. The group receives millions more from the government through indirect funding from states and cities.

At a time of financial distress, Congress should not reward bad actors that illegally manipulate our electoral process. Last Congress, language was included in the ''Housing and Economic Recovery Act of 2008'' (HERA) (Public Law 110–289) barring any group indicted for Federal election fraud or that hired an individual indicted for Federal election fraud from accessing funds made available through the Neighborhood Stabilization Program. This provision had the effect of rendering ACORN ineligible for assistance. Due to the changes to the Neighborhood Stabilization Program included in the economic stimulus bill, it is unclear whether those same safeguards and restrictions continue to apply.

It is important that Congress take steps to revive our economy. However, H.R. 1—specifically the spending on housing programs in this legislation and the lack of safeguards—will not translate into the necessary

stimulus to get our economy moving again. Instead, we believe that allowing hard working American families to keep more of their earnings in the form of tax cuts will have a far more positive economic effect than any amount of government spending and borrowing. When individuals are able to take home more of their earnings, they will save, spend and invest more—all of which help stimulate the economy.

Ms. GINNY BROWN-WAITE of Florida. I rise today in support of the American taxpayer, not the American Recovery and Reinvestment Act.

For months the American Recovery and Reinvestment Act was billed by President Obama as a job creating, infrastructure improvement package.

I know I wasn't the only one that heard the words ''shovel ready'' over and over again when I inquired about ways to help Florida's 5th Congressional District.

Despite the fact that this bill was crafted exclusively by President Obama and Speaker PELOSI, we as a country were asked to give President Obama a chance and were told that we should trust his judgment.

President Obama has taken what should have been a bipartisan bill to create jobs and packed it with ideological spending priorities from the liberal left.

The best way to stimulate the economy and create jobs is to cut tax rates across the board, reduce the corporate tax rate, and better fund organizations like the Small Business Administration and the Federal Housing Administration. These concrete steps would stimulate job growth, put money into consumers' hands quickly, and help prevent future home foreclosures.

Our Republican alternative, offered by Mr. CAMP and Mr. CANTOR, would do just that. We eliminate all the pork-ridden projects, cancel out billions in funds for projects not ready till 2012, and focus on providing immediate relief to the American public.

The bill before us today does virtually nothing to promote immediate job growth or help struggling businesses. America's strength is based on the hard work and ingenuity of its citizens, not throwing taxpayer funds into yet another bureaucratic black hole.

A real stimulus package should return tax dollars back to the people that paid them, provide real incentives for American businesses to hire new employees, and help people stay in their homes. The bill before the House today does none of this; instead it focuses on make-work government projects and pet projects of the liberal left.

Mr. Chair, facts are stubborn things.

Only $450 million of this bill (less than one half of one percent) would go to capitalize a loan program for small business, even though the facts show that small businesses are the backbone of our economy and the key engine of job growth in this country.

Furthermore, only seven percent of this package will actually be spent on improving our nation's roads and infrastructure.

Why would the Democrat Majority and President Obama not provide more funding in this bill to help small business, to improve our roads and repair our aging infrastructure?

My only guess is that their idea of a ''stimulus'' plan means we increase funding for a myriad of already bloated federal government programs that should be dealt with in the appropriations process, not an emergency jobs and infrastructure bill.

Some of the most egregious examples of programs within the massive spending bill include; $50 million for the National Endowment for the Arts; $6.2 billion for a Weatherization Assistance Program; $150 million for the Smithsonian Facilities; $1.1 billion for Comparative Effectiveness Research; $100 million for Lead-Based Paint Hazards. And a long, long list of other misguided priorities.

With these non-essential projects, the message that President Obama is sending to the American taxpayer is that pork barrel policies are here to stay, and that the era of Change in Washington is already dead.

While the President and the Speaker have attempted to distract the American public from the true intentions of this bill, the Congressional Budget Office has called them to account.

The non-partisan CBO found that only $26 billion in this bill would be spent in 2009, and less than half of the total would be spent by the end of 2011.

What happened to ''shovel ready''?

What happened to creating jobs with purpose?

And speaking of jobs, wouldn't you think that the best way to create jobs in this country would be to stimulate private sector investment and growth?

Sadly, this Administration feels that big government should get even bigger, and if you run the numbers, even richer.

According to a study of the bill published in the Wall Street Journal today, each new government job created by the Democrat bill will cost the American taxpayer $646,214.

We all joke about the inefficiency of the federal government, but at least we don't pay them $600,000 a year!

Furthermore, one would hope that if the American public is being asked to go another trillion dollars into debt that at least Florida would get our fair share of funds in exchange.

Sadly, when Democrat leaders drafted this bill they chose to give Florida the absolute lowest dollars per capita of any state and the second lowest dollars per capita for transportation of any state. If my constituents are forced to take on that much new debt, they should at least get something out of this bargain with the devil. Instead they get shortchanged and still get stuck with the bill. That is not fair, but is what we have come to expect from this Democrat leadership.

The bottom line is that we can not spend our way out of this economic mess.

And by doubling down, my colleagues are making our hole that much deeper.

There is no doubt that our economy needs a kick start to put us back on the path to prosperity. What we do not need, however, is yet another pork ridden bailout that produces few jobs, sends billions of your money to corrupt organizations like ACORN, and does nothing to put money back in the hands of American taxpayers.

Mr. Chair, I oppose the American Recovery and Reinvestment Act and I encourage my colleagues to do the same.

Mr. MURTHA. Mr. Chair, the American Recovery and Reinvestment Act of 2009 includes a total of $4.9 billion to address critical facility maintenance and repair issues within the Department of Defense; invests in energy efficiency at DoD facilities; and provides much needed research into alternative energy sources for the Department.

FACILITIES

The bill includes $4.5 billion to make major repairs and upgrades at Defense Department facilities, which affects both the quality of life for service personnel and their effectiveness in performing their missions.

Over the past two years, the Defense Subcommittee has found numerous base facilities to be inadequate and/or in dire need of maintenance and repair. These conditions are clearly illustrated by the problems we've seen at Walter Reed Army Medical Center and the barracks at Ft. Bragg. The Defense Department's annual budget requests have failed to address these issues, and the latest estimates show that the facilities repair backlog has reached $63 billion and continues to grow.

The funds made available in this bill will provide the Defense Department with: $154 million to rehabilitate Army barracks; $455 million to revitalize Military Medical Treatment Facilities; $2.1 billion to reduce the backlog of repairs to Defense facilities throughout the country; and $1.8 billion to make DoD buildings more energy efficient.

ENERGY RESEARCH

The bill also includes $350 million to advance research and development programs for fuel cells and batteries; alternative fuels; hybrid energy sources; improved engines; and bio-fuels.

The Department of Defense is one of the largest single energy consumers in the world. The FY 2009 DoD Appropriations Act alone provided $14.4 billion for the Department to purchase 136 million barrels of refined petroleum products. In addition to the cost, the need to store and transport fuel represents one of the most significant logistical challenges for U.S. Military Forces.

This research funding is essential to reducing the Defense Department's dependence on petroleum, and the security risks that arise from being dependent on a single energy source.

I urge you to support this bill.

Mr. SULLIVAN. Mr. Chair, today, the House is debating how best to boost the nation's economy. I would like to underscore for my colleagues the important relationship between healthcare and economic vitality, and the importance of leveraging private matching funds to address health care challenges in my district and throughout the nation.

Health status is a major determinant in a region's economic viability, yet many parts of the country face shortages in health care providers and services. These medically underserved areas often experience significant disparities in life expectancy and incidence of chronic disease, and the disparities are often most acutely felt by minority or rural populations.

Some surprising statistics in my district highlight the consequences of this sort of discrepancy. While north Tulsa comprises 40% of the region's population, only 4% of the region's physicians are located there. Due to these shortages of health care services, we have seen a fourteen year difference in life expectancy between north Tulsa and south Tulsa. In addition, residents of north Tulsa have rates of cancer and heart disease that are 30% higher than national averages.

As Congress considers ways to stimulate the economy, I encourage my colleagues to consider the significant health disparities that

exist in medically underserved areas, particularly in rural areas and areas with large minority populations. These regions need coherent health care delivery systems—systems that integrate primary care, preventive care, specialty care, and acute care, and that are connected through a health care technology infrastructure. I also encourage that in addition to directing federal funds to this effort, that we can also leverage non-federal, private matching funds to bring this about. Health care projects with strong community public-private partnerships with the availability of private matching funds should be used as a factor for distribution under the stimulus.

While the legislation before us devotes significant funding to health care, including community based wellness and prevention programs, we should work to ensure that these programs are designed in such a fashion as to provide comprehensive and systemic improvements to medically underserved communities. It is my hope that in directing federal funds to this effort, we can also leverage non-federal sources to fund our health care safety net.

As this legislation moves forward, I look forward to working with my colleagues to address the health care disparities confronting underserved communities in Oklahoma and around the country in a way that not only improves the health of our constituents but the economy as well.

Mrs. CAPPS. Mr. Chair, I rise in support of the American Recovery and Reinvestment Act.

I am glad that we have taken seriously our challenge to pass an economic stimulus bill right away so that we can take important steps to protect ordinary Americans.

I have been particularly concerned about the effect of the current economic situation on health care access and am relieved to see that the bill before us today takes excellent steps to address the health care crisis.

Most important, in my view, are the Medicaid provisions that will ensure states can continue to provide Medicaid to their residents with, at minimum, the current level of benefits.

My home state of California, much like other states, is suffering a budget crisis that is leading to proposals of slashing Medicaid benefits.

We must protect current benefits AND ensure that Medicaid and COBRA are available for the high number of Americans who have lost their jobs.

This bill does an excellent job of doing that.

I also want to applaud the inclusion of Health Information Technology language, including essential privacy protections.

Spurring adoption of HIT will reduce medical errors, allow physicians and nurses to spend more time with their patients and create jobs.

But I would be remiss if I didn't express disappointment in one important item that was unfortunately not included in today's bill.

The Energy & Commerce Committee, on which I serve, rightly included language to make family planning services for low-income women a state option.

Currently, states must apply for a waiver, accompanied by the uncertainty of future applications' success, in order to provide this basic health care service for women who do not otherwise qualify for Medicaid, but are low-income nonetheless.

Through a campaign of misinformation perpetrated, I am sad to say, by some of our own colleagues in Congress, we were forced to strip this provision out in order to reinforce the message of the underlying bill.

But make no mistake, the family planning provisions would have saved hundreds of millions of dollars over the next several years.

And you don't have to take my word for it, just ask the CBO, which scored the provision as a savings.

So I will remind my colleagues that we have lost an important opportunity to improve health care services to the extent that this bill originally intended to do and I vow to work with the White House and Congressional leadership to ensure we fix this in the near future.

Nonetheless, the remaining health care language is strong and will provide tremendous relief to the millions of currently unemployed Americans as well as those who rely on Medicaid.

Mr. Chair, we also have a tremendous opportunity to put America on a path to economic recovery by moving us toward energy security.

Immediate investments in renewable energy production and rebuilding our infrastructure to be greener will create hundreds of thousands of jobs, save billions of dollars in energy costs, and reduce our carbon footprint in the long term.

And that's exactly what the bill before us today does.

It creates new programs, and it makes important changes to others, that will get Americans back to work.

And the cash savings achieved through increased efficiency will go back into local communities and could be used to pay mortgages and other necessities continuing to improve the economy.

I am also pleased to see that this bill will help our country prepare for the DTV transition.

By allocating funds to the converter box coupon program, hotline call centers, and consumer education, we can ensure millions of Americans are not left behind during this transition.

Finally, this bill will enable people in unserved and underserved areas of our country to harness the internet as a tool for economic, social and civic empowerment by providing much needed funding for broadband deployment and wireless voice service.

So I want to applaud the Chairman for his excellent work on the provisions that fall within our Committee's jurisdiction and urge my colleagues to support it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chair, as snow drifts outside our nation's Capitol, we acknowledge that we as a nation are in the midst of an economic winter. I support H.R. 1, the American Recovery and Reinvestment Act, because I believe that the federal and state programs funded therein will provide needed stimulus to our economy.

With record numbers of Americans unemployed, with our defense budget stretched in war, with our children slipping in educational competitiveness, and with the sick and elderly facing a deepening well of poverty, it is time to act. Congress and the Administration have swiftly assembled a package of wide-ranging support in many important areas. I particularly support the science and educational stimulus activities.

Science and technology funding go directly to the high-tech workforce. Investments in the Advanced Research Project Agency for Energy will support research into energy sources and energy efficiency. The bill also contains funding toward a more reliable, energy-efficient electricity grid to keep up with tomorrow's technologies. It contains money for the National Institute of Standards and Technology to fund grants for research science buildings at colleges and universities. Funding for the National Aeronautics and Space Administration will enable more scientists to conduct climate change research. Investments in scientific research are investments in our future. They will pay for themselves ten-fold over future generations and very well could save our planet from the destructive effects of global warming.

Educational opportunities for all students are an imperative investment in our future. This recovery package will make bold investments to provide children with a 21st century education, modernize our schools and colleges, and make college more affordable. An investment of $14 billion for modernization of K–12 schools is badly needed. The legislation also contains money to enable bright students to go to college. It improves current higher education tax credits by creating a new ''American Opportunity'' tax credit with a maximum of $2,500, rather than the current maximum of $1,800. This expansion will make college more affordable for millions of low- and moderate-income students. It also provides additional support for the Head Start program, which will provide important development services to 110,000 additional low-income preschool children. Furthermore, the bill provides funds for competitive grants to provide financial incentives for teachers who raise student achievement and close the achievement gaps in high-need schools.

We must invest in our nation's Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions. Currently, there exists a ''digital divide'' between HBCU campuses and their counterparts. There is a great need to update campus technology and develop educational and technological opportunities for students and staff. Because of their unique resources, HBCUs continue to be extremely effective in producing African American graduates and preparing them to compete in the global economy. HBCUs represent nine of the top ten colleges that graduate the most African Americans who go on to earn Ph.D.s. I request to insert data into the RECORD demonstrating the important value that HBCUs add, when it comes to minority education. The distinctive ability of HBCUs to provide opportunity and advancement to African American students is undeniable and is worthy of federal support.

When Americans think of this landmark stimulus bill, shovel-ready projects may immediately come to mind. However, investments in research and in math and science education will pay long-term dividends. They not only will create new jobs, but they will elevate our workforce by providing an excellent education. These investments will open a world of opportunities for millions who previously had none. This bill is an investment in our future: tomorrow and for decades to come.

HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, AS WELL AS THE UNITED NEGRO COLLEGE FUND SERVE A PREDOMINANTLY LOW-INCOME, MINORITY STUDENT POPULATION

60 percent of UNCF students come from families with average incomes under $30,000.

92 percent of UNCF students require financial assistance to attend college.

60 percent of UNCF students are the first in their families to attend college.

Yet HBCUs continue to educate and graduate African American students at higher rates than other colleges and universities and with fewer resources.

HBCUs represent less than 3 percent of all postsecondary institutions, but produce 18 percent of African American college graduates.

In 2000, 40 percent of all African American students who received baccalaureate degrees in physics, chemistry, astronomy, environmental sciences, mathematics, and biology graduated from HBCUs.

Between 1997 and 2001, more African American science and engineering doctoral recipients began their educations at UNCF institutions than at Berkeley, Harvard, the University of Pennsylvania, MIT, Brown, Stanford, Princeton, and Yale combined.

HBCUs represent nine of the top 10 colleges graduating African American students who go on to earn PhDs. Approximately 40 percent of African Americans with PhDs earned their bachelors degrees from HBCUs.

In 2004, five of the top 25 producers of African American medical school applicants were UNCF member institutions.

85 percent of African American dentists and physicians earned degrees at HBCUs.

Spelman and Bennett Colleges, the nation's only historically black women's colleges, account for more female African American doctorate-degree holders than the ''Seven Sisters'' institutions combined.

Numerous studies have documented increased developmental gains and increased satisfaction among African American students who attend HBCUs compared to their counterparts who attend historically white institutions.

HCBU graduates are more likely than graduates of other colleges to engage in social, political and philanthropic activities.

HBCUs AND UNCF CONTINUE TO RISE TO MEET THESE CHALLENGES, ALTHOUGH THEIR FEDERAL FUNDING IS DISPROPORTIONATELY LOW, RELATIVE TO OTHER INSTITUTIONS OF HIGHER EDUCATION

In October 2007, the National Science Foundation released data demonstrating a persistent disparity in the level of federal research and development (R&D) and science and engineering (S&E) funding awarded to HBCUs, as compared to majority institutions of higher education:

In FY05, under federal S&E categories cutting across six federal agencies, HBCUs received collectively $479 million.

This, compared to $28.3 billion received by all other institutions of higher education, represents about 1.7 percent of total awards.

In R&D, HBCUs received $294.2 million out of $25 billion awarded to all institutions of higher education, just over 1 percent of the total.

Of the $3.1 billion awarded by NSF for university R&D efforts, only $10.8 million went to HBCUs. This total represents less than 0.5 percent of overall federal funding.

Mr. PASCRELL. Mr. Chair, as a member of the Ways and Means Committee, I support the inclusion of the comparative effectiveness provision in the American Recovery and Reinvestment Act. Agencies within the Department of Health and Human Services, such as the Agency for Health Care Research and Quality, are already undertaking comparative effectiveness research under a 2003 provision. The Department has worked diligently to conduct research that meets the priorities and requests of the Medicare, Medicaid and SCHIP programs, but its resources are too limited to conduct the types of comparative clinical effectiveness studies Americans need to improve the quality of health care they receive. This provision would expand on the 2003 directive to move these efforts forward in a way that generates necessary information for health care providers to ensure patients receive the best care possible.

This provision could help the United States begin to address significant health problems, such as the type–2 diabetes epidemic. In New Jersey, over 400,000 people have been diagnosed with diabetes. Even more alarming, an additional 178,000 residents have the disease but are unaware of it. It is a sad truth that, in New Jersey, diabetes is no longer a rare condition and indeed has a significant and growing impact on the health of my constituents.

Of course, this epidemic is not confined to New Jersey alone. In the United States, there are over 20 million individuals with type–2 diabetes, approximately 6 million of which are over age 65. Between 80 to 90 percent of patients diagnosed with type–2 diabetes are also overweight. This provision would ensure that the Department of Health and Human Services will now have the resources to conduct research comparing treatments that emphasize weight loss and glycemic control to those that emphasize glycemic control alone. Studies like this would generate the information necessary to move the diabetes care paradigm from subjective recommendations to evidence-based medicine that would improve the care of all patients with type–2 diabetes. This is just one example of the promise that comparative effectiveness research holds. Additional studies would help identify the most effective treatments for other serious health conditions.

Because of the promise of comparative effectiveness research and the opportunity it holds for improving the health of all Americans, Mr. Chair, I support the provision and the underlying bill.

Mr. CONYERS. Mr. Chair, today I rise in strong support of H.R. 1, the American Recovery and Reinvestment Act of 2009. This stimulus package injects targeted, temporary, and responsible investment in our economy and, with a little luck and hard work, will pull our Nation back from the brink of fiscal collapse.

The jobs, training, and investment that will be created with this stimulus will provide true relief to the weary American worker. As much as the other side would like to convince us, building green schools creates jobs; fixing crumbling aqueducts and sewer systems creates jobs; installing energy efficient insulation in public buildings creates jobs; even resodding the National Mall creates jobs. Even better, our Nation will reap the benefits of this investment for years to come; creating many additional jobs in the private sector as we repave roadways and transform dilapidated communities into thriving commerce-rich economic zones.

Thank goodness this Congress and this President have thrown aside the voodoo economic policies of the past 8 years. By voting for this Act, we right American jobs policy by returning to a common-sense principle: promoting work that produces American products and strengthens American communities. Instead of simply cutting taxes for big corporations and promoting policies that shift capital from one bank account to another, this Act will leave behind real tangible benefits for the next generation—a true legacy of achievement.

As we debate this issue here today, Michigan's unemployment rate has risen above 10 percent, local manufacturers are slashing tens of thousands of jobs, and many are signing up for Medicaid and COBRA insurance at unprecedented levels. The jobs created by this stimulus are long-term jobs that provide solid wages to working-class Americans; it is only these types of jobs that will pull Michigan out of its economic malaise.

This stimulus package is a historic solution to a historic problem; it will likely be the biggest piece of legislation ever passed by this body. Faced with such dire economic problems, we have to aim big. Two notable economists, Paul Krugman and Jeffery Sachs have both voiced their support for a large scale stimulus to avoid a ''L shaped'' recovery that would mirror Japan's stagnant growth and labor market of the 1990s. In these gloomy economic times, hesitation and caution are not a viable option. Now is the time to act decisively.

Mr. Chair, H.R. 1 promotes sorely needed investment in transportation. For example, it provides $30 billion for federal aid to highway and bridge construction, $3 billion to airport improvement projects, and $1.1 billion for Amtrak and intercity passenger rail grants. These projects will offer additional much needed personal and commercial movement options for my constituents.

Additionally, as an ardent supporter of universal health care, I am delighted that the American Recovery and Reinvestment Act will fund many important programs that will reduce health costs. H.R. 1 will provide $1 billion to renovate community clinics and $600 million to address doctor shortages in urban areas by assisting medical school students with their expenses if they agree to practice in underserved communities as a part of the National Health Service Corps. To further lower health care costs, H.R. 1 will create a Prevention and Wellness Fund, where $3 billion will be allocated to fight preventable chronic diseases. This will include grants to state and local public health departments, immunization programs, and disease prevention initiatives. Moreover, the bill will invest $20 billion to computerize medical records to cut costs, extend COBRA healthcare for the unemployed with a $30.3 billion investment, and will give $8.6 billion to expand Medicaid coverage for the recently unemployed.

H.R. 1 will also help provide quality education to all Americans. As a direct response to the recent cut backs in educational funding and staggering increases in college tuition, the bill will provide $79 billion to states and $41 billion to local school districts through Title I, IDEA, the School Modernization and Repair Program, and the education technology program. Furthermore, $15 billion will be given to states as bonus grants if they can meet key performance measures. Lastly, H.R. 1 increases individual Pell Grant allocations by $500.

H.R. 1 will also help hard working Americans stay in their homes. The bill will create a $5 billion Public Housing Capital Fund that will repair and modernize public housing. $1.5 billion will be given to the rehabilitate low-income housing using green technologies in the HOME Investment Partnerships. In addition, $4.2 billion will help communities purchase and rehabilitate foreclosed, vacant properties in order to create more affordable housing and reduce neighborhood blight.

I could go on and on about the many worthy initiatives this bill furthers. In particular, I am heartened that it makes wise investments in preserving our public places, ending hunger, and promoting the deployment of broadband Internet access. Needless to say, it is a comprehensive bill and a vote for it is a vote to revitalize every sector of our economy.

For too long many have believed that the free market can fix America's problem. We have been told that the only thing created by public investment is more bureaucracy and an unwieldy national debt.

Well, I am here to tell you that prudent targeted government investment in the private and public sectors creates something else: jobs. The minority had their chance to promote their version of the economy when they controlled the Congress and the White House. And what have they left us: unchecked spending that resulted in millions of jobs lost, a lower standard of living, and the greatest levels of inequality we have seen since the period of unchecked deregulation that immediately preceded the Great Depression.

The investments championed by President Franklin Delano Roosevelt led us out of a period of despair and uncertainty and ushered in the greatest period of sustained growth our Nation has ever experienced. We did it once; we can do it again. H.R. 1 is the blueprint for such a recovery and I urge my colleagues to support this legislation.

□ 1400

The CHAIR. All time for general debate has expired.

Pursuant to House Resolution 92, the amendment printed in part A of House Report 111–9 is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of the bill, as amended, is as follows:

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.

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—APPROPRIATION PROVISIONS
TITLE I—GENERAL PROVISIONS
TITLE II—AGRICULTURE, NUTRITION, AND RURAL DEVELOPMENT
TITLE III—COMMERCE, JUSTICE, AND SCIENCE
TITLE IV—DEFENSE
TITLE V—ENERGY AND WATER
TITLE VI—FINANCIAL SERVICES AND GENERAL GOVERNMENT
TITLE VII—HOMELAND SECURITY
TITLE VIII—INTERIOR AND ENVIRONMENT
TITLE IX—LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION
TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS
TITLE XI—DEPARTMENT OF STATE
TITLE XII—TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT
TITLE XIII—STATE FISCAL STABILIZATION FUND
DIVISION B—OTHER PROVISIONS
TITLE I—TAX PROVISIONS
TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES
TITLE III—HEALTH INSURANCE ASSISTANCE FOR THE UNEMPLOYED
TITLE IV—HEALTH INFORMATION TECHNOLOGY
TITLE V—MEDICAID PROVISIONS
TITLE VI—BROADBAND COMMUNICATIONS
TITLE VII—ENERGY

SEC. 3. PURPOSES AND PRINCIPLES.

(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.

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—APPROPRIATION PROVISIONS

SEC. 1001. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes.

TITLE I—GENERAL PROVISIONS

Subtitle A—Use of Funds

SEC. 1101. RELATIONSHIP TO OTHER APPROPRIATIONS.

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).

SEC. 1102. PREFERENCE FOR QUICK-START ACTIVITIES.

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.

SEC. 1103. REQUIREMENT OF TIMELY AWARD OF GRANTS.

(a) FORMULA GRANTS.—Formula grants using funds made available in this Act shall be awarded not later than 30 days after the date of the enactment of this Act (or, in the case of appropriations not available upon enactment, not later than 30 days after the appropriation becomes available for obligation), unless expressly provided otherwise in this Act.

(b) COMPETITIVE GRANTS.—Competitive grants using funds made available in this Act shall be awarded not later than 90 days after the date of the enactment of this Act (or, in the case of appropriations not available upon enactment, not later than 90 days after the appropriation becomes available for obligation), unless expressly provided otherwise in this Act.

(c) ADDITIONAL PERIOD FOR NEW PROGRAMS.—The time limits specified in subsections (a) and (b) may each be extended by up to 30 days in the case of grants for which funding was not provided in fiscal year 2008.

SEC. 1104. USE IT OR LOSE IT REQUIREMENTS FOR GRANTEES.

(a) DEADLINE FOR BINDING COMMITMENTS.—Each recipient of a grant made using amounts made available in this Act in any account listed in subsection (c) shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after the grant is awarded, if later) to make use of 50 percent of the funds awarded, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the grant is awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by a grant recipient (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the recipient specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this section.

(b) REDISTRIBUTION OF UNCOMMITTED FUNDS.—The head of the Federal department or agency involved shall recover or deobligate any grant funds not committed in accordance with subsection (a), and redistribute such funds to other recipients eligible under the grant program and able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

(c) APPROPRIATIONS TO WHICH THIS SECTION APPLIES.—This section shall apply to grants made using amounts appropriated in any of the following accounts within this Act:

(1) ''Environmental Protection Agency—State and Tribal Assistance Grants''.

(2) ''Department of Transportation—Federal Aviation Administration—Grants-in-Aid for Airports''.

(3) ''Department of Transportation—Federal Railroad Administration—Capital Assistance for Intercity Passenger Rail Service''.

(4) ''Department of Transportation—Federal Transit Administration—Capital Investment Grants''.

(5) ''Department of Transportation—Federal Transit Administration—Fixed Guideway Infrastructure Investment''.

(6) ''Department of Transportation—Federal Transit Administration—Transit Capital Assistance''.

(7) ''Department of Housing and Urban Development—Public and Indian Housing—Public Housing Capital Fund''.

(8) ''Department of Housing and Urban Development—Public and Indian Housing—Elderly, Disabled, and Section 8 Assisted Housing Energy Retrofit''.

(9) ''Department of Housing and Urban Development—Public and Indian Housing—Native American Housing Block Grants''.

(10) ''Department of Housing and Urban Development—Community Planning and Development—HOME Investment Partnerships Program''.

(11) ''Department of Housing and Urban Development—Community Planning and Development—Self-Help and Assisted Homeownership Opportunity Program''.

SEC. 1105. PERIOD OF AVAILABILITY.

(a) IN GENERAL.—All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act.

(b) REOBLIGATION.—Amounts that are not needed or cannot be used under title X of this Act for the activity for which originally obligated may be deobligated and, notwithstanding the limitation on availability specified in subsection (a), reobligated for other activities that have received funding from the same account or appropriation in such title.

SEC. 1106. SET-ASIDE FOR MANAGEMENT AND OVERSIGHT.

Unless other provision is made in this Act (or in other applicable law) for such expenses, up to 0.5 percent of each amount appropriated in this Act 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. Funds set aside under this section shall remain available for obligation until September 30, 2012.

SEC. 1107. APPROPRIATIONS FOR INSPECTORS GENERAL.

In addition to funds otherwise made available in this Act, there are hereby appropriated the following sums to the specified Offices of Inspector General, to remain available until September 30, 2013, for oversight and audit of programs, grants, and projects funded under this Act:

(1) ''Department of Agriculture—Office of Inspector General'', $22,500,000.

(2) ''Department of Commerce—Office of Inspector General'', $10,000,000.

(3) ''Department of Defense—Office of the Inspector General'', $15,000,000.

(4) ''Department of Education—Departmental Management—Office of the Inspector General'', $14,000,000.

(5) ''Department of Energy—Office of Inspector General'', $15,000,000.

(6) ''Department of Health and Human Services—Office of the Secretary—Office of Inspector General'', $19,000,000.

(7) ''Department of Homeland Security—Office of Inspector General'', $2,000,000.

(8) ''Department of Housing and Urban Development—Management and Administration—Office of Inspector General'', $15,000,000.

(9) ''Department of the Interior—Office of Inspector General'', $15,000,000.

(10) ''Department of Justice—Office of Inspector General'', $2,000,000.

(11) ''Department of Labor—Departmental Management—Office of Inspector General'', $6,000,000.

(12) ''Department of Transportation—Office of Inspector General'', $20,000,000.

(13) ''Department of Veterans Affairs—Office of Inspector General'', $1,000,000.

(14) ''Environmental Protection Agency—Office of Inspector General'', $20,000,000.

(15) ''General Services Administration—General Activities—Office of Inspector General'', $15,000,000.

(16) ''National Aeronautics and Space Administration—Office of Inspector General'', $2,000,000.

(17) ''National Science Foundation—Office of Inspector General'', $2,000,000.

(18) ''Small Business Administration—Office of Inspector General'', $10,000,000.

(19) ''Social Security Administration—Office of Inspector General'', $2,000,000.

(20) ''Corporation for National and Community Service—Office of Inspector General'', $1,000,000.

SEC. 1108. APPROPRIATION FOR GOVERNMENT ACCOUNTABILITY OFFICE.

There is hereby appropriated as an additional amount for ''Government Accountability Office—Salaries and Expenses'' $25,000,000, for oversight activities relating to this Act.

SEC. 1109. PROHIBITED USES.

None of the funds appropriated or otherwise made available in this Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

SEC. 1110. USE OF AMERICAN IRON AND STEEL.

(a) IN GENERAL.—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 and steel used in the project is produced in the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

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

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

(c) WRITTEN JUSTIFICATION FOR WAIVER.—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.

(d) DEFINITIONS.—In this section, the terms ''public building'' and ''public work'' have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

SEC. 1111. WAGE RATE REQUIREMENTS.

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.

SEC. 1112. ADDITIONAL ASSURANCE OF APPROPRIATE USE OF FUNDS.

None of the funds provided by this Act may be made available to the State of Illinois, or any agency of the State, unless (1) the use of such funds by the State is approved in legislation enacted by the State after the date of the enactment of this Act, or (2) Rod R. Blagojevich no longer holds the office of Governor of the State of Illinois. The preceding sentence shall not apply to any funds provided directly to a unit of local government (1) by a Federal department or agency, or (2) by an established formula from the State.

SEC. 1113. PERSISTENT POVERTY COUNTIES.

(a) ALLOCATION REQUIREMENT.—Of the amount appropriated in this Act for ''Department of Agriculture—Rural Development Programs—Rural Community Advancement Program'', at least 10 percent shall be allocated for assistance in persistent poverty counties.

(b) DEFINITION.—For 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.

SEC. 1114. REQUIRED PARTICIPATION IN E-VERIFY PROGRAM.

None of the funds made available in this Act may be used to enter into a contract with an entity that does not participate in the E-verify program described in section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 1115. ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF APPROPRIATE USE OF FUNDS.

(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 the State will request and use funds provided by this Act.

(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.

Subtitle B—Accountability in Recovery Act Spending

PART 1—TRANSPARENCY AND OVERSIGHT REQUIREMENTS

SEC. 1201. TRANSPARENCY REQUIREMENTS.

(a) REQUIREMENTS FOR FEDERAL AGENCIES.—Each Federal agency shall publish on the website Recovery.gov (as established under section 1226 of this subtitle)—

(1) a plan for using funds made available in this Act to the agency; and

(2) all announcements for grant competitions, allocations of formula grants, and awards of competitive grants using those funds.

(b) REQUIREMENTS FOR FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES.—

(1) INFRASTRUCTURE INVESTMENT FUNDING.—With respect to funds made available under this Act for infrastructure investments to Federal, State, or local government agencies, the following requirements apply:

(A) Each such agency shall notify the public of funds obligated to particular infrastructure investments by posting the notification on the website Recovery.gov.

(B) The notification required by subparagraph (A) shall include the following:

(i) A description of the infrastructure investment funded.

(ii) The purpose of the infrastructure investment.

(iii) The total cost of the infrastructure investment.

(iv) The rationale of the agency for funding the infrastructure investment with funds made available under this Act.

(v) The name of the person to contact at the agency if there are concerns with the infrastructure investment and, with respect to Federal agencies, an email address for the Federal official in the agency whom the public can contact.

(vi) In the case of State or local agencies, a certification from the Governor, mayor, or other chief executive, as appropriate, 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. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made.

(2) OPERATIONAL FUNDING.—With respect to funds made available under this Act in the form of grants for operational purposes to State or local government agencies or other organizations, the agency or organization shall publish on the website Recovery.gov a description of the intended use of the funds, including the number of jobs sustained or created.

(c) AVAILABILITY ON INTERNET OF CONTRACTS AND GRANTS.—Each contract awarded or grant issued using funds made available in this Act shall be posted on the Internet and linked to the website Recovery.gov. Proprietary data that is required to be kept confidential under applicable Federal or State law or regulation shall be redacted before posting.

SEC. 1202. 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 an inspector general resulting from such a review shall be relayed immediately to the head of each department and agency. 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 Internet and linked to the website Recovery.gov.

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

SEC. 1203. GOVERNMENT ACCOUNTABILITY OFFICE REVIEWS AND REPORTS.

(a) REVIEWS AND REPORTS.—The Comptroller General of the United States 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 Recovery.gov.

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

SEC. 1204. COUNCIL OF ECONOMIC ADVISERS REPORTS.

The Chairman of the Council of Economic Advisers, in consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, shall submit quarterly reports to Congress detailing the estimated impact of programs under this Act on employment, economic growth, and other key economic indicators.

SEC. 1205. SPECIAL CONTRACTING PROVISIONS.

The Federal Acquisition Regulation shall apply to contracts awarded with funds made available in this Act. To the maximum extent possible, such contracts shall be awarded as fixed-price contracts through the use of competitive procedures. Existing contracts so awarded may be utilized in order to obligate such funds expeditiously. 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 Recovery.gov.

PART 2—ACCOUNTABILITY AND TRANSPARENCY BOARD

SEC. 1221. ESTABLISHMENT OF THE ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established a board to be known as the ''Recovery Act Accountability and Transparency Board'' (hereafter in this subtitle referred to as the ''Board'') to coordinate and conduct oversight of Federal spending under this Act to prevent waste, fraud, and abuse.

SEC. 1222. COMPOSITION OF BOARD.

(a) MEMBERSHIP.—The Board shall be composed of seven members as follows:

(1) The Chief Performance Officer of the President, who shall chair the Board.

(2) Six members designated by the President from the inspectors general and deputy secretaries of the Departments of Education, Energy, Health and Human Services, Transportation, and other Federal departments and agencies to which funds are made available in this Act.

(b) TERMS.—Each member of the Board shall serve for a term to be determined by the President.

SEC. 1223. FUNCTIONS OF THE BOARD.

(a) OVERSIGHT.—The Board shall coordinate and conduct oversight of spending under this Act to prevent waste, fraud, and abuse. In addition to responsibilities set forth in this subtitle, the responsibilities of the Board shall include the following:

(1) Ensuring that the reporting of information regarding contract and grants under this Act meets applicable standards and specifies the purpose of the contract or grant and measures of performance.

(2) Verifying that competition requirements applicable to contracts and grants under this Act and other applicable Federal law have been satisfied.

(3) Investigating spending under this Act to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring.

(4) Reviewing whether there are sufficient qualified acquisition and grant personnel overseeing spending under this Act.

(5) Reviewing whether acquisition and grant personnel receive adequate training and whether there are appropriate mechanisms for interagency collaboration.

(b) REPORTS.—

(1) FLASH AND OTHER REPORTS.—The Board shall submit to Congress 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.—The Board shall submit to the President and Congress quarterly reports summarizing its findings and the findings of agency inspectors general and may issue additional reports as appropriate.

(3) ANNUALLY.—On an annual basis, the Board shall prepare a consolidated report on the use of funds under this Act. All reports shall be publicly available and shall be posted on the Internet website Recovery.gov, except that portions of reports may be redacted if the portions would disclose information that is protected from public disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act).

(c) RECOMMENDATIONS TO AGENCIES.—The Board shall make recommendations to Federal agencies on measures to prevent waste, fraud, and abuse. A Federal agency shall, within 30 days after receipt of any such recommendation, submit to the Board, the President, and the congressional committees of jurisdiction a report on whether the agency agrees or disagrees with the recommendations and what steps, if any, the agency plans to take to implement the recommendations.

SEC. 1224. POWERS OF THE BOARD.

(a) COORDINATION OF AUDITS AND INVESTIGATIONS BY AGENCY INSPECTORS GENERAL.—The Board shall coordinate the audits and investigations of spending under this Act by agency inspectors general.

(b) CONDUCT OF REVIEWS BY BOARD.—The Board may conduct reviews of spending under this Act and may collaborate on such reviews with any inspector general.

(c) MEETINGS.—The Board may, for the purpose of carrying out its duties under this Act, hold public meetings, sit and act at times and places, and receive information as the Board considers appropriate. The Board shall meet at least once a month.

(d) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon request of the Chairman of the Board, the head of that department or agency shall furnish that information to the Board.

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under this Act.

SEC. 1225. STAFFING.

(a) EXECUTIVE DIRECTOR.—The Chairman of the Board may appoint and fix the compensation of an executive director and other personnel as may be required to carry out the functions of the Board. The Director shall be paid at the rate of basic pay for level IV of the Executive Schedule.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Board, the head of any Federal department or agency may detail any Federal official or employee, including officials and employees of offices of inspector general, to the Board without reimbursement from the Board, and such detailed staff shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) OFFICE SPACE.—Office space shall be provided to the Board within the Executive Office of the President.

SEC. 1226. RECOVERY.GOV.

(a) REQUIREMENT TO ESTABLISH WEBSITE.—The Board shall establish and maintain a website on the Internet to be named Recovery.gov, to foster greater accountability and transparency in the use of funds made available in this Act.

(b) PURPOSE.—Recovery.gov shall be a portal or gateway to key information related to this Act and provide a window to other Government websites with related information.

(c) MATTERS COVERED.—In establishing the website Recovery.gov, 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 a database of 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 funds made available in this Act.

(4) The website shall provide detailed data on contracts awarded by the Government for purposes of carrying out this Act, including information about the competitiveness of the contracting process, notification of solicitations for contracts to be awarded, and information about the process that was used for the award of contracts.

(5) The website shall include printable reports on funds made available in this Act 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 awarded for purposes of carrying out this Act.

(7) The website shall be enhanced and updated as necessary to carry out the purposes of this subtitle.

SEC. 1227. PRESERVATION OF THE INDEPENDENCE OF INSPECTORS GENERAL.

Inspectors general shall retain independent authority to determine whether to conduct an audit or investigation of spending under this Act. 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, within 30 days after receipt of the request, submit to the Board, the agency head, and the congressional committees of jurisdiction a report explaining why the inspector general has rejected the request in whole or in part.

SEC. 1228. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

The Board shall coordinate its oversight activities with the Comptroller General of the United States and State auditor generals.

SEC. 1229. INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established a panel to be known as the ''Independent Advisory Panel'' to advise the Board.

(b) MEMBERSHIP.—The Panel shall be composed of five members appointed by the President from among individuals with expertise in economics, public finance, contracting, accounting, or other relevant fields.

(c) FUNCTIONS.—The Panel shall make recommendations to the Board on actions the Board could take to prevent waste, fraud, and abuse in Federal spending under this Act.

(d) TRAVEL EXPENSES.—Each member of the Panel shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

SEC. 1230. FUNDING.

There is hereby appropriated to the Board $14,000,000 to carry out this subtitle.

SEC. 1231. BOARD TERMINATION.

The Board shall terminate 12 months after 90 percent of the funds made available under this Act have been expended, as determined by the Director of the Office of Management and Budget.

PART 3—ADDITIONAL ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

SEC. 1241. LIMITATION ON THE LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

No contract entered into using funds made available in this Act pursuant to the authority provided in section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) that is for an amount greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. (4)(11))—

(1) may exceed the time necessary—

(A) to meet the unusual and compelling requirements of the work to be performed under the contract; and

(B) for the executive agency to enter into another contract for the required goods or services through the use of competitive procedures; and

(2) may exceed one year unless the head of the executive agency entering into such contract determines that exceptional circumstances apply.

SEC. 1242. ACCESS OF GOVERNMENT ACCOUNTABILITY OFFICE AND OFFICES OF INSPECTOR GENERAL TO CERTAIN EMPLOYEES.

(a) ACCESS.—Each contract awarded using funds made available in this Act shall provide that the Comptroller General and his representatives, and any representatives of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), are authorized—

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

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

(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 or an Inspector General.

SEC. 1243. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving funds made available in this Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to the Board, an inspector general, the Comptroller General, a member of Congress, or a Federal agency head, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an executive agency contract or grant;

(2) a gross waste of executive agency funds;

(3) a substantial and specific danger to public health or safety; or

(4) a violation of law related to an executive agency contract (including the competition for or negotiation of a contract) or grant awarded or issued to carry out this Act.

(b) INVESTIGATION OF COMPLAINTS.—

(1) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the inspector general of the executive agency that awarded the contract or issued the grant. Unless the inspector general determines that the complaint is frivolous, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the Federal agency that awarded the contract or issued the grant, and the Board.

(2)(A) Except as provided under subparagraph (B), the inspector general shall make a determination that a complaint is frivolous or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) If the inspector general is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) Not later than 30 days after receiving an inspector general report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

(A) Order the employer to take affirmative action to abate the reprisal.

(B) Order the employer to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the employer to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(2) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(3) An inspector general determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

(4) Whenever a person fails to comply with an order issued under paragraph (1), 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 and compensatory and exemplary damages.

(5) Any person adversely affected or aggrieved by an order issued under paragraph (1) 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.

(d) CONSTRUCTION.—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.

(e) DEFINITIONS.—

(1) NON-FEDERAL EMPLOYER RECEIVING FUNDS UNDER THIS ACT.—The term ''non-Federal employer receiving funds made available in this Act'' means—

(A) with respect to a Federal contract awarded or Federal grant issued to carry out this Act, the contractor or grantee, as the case may be, if the contractor or grantee is an employer; or

(B) a State or local government, if the State or local government has received funds made available in this Act.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(3) 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 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).

TITLE II—AGRICULTURE, NUTRITION, AND RURAL DEVELOPMENT

DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

For an additional amount for ''Agriculture Buildings and Facilities and Rental Payments'', $44,000,000, for necessary construction, repair, and improvement activities: *Provided*, That section 1106 of this Act shall not apply to this appropriation.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $209,000,000, 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 ''Salaries and Expenses,'' $245,000,000, for the purpose of maintaining and modernizing the information technology system: *Provided*, That section 1106 of this Act shall not apply to this appropriation.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for ''Watershed and Flood Prevention Operations'', $350,000,000, of which $175,000,000 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 $50,000,000 of the amount provided for the purchase of floodplain easements may be obligated for projects in any one State): *Provided*, That section 1106 of this Act shall not apply to this appropriation: *Provided further*, That priority in the use of such funds shall be given 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, for necessary expenses to carry out rehabilitation of structural measures: *Provided*, That section 1106 of this Act shall not apply to this appropriation: *Provided further*, That priority in the use of such funds shall be given 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 DEVELOPMENT PROGRAMS

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans as authorized by sections 306 and 310B and described in sections 381E(d)(1), 381E(d)(2), and 381E(d)(3) of the Consolidated Farm and Rural Development Act, to be available from the rural community advancement program, as follows: $5,838,000,000, of which $1,102,000,000 is for rural community facilities direct loans, of which $2,000,000,000 is for business and industry guaranteed loans, and of which $2,736,000,000 is for rural water and waste disposal direct loans.

For an additional amount for the cost of direct loans, loan guarantees, and grants, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: $1,800,000,000, of which $63,000,000 is for rural community facilities direct loans, of which $137,000,000 is for rural community facilities grants authorized under section 306(a) of the Consolidated Farm and Rural Development Act, of which $87,000,000 is for business and industry guaranteed loans, of which $13,000,000 is for rural business enterprise grants authorized under section 310B of the Consolidated Farm and Rural Development Act, of which $400,000,000 is for rural water and waste disposal direct loans, and of which $1,100,000,000 is for rural water and waste disposal grants authorized under section 306(a): *Provided*, That the amounts appropriated under this heading shall be transferred to, and merged with, the appropriation for ''Rural Housing Service, Rural Community Facilities Program Account'', the appropriation for ''Rural Business-Cooperative Service, Rural Business Program Account'', and the appropriation for ''Rural Utilities Service, Rural Water and Waste Disposal Program Account'': *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 enactment of this Act.

In addition to other available funds, the Secretary of Agriculture may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans, loan guarantees, and grants funded under this account, which shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'' and shall remain available until September 30, 2012: *Provided*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

Funds appropriated by this Act to the Rural Community Advancement Program for rural community facilities, rural business, and rural water and waste disposal direct loans, loan guarantees and grants may be transferred among these programs: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount of 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: $22,129,000,000 for loans to section 502 borrowers, of which $4,018,000,000 shall be for direct loans, and of which $18,111,000,000 shall be for 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: section 502 loans, $500,000,000, of which $270,000,000 shall be for direct loans, and of which $230,000,000 shall be for unsubsidized guaranteed loans.

In addition to other available funds, the Secretary of Agriculture may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans and loan guarantees funded under this account, of which $1,750,000 will 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: *Provided*, These funds shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'': *Provided further*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

Funds appropriated by this Act to the Rural Housing Insurance Fund Program account for section 502 direct loans and unsubsidized guaranteed loans may be transferred between these programs: *Provided*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

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, $2,825,000,000: *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 open access 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 funds made available under this paragraph shall be given to projects that provide service to the most 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 notwithstanding section 1103 of this Act, 50 percent of the grants, loans, and loan guarantees made available under this heading shall be awarded not later than September 30, 2009: *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 enactment of this Act: *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 Deployment Grant 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.

In addition to other available funds, the Secretary may use not more than 3 percent of the funds made available under this account for administrative costs to carry out loans, loan guarantees, and grants funded under this account, which shall be transferred and merged with the appropriation for ''Rural Development, Salaries and Expenses'' and shall remain available until September 30, 2012: *Provided*, That the authority provided in this paragraph shall apply to appropriations under this heading in lieu of the provisions of section 1106 of this Act.

FOOD AND NUTRITION SERVICE

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), $100,000,000, for the purposes specified in section 17(h)(10)(B)(ii) for the Secretary of Agriculture to provide assistance to State agencies to implement new management information systems or improve existing management information systems for the program.

EMERGENCY FOOD 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, of which $100,000,000 is for the purchase of commodities and of which $50,000,000 is for costs associated with the distribution of commodities.

GENERAL PROVISIONS, THIS TITLE

SEC. 2001. TEMPORARY INCREASE IN BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

(a) MAXIMUM BENEFIT INCREASE.—

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

(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 allotment 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; and

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

(c) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section, the Secretary shall make available $150,000,000 in each of fiscal years 2009 and 2010, to remain available through September 30, 2012, of which $4,500,000 is for necessary expenses of the Food and Nutrition Service for management and oversight of the program and for monitoring the integrity and evaluating the effects of the payments made under this section.

(2) AVAILABILITY OF FUNDS.—Funds described in paragraph (1) shall be made available as grants to State agencies based on each State's share of households that participate in the Supplemental Nutrition Assistance Program as reported to the Department of Agriculture for the 12-month period ending with June, 2008.

(d) TREATMENT OF JOBLESS WORKERS.—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, jobless adults who comply with work registration and employment and training requirements under section 6, section 20, or section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015, 2029, or 2035) shall not be disqualified from the Supplemental Nutrition Assistance Program because of the provisions of section 6(o)(2) of such Act (7 U.S.C. 2015(o)(2)). Beginning on October 1, 2010, for the purposes of section 6(o), a State agency shall disregard any period during which an individual received Supplemental Nutrition Assistance Program benefits prior to October 1, 2010.

(e) FUNDING.—There is appropriated to the Secretary of Agriculture such sums as are necessary to carry out this section, to remain available until expended. Section 1106 of this Act shall not apply to this appropriation.

SEC. 2002. AFTERSCHOOL FEEDING PROGRAM FOR AT-RISK CHILDREN.

Section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)) is amended by striking paragraph (5).

TITLE III—COMMERCE, JUSTICE, AND SCIENCE

Subtitle A—Commerce

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Development Assistance Programs'', $250,000,000: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall not exceed 2 percent instead of the percentage specified in such section: *Provided further*, That the amount set aside pursuant to the previous proviso shall 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 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: *Provided*, That section 1106 of this Act shall not apply to funds provided under this heading.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $350,000,000, to remain available until September 30, 2011: *Provided*, That funds shall be available to establish the State Broadband Data and Development Grant Program, as authorized by Public Law 110–385, for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State, and to develop and maintain a nationwide broadband inventory map, as authorized by section 6001 of division B of this Act.

WIRELESS AND BROADBAND DEPLOYMENT GRANT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses related to the Wireless and Broadband Deployment Grant Programs established by section 6002 of division B of this Act, $2,825,000,000, of which $1,000,000,000 shall be for Wireless Deployment Grants and $1,825,000,000 shall be for Broadband Deployment Grants: *Provided*, That the National Telecommunications and Information Administration shall submit a report on planned spending and actual obligations describing the use of these funds not later than 120 days after the date of enactment of this Act, and an update report not later than 60 days following the initial report, 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: *Provided further*, That notwithstanding section 1103 of this Act, 50 percent of the grants made available under this heading shall be awarded not later than September 30, 2009: *Provided further*, That up to 20 percent of the funds provided under this heading for Wireless Deployment Grants and Broadband Deployment Grants may be transferred between these programs: *Provided further*, That the Committees on Appropriations of the House of Representatives and the Senate shall be notified at least 15 days in advance of any transfer.

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

Notwithstanding any other provision of law, and in addition to amounts otherwise provided in any other Act, for costs associated with the Digital-to-Analog Converter Box Program, $650,000,000, to be available until September 30, 2009: *Provided*, That these funds shall be available for coupons and related activities, including but not limited to education, consumer support and outreach, as deemed appropriate and necessary to ensure a timely conversion of analog to digital television.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for ''Scientific and Technical Research and Services'', $100,000,000.

INDUSTRIAL TECHNOLOGY SERVICES

For an additional amount for ''Industrial Technology Services'', $100,000,000, of which $70,000,000 shall be available for the necessary expenses of the Technology Innovation Program and $30,000,000 shall be available for the necessary expenses of the Hollings Manufacturing Extension Partnership.

CONSTRUCTION OF RESEARCH FACILITIES

For an additional amount for ''Construction of Research Facilities'', as authorized by sections 13 through 15 of the Act of March 13, 1901 (15 U.S.C. 278c–278e), $300,000,000, for a competitive construction grant program for research science buildings: *Provided further*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $400,000,000, for habitat restoration and mitigation activities.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'', $600,000,000, for accelerating satellite development and acquisition, acquiring climate sensors and climate modeling capacity, and establishing climate data records: *Provided further*, That not less than $140,000,000 shall be available for climate data modeling.

Subtitle B—Justice

DEPARTMENT OF JUSTICE

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', $3,000,000,000, to be available 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 Act of 1968, (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of such Act shall not apply for purposes of this Act): *Provided*, That section 1106 of this Act shall not apply to funds provided under this heading.

COMMUNITY ORIENTED POLICING SERVICES

For an additional amount for ''Community Oriented Policing Services'', $1,000,000,000, to be available for grants under section 1701 of title I of the 1968 Act (42 U.S.C. 3796dd) for the hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section: *Provided*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 3201. WAIVER OF MATCHING REQUIREMENT AND SALARY LIMIT UNDER COPS PROGRAM.

Sections 1701(g) and 1704(c) of the Omnibus Crime Control and Safe Street 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.

Subtitle C—Science

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

For an additional amount for ''Science'', $400,000,000, of which not less than $250,000,000 shall be solely for accelerating the development of the tier 1 set of Earth science climate research missions recommended by the National Academies Decadal Survey.

AERONAUTICS

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

CROSS AGENCY SUPPORT PROGRAMS

For an additional amount for ''Cross Agency Support Programs'', for necessary expenses for restoration and mitigation of National Aeronautics and Space Administration owned infrastructure and facilities related to the consequences of hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $50,000,000.

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: *Provided*, That for peer-reviewed grants made under this heading, the time limitation provided in section 1103(b) of this Act shall be 120 days.

EDUCATION AND HUMAN RESOURCES

For an additional amount for ''Education and Human Resources'', $100,000,000: *Provided*, That $60,000,000 shall be for activities authorized by section 7030 of Public Law 110–69 and $40,000,000 shall be for activities authorized by section 9 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n).

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For an additional amount for ''Major Research Equipment and Facilities Construction'', $400,000,000, which shall be available only for approved projects.

TITLE IV—DEFENSE

DEPARTMENT OF DEFENSE

FACILITY INFRASTRUCTURE INVESTMENTS, DEFENSE

For expenses, not otherwise provided for, to improve, repair and modernize Department of Defense facilities, restore and modernize Army barracks, and invest in the energy efficiency of Department of Defense facilities, $4,500,000,000, for Facilities Sustainment, Restoration and Modernization programs of the Department of Defense (including minor construction and major maintenance and repair), which shall be available as follows:

(1) ''Operation and Maintenance, Army'', $1,490,804,000.

(2) ''Operation and Maintenance, Navy'', $624,380,000.

(3) ''Operation and Maintenance, Marine Corps'', $128,499,000.

(4) ''Operation and Maintenance, Air Force'', $1,236,810,000.

(5) ''Defense Health Program'', $454,658,000.

(6) ''Operation and Maintenance, Army Reserve'', $110,899,000.

(7) ''Operation and Maintenance, Navy Reserve'', $62,162,000.

(8) ''Operation and Maintenance, Marine Corps Reserve'', $45,038,000.

(9) ''Operation and Maintenance, Air Force Reserve'', $14,881,000.

(10) ''Operation and Maintenance, Army National Guard'', $302,700,000.

(11) ''Operation and Maintenance, Air National Guard'', $29,169,000.

ENERGY RESEARCH AND DEVELOPMENT, DEFENSE

For expenses, not otherwise provided for, for research, development, test and evaluation programs for improvements in energy generation, transmission, regulation, use, and storage, for military installations, military vehicles, and other military equipment, $350,000,000, which shall be available as follows:

(1) ''Research, Development, Test and Evaluation, Army'', $87,500,000.

(2) ''Research, Development, Test and Evaluation, Navy'', $87,500,000.

(3) ''Research, Development, Test and Evaluation, Air Force'', $87,500,000.

(4) ''Research, Development, Test and Evaluation, Defense-Wide'', $87,500,000

TITLE V—ENERGY AND WATER

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'', $2,000,000,000: *Provided*, That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this paragraph: *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 in this paragraph may only be used for programs, projects or activities previously funded: *Provided further*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That funds provided in this paragraph shall be used for elements of projects, programs or activities that can be completed using funds provided herein: *Provided further*, That funds appropriated in this paragraph 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 one or more of 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), and 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 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 are otherwise expired or lapsed for obligation, expired or lapsed 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.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'', $250,000,000: *Provided*, That funds provided in this paragraph may only be used for programs, projects, or activities previously funded: *Provided further*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That

funds provided in this paragraph shall be used for elements of projects, programs, or activities that can be completed using funds provided herein: *Provided further*, That for projects that are being completed with funds appropriated in this Act that are otherwise expired or lapsed for obligation, expired or lapsed 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.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'', $2,225,000,000: *Provided*, That the Corps of Engineers is directed to prioritize funding for activities based on the ability to accelerate existing contracts or fully fund project elements and contracts for such elements in a time period of 2 years after the date of enactment of this Act giving preference to projects and activities that are labor intensive: *Provided further*, That funds provided in this paragraph shall be used for elements of projects, programs, or activities that can be completed using funds provided herein: *Provided further*, That for projects that are being completed with funds appropriated in this Act that are otherwise expired or lapsed for obligation, expired or lapsed 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.

REGULATORY PROGRAM

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

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'', $500,000,000: *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 of the amount appropriated under this heading, not less than $80,000,000 shall be used for rural water projects and these funds shall be expended primarily on water intake and treatment facilities of such projects: *Provided further*, That the costs of reimbursable activities, other than for maintenance and rehabilitation, carried out with funds made available under this heading shall be repaid pursuant to existing authorities and agreements: *Provided further*, That the costs of maintenance and rehabilitation activities carried out with funds provided in this Act shall be repaid pursuant to existing authority, except the length of repayment period shall be determined on needs-based criteria to be established and adopted by the Commissioner of the Bureau of Reclamation, but in no case shall the repayment period exceed 25 years.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $18,500,000,000, which shall be used as follows:

(1) $2,000,000,000 shall be for expenses necessary for energy efficiency and renewable energy research, development, demonstration and deployment activities, to accelerate the development of technologies, to include advanced batteries, of which not less than $800,000,000 is for biomass and $400,000,000 is for geothermal technologies.

(2) $500,000,000 shall be for expenses necessary to implement the programs authorized under part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.).

(3) $1,000,000,000 shall be for the cost of grants to institutional entities for energy sustainability and efficiency under section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1).

(4) $6,200,000,000 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.).

(5) $3,500,000,000 shall be 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.).

(6) $3,400,000,000 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).

(7) $200,000,000 shall be for expenses necessary to implement the programs authorized under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011).

(8) $300,000,000 shall be for expenses necessary to implement the program authorized under section 124 of the Energy Policy Act of 2005 (42 U.S.C. 15821) and the Energy Star program.

(9) $400,000,000 shall be for expenses necessary to implement the program authorized under section 721 of the Energy Policy Act of 2005 (42 U.S.C. 16071).

(10) $1,000,000,000 shall be for expenses necessary for the manufacturing of advanced batteries authorized under section 136(b)(1)(B) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(b)(1)(B)): *Provided*, 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 may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further,* That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability,'' $4,500,000,000: *Provided*, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, enhance security and reliability of the energy infrastructure, 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 of such amounts, $100,000,000 shall be for worker training: *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.

ADVANCED BATTERY LOAN GUARANTEE PROGRAM

For the cost of guaranteed loans as authorized by section 135 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17012), $1,000,000,000, to remain available until expended: *Provided*, That of such amount, $10,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

INSTITUTIONAL LOAN GUARANTEE PROGRAM

For the cost of guaranteed loans as authorized by section 399A of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1), $500,000,000: *Provided*, That of such amount, $10,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

For an additional amount for ''Innovative Technology Loan Guarantee Program'' for the cost of guaranteed loans authorized by section 1705 of the Energy Policy Act of 2005, $8,000,000,000: *Provided*, That of such amount, $25,000,000 shall be used for administrative expenses in carrying out the guaranteed loan program, and shall be in lieu of the amount set aside under section 1106 of this Act: *Provided further*, That the cost of such loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

FOSSIL ENERGY

For an additional amount for ''Fossil Energy'', $2,400,000,000 for necessary expenses to demonstrate carbon capture and sequestration technologies as authorized under section 702 of the Energy Independence and Security Act of 2007.

SCIENCE

For an additional amount for ''Science'', $2,000,000,000: *Provided*, That of such amounts, not less than $400,000,000 shall be used for the Advanced Research Projects Agency—Energy authorized under section 5012 of the America COMPETES Act (42 U.S.C. 16538): *Provided further*, That of such amounts, not less than $100,000,000 shall be used for advanced scientific computing.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup,'' $500,000,000: *Provided*, That such amounts shall be used for elements of projects, programs, or activities that can be completed using funds provided herein.

GENERAL PROVISIONS, THIS TITLE

SEC. 5001. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

The Hoover Power Plant Act of 1984 (Public Law 98–381) is amended by adding at the end the following:

"TITLE III—BORROWING AUTHORITY

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

''(a) DEFINITIONS.—In this section—

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

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

''(b) AUTHORITY.—

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

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

''(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), $3,250,000,000 in outstanding repayable balances at any 1 time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

''(i) constructing, financing, facilitating, or studying construction of new or upgraded electric power transmission lines and related facilities with at least 1 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 projects financed under this section.

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

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

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

''(A) each other such project; and

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

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

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

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

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

''(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 obligation to provide ancillary services to users of transmission facilities developed under this section.

''(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 INTERESTS.—In the course of selecting potential projects to be funded under this section, the Administrator shall seek requests for interest from entities interested in identifying potential projects through one or more notices published in the Federal Register.''.

SEC. 5002. BONNEVILLE POWER ADMINISTRATION.

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 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. 5003. APPROPRIATIONS TRANSFER AUTHORITY.

Not to exceed 20 percent of the amounts made available in this Act to the Department of Energy for ''Energy Efficiency and Renewable Energy'', ''Electricity Delivery and Energy Reliability'', and ''Advanced Battery Loan Guarantee Program'' may be transferred within and between such accounts, except that no amount specified under any such heading may be increased or decreased by more than a total of 20 percent by such transfers, and notification of such transfers shall be submitted promptly to the Committees on Appropriations of the House of Representatives and the Senate.

TITLE VI—FINANCIAL SERVICES AND GENERAL GOVERNMENT

Subtitle A—General Services

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to be deposited in the Federal Buildings Fund, $7,700,000,000 for real property activities with priority given to activities that can commence promptly following enactment of this Act; of which up to $1,000,000,000 shall be used for construction, repair, and alteration of border facilities and land ports of entry; of which not less than $6,000,000,000 shall be used for construction, repair, and alteration of Federal buildings for projects that will create the greatest impact on energy efficiency and conservation; of which $108,000,000 shall remain available until September 30, 2012, and shall be used for rental of space costs associated with the construction, repair, and alteration of these projects; *Provided*, That of the amounts provided, $160,000,000 shall remain available until September 30, 2012, and shall be for building operations in support of the activities described in this paragraph: *Provided further*, That the preceding proviso shall apply to this appropriation in lieu of the provisions of section 1106 of this Act: *Provided further*, That the Administrator of General Services is authorized to initiate design, construction, repair, alteration, leasing, and other projects through existing authorities of the Administrator: *Provided further*, That the Administrator shall submit a detailed plan, by project, regarding the use of funds to the Committees on Appropriations of the House of Representatives and the Senate within 30 days after 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 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).

ENERGY EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

For capital expenditures and necessary expenses of the General Services Administration's Motor Vehicle Acquisition and Motor Vehicle Leasing programs for the acquisition of motor vehicles, including plug-in and alternative fuel vehicles, $600,000,000: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section: *Provided further*, 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 the Administrator shall report to the Committees on the obligation of these funds on a quarterly basis beginning on June 30, 2009.

Subtitle B—Small Business

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans and loan guarantees authorized by sections 6202 through 6205 of this Act, $426,000,000: *Provided*, That such cost, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses to carry out the direct loan and loan guarantee programs authorized by this Act, $4,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses: *Provided*, That this sentence shall apply to this appropriation in lieu of the provisions of section 1106 of this Act.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 6201. 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 95 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 that would be eligible for a loan guarantee under 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).

(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) APPLICATION.—In order to participate in the loan guarantee program under this section a lender shall submit an application to the Administrator for the guarantee of up to 95 percent of the principal amount of a qualifying small business loan. The Administrator shall approve or deny each such application within 5 business days after receipt thereof. The Administrator may not delegate to lenders the authority to approve or disapprove such applications.

(d) FEES.—The Administrator may charge fees for guarantees issued under this section. Such fees shall not exceed the fees permitted for loan guarantees under section 7(a) of the Small Business Act (15 U.S.C. 631 and following).

(e) INTEREST RATES.—The Administrator may not guarantee under this section any loan that bears interest at a rate higher than 3 percent above the higher of either of the following as quoted in the Wall Street Journal on the first business day of the week in which such guarantee is issued:

(1) The London interbank offered rate (LIBOR) for a 3-month period.

(2) The Prime Rate.

(f) 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.

(g) 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.

(h) 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).

(i) SUNSET.—Loan guarantees may not be issued under this section after the date 90 days after the date of establishment (as determined by the Administrator) of the economic recovery program under section 6204.

(j) SMALL BUSINESS ACT PROVISIONS.—The provisions of the Small Business Act applicable to loan guarantees under section 7 of that Act shall apply to loan guarantees under this section except as otherwise provided in this section.

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

SEC. 6202. 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 established under subsection (c).

(4) The term ''SBA secondary market'' means the 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.—

(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 government 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, deems appropriate.

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

(g) 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).

(h) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall promulgate regulations under this section within 15 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.

SEC. 6203. 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 custodial agents as necessary to operate the Authority.

(2) GUARANTEE PROCESS.—

(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 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 custodial agents as necessary to operate the Authority.

(3) RESPONSIBILITIES.—

(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 seller of such pools shall absorb any and all losses resulting from a shortage or excess of monthly cash flows.

(iii) The Administrator shall receive a monthly fee of not more than 50 basis points on the outstanding balance of the dollar amount of the pools that are guaranteed.

(iv) The Administrator may guarantee not more than $3,000,000,0000 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) terminate such guarantee immediately,

(B) 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

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

(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 proceeding 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.

SEC. 6204. ECONOMIC RECOVERY PROGRAM.

(a) PURPOSE.—The purpose of this section is to establish a new lending and refinancing authority within the Small Business Administration.

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

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

(2) 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) REFINANCING AUTHORITY.—

(1) IN GENERAL.—Upon application from a lender (and with consent of the borrower), the Administrator may refinance existing non-Small Business Administration or Small Business Administration loans (including loans under sections 7(a) and 504 of the Small Business Act) made to small business concerns.

(2) ELIGIBLE LOANS.—In order to be eligible for refinancing under this section—

(A) the amount of the loan refinanced may not exceed $10,000,000 and a first lien must be conveyed to the Administrator;

(B) the lender shall offer to accept from the Administrator as full repayment of the loan an amount equal to less than 100 percent but more than 85 percent of the remaining balance of the principal of the loan; and

(C) the loan to be refinanced was made before the date of enactment of this Act and for a purpose that would have been eligible for a loan under any Small Business Administration lending program.

(3) TERMS.—The term of the refinancing by the Administrator under this section shall not be less than remaining term on the loan that is refinanced but shall not exceed a term of 20 years. The rate of interest on the loan refinanced under this section shall be fixed by the Administrator at a level that the Administrator determines will result in manageable monthly payments for the borrower.

(4) LIMIT.—The Administrator may not refinance amounts under this section that are greater than the amount the lender agrees to accept from the Administrator as full repayment of the loan as provided in paragraph (2)(B).

(d) UNDERWRITING AND OTHER LOAN SERVICES.—

(1) IN GENERAL.—The Administrator is authorized to engage in underwriting, loan closing, funding, and servicing of loans made to small business concerns and to guarantee loans made by other entities to small business concerns.

(2) APPLICATION PROCESS.—The Administrator shall by rule establish a process in which small business concerns may submit applications to the Administrator for the purposes of securing a loan under this subsection. The Administrator shall, at a minimum, collect all information necessary to determine the creditworthiness and repayment ability of the borrower.

(3) PARTICIPATION OF LENDERS.—

(A) The Administrator shall by rule establish a process in which the Administrator makes available loan applications and all accompanying information to lenders for the

purpose of such lenders originating, underwriting, closing, and servicing such loans.

(B) Lenders are eligible to receive loan applications and accompanying information under this paragraph if they participate in the programs established in section 7(a) of the Small Business Act (15 U.S.C. 636) or title V of the Small Business Investment Act (15 U.S.C. 695).

(C) The Administrator shall first make available such loan applications and accompanying information to lenders within 100 miles of a loan applicant's principal office.

(D) If a lender described in subparagraph (C) does not agree to originate, underwrite, close, and service such loans within 5 business days of receiving the loan applications, the Administrator shall subsequently make available such loan applications and accompanying information to lenders in the Preferred Lenders Program under section 7(a)(2)(C)(ii) of the Small Business Act (15 U.S.C. 636).

(E) If a lender described in subparagraph (C) or (D) does not agree to originate, underwrite, close, and service such loans within 10 business days of receiving the loan applications, the Administrator may originate, underwrite, close, and service such loans as described in paragraph (1) of this subsection.

(4) ASSET SALES.—The Administrator shall offer to sell loans made or refinanced by the Administrator under this section. Such sales shall be made through semi-annual public solicitation (in the Federal Register and in other media) of offers to purchase. The Administrator may contract with vendors for due diligence, asset valuation, and other services related to such sales. The Administrator may not sell any loan under this section for less than 90 percent of the net present value of the loan, as determined and certified by a qualified third-party.

(5) LOANS NOT SOLD.—The Administrator shall maintain and service loans made by the Administrator under this section that are not sold through the asset sales under this section.

(e) DURATION.— The authority of this section shall terminate on the date two years after the date on which the program under this section becomes operational (as determined by the Administrator).

(f) 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).

(g) QUALIFIED LOANS.—

(1) ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—A loan to any concern shall not be subject to this section 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 shall be subject to this section if the borrower is an 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.

(h) REPORTS.—The Administrator shall submit a report to Congress semi-annually setting forth the aggregate amount of loans and geographic dispersion of such loans made, underwritten, closed, funded, serviced, sold, guaranteed, or held by the Administrator under the authority of this section. Such report shall also set forth information concerning loan defaults, prepayments, and recoveries related to loans made under the authority of this section.

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

SEC. 6205. STIMULUS FOR COMMUNITY DEVELOPMENT LENDING.

(a) 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 which has existing indebtedness collateralized by fixed assets, any amount of existing indebtedness that does not exceed ½ 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 borrower has been current on all payments due on the existing debt for not less than 1 year preceding the date of refinancing; and

''(iii) the financing under section 504 will provide better terms or rate of interest than exists on the debt 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. 6206. 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—

(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.''; and

(2) 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.''.

SEC. 6207. GAO REPORT.

(a) REPORT.—Not later than 30 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 authority established in sections 6201 through 6206 of this Act.

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

TITLE VII—HOMELAND SECURITY

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $100,000,000, for non-intrusive detection technology to be deployed at sea ports of entry.

CONSTRUCTION

For an additional amount for ''Construction'', $150,000,000, to repair and construct inspection facilities at land border ports of entry.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for ''Aviation Security'', $500,000,000, for the purchase and installation of explosive detection systems and emerging checkpoint technologies: *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 and to expeditiously award new letters of intent.

COAST GUARD

ALTERATION OF BRIDGES

For an additional amount for ''Alteration of Bridges'', $150,000,000, 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.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER

For an additional amount for ''Emergency Food and Shelter'', $200,000,000, 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.): *Provided*, That for the purposes of this appropriation, the redistribution required by section 1104(b) shall be carried out by the Federal Emergency Management Agency and the National Board, who may reallocate and obligate any funds that are unclaimed or returned to the program: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 3.5 percent instead of the percentage specified in such section.

GENERAL PROVISIONS, THIS TITLE

SEC. 7001. EXTENSION OF PROGRAMS.

Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking ''11-year period'' and inserting ''16-year period''.

SEC. 7002. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2008, the Commissioner of Social Security and the Secretary of Homeland Security

shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including (but not limited to)—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 404, but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the basic pilot confirmation system established under such section;

(2) provide such funds quarterly in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Office of Inspector General of the Social Security Administration and the Department of Homeland Security.

(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2008, has not been reached as of October 1 of such fiscal year, the latest agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the basic pilot confirmation system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 7003. GAO STUDY OF BASIC PILOT CONFIRMATION SYSTEM.

(a) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study regarding erroneous tentative nonconfirmations under the basic pilot confirmation system established under section 404(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

(b) MATTERS TO BE STUDIED.—In the study required under subsection (a), the Comptroller General shall determine and analyze—

(1) the causes of erroneous tentative nonconfirmations under the basic pilot confirmation system;

(2) the processes by which such erroneous tentative nonconfirmations are remedied; and

(3) the effect of such erroneous tentative nonconfirmations on individuals, employers, and Federal agencies.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit the results of the study required under subsection (a) to the Committee on Ways and Means and the Committee on the Judiciary of the House of Representatives and the Committee on Finance and the Committee on the Judiciary of the Senate.

SEC. 7004. GAO STUDY OF EFFECTS OF BASIC PILOT PROGRAM ON SMALL ENTITIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the Comptroller General's analysis of the effects of the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) on small entities (as defined in section 601 of title 5, United States Code). The report shall detail—

(1) the costs of compliance with such program on small entities;

(2) a description and an estimate of the number of small entities enrolled and participating in such program or an explanation of why no such estimate is available;

(3) the projected reporting, recordkeeping and other compliance requirements of such program on small entities;

(4) factors that impact small entities' enrollment and participation in such program, including access to appropriate technology, geography, entity size, and class of entity; and

(5) the steps, if any, the Secretary of Homeland Security has taken to minimize the economic impact of participating in such program on small entities.

(b) DIRECT AND INDIRECT EFFECTS.—The report shall cover, and treat separately, direct effects (such as wages, time, and fees spent on compliance) and indirect effects (such as the effect on cash flow, sales, and competitiveness).

(c) SPECIFIC CONTENTS.—The report shall provide specific and separate details with respect to—

(1) small businesses (as defined in section 601 of title 5, United States Code) with fewer than 50 employees; and

(2) small entities operating in States that have mandated use of the basic pilot program.

SEC. 7005. WAIVER OF MATCHING REQUIREMENT UNDER SAFER PROGRAM.

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.

TITLE VIII—INTERIOR AND ENVIRONMENT

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Construction'', $325,000,000, for priority road, bridge, and trail repair or decommissioning, critical deferred maintenance projects, facilities construction and renovation, hazardous fuels reduction, and remediation of abandoned mine or well sites: *Provided*, That funds may be transferred to other appropriate accounts of the Bureau of Land management: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $300,000,000, for priority road and bridge repair and replacement, and critical deferred maintenance and improvement projects on National Wildlife Refuges, National Fish Hatcheries, and other Service properties: *Provided*, That funds may be transferred to ''Resource Management'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

NATIONAL PARK SERVICE

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $1,700,000,000, for projects to address critical deferred maintenance needs within the National Park System, including roads, bridges and trails, and for other critical infrastructure projects: *Provided*, That funds may be transferred to ''Operation of the National Park System'': *Provided further*, That $200,000,000 of these funds shall be for projects related to the preservation and repair of historical and cultural resources within the National Park System: *Provided further*, That $15,000,000 of these funds shall be transferred to the ''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, except that any matching requirements otherwise required for such projects are waived: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

CENTENNIAL CHALLENGE

To carry out provisions of section 814(g) of Public Law 104–333 relating to challenge cost share agreements, $100,000,000, for National Park Service Centennial Challenge signature projects and programs: *Provided*, That not less than 50 percent of the total cost of each project or program is derived from non-Federal sources in the form of donated cash, assets, in-kind services, or a pledge of donation guaranteed by an irrevocable letter of credit: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for ''Surveys, Investigations, and Research'', $200,000,000, for

repair 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: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'', $500,000,000, for priority repair and replacement of schools, detention centers, roads, bridges, employee housing, and critical deferred maintenance projects: *Provided*, That not less than $250,000,000 shall be used for new and replacement schools and detention centers: *Provided further*, That funds may be transferred to ''Operation of Indian Programs'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount for ''Hazardous Substance Superfund'', $800,000,000, which shall be used for the Superfund Remedial program: *Provided*, That amounts available by law from this appropriation for management and administration shall take the place of the set-aside under section 1106 of this Act.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

For an additional amount for ''Leaking Underground Storage Tank Trust Fund Program'', to carry out leaking underground storage tank cleanup activities authorized by subtitle I of the Solid Waste Disposal Act, $200,000,000, which shall be used to carry out leaking underground storage tank cleanup activities authorized by section 9003(h) of the Solid Waste Disposal Act, except that such funds shall not be subject to the State matching requirements in section 9003(h)(7)(B): *Provided*, That amounts available by law from this appropriation for management and administration shall take the place of the set-aside under section 1106 of this Act.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', $8,400,000,000, which shall be used as follows:

(1) $6,000,000,000 shall be for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), except that such funds shall not be subject to the State matching requirements in paragraphs (2) and (3) of section 602(b) of such Act or to the Federal cost share limitations in section 202 of such Act: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 2 percent instead of the percentage specified in such section: *Provided further*, That, notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to a total of 1.5 percent of such funds may be reserved by the Administrator of the Environmental Protection Agency for grants under section 518(c) of such Act: *Provided further*, That the requirements of section 513 of such Act shall apply to the construction of treatment works carried out in whole or in part with assistance made available under this heading by a Clean Water State Revolving Fund under title VI of such Act, or with assistance made available under section 205(m) of such Act, or both: *Provided further*, That, notwithstanding the requirements of section 603(d) of such Act, each State shall use 50 percent of the amount of the capitalization grant received by the State under title VI of such Act to provide assistance, in the form of additional subsidization, including forgiveness of principal, negative interest loans, and grants, to municipalities (as defined in section 502 of such Act) for projects that are included on the State's priority list established under section 603(g) of such Act, of which 80 percent shall be for projects to benefit municipalities that meet affordability criteria as determined by the Governor of the State and 20 percent shall be for projects to address water-efficiency goals, address energy-efficiency goals, mitigate stormwater runoff, or encourage environmentally sensitive project planning, design, and construction, to the extent that there are sufficient project applications eligible for such assistance.

(2) $2,000,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), except that such funds shall not be subject to the State matching requirements of section 1452(e) of such Act: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 2 percent instead of the percentage specified in such section: *Provided further*, That section 1452(k) of the Safe Drinking Water Act shall not apply to such funds: *Provided further*, That the requirements of section 1450(e) of such Act (42 U.S.C. 300j–9(e)) shall apply to the construction carried out in whole or part with assistance made available under this heading by a Drinking Water State Revolving fund under section 1452 of such Act: *Provided further*, That, notwithstanding the requirements of section 1452(a)(2) of such Act, each State shall use 50 percent of the amount of the capitalization grant received by the State under section 1452 of such Act to provide assistance, in the form of additional subsidization, including forgiveness of principal, negative interest loans, and grants, to municipalities (as defined in section 1401 of such Act) for projects that are included on the State's priority list established under section 1452(b)(3) of such Act.

(3) $300,000,000 shall be for grants under title VII, Subtitle G of the Energy Policy Act of 2005: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 3 percent instead of the percentage specified in such section.

(4) $100,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 3 percent instead of the percentage specified in such section.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Capital Improvement and Maintenance'', $650,000,000, for reconstruction, capital improvement, decommissioning, and maintenance of forest roads, bridges and trails; alternative energy technologies, energy efficiency enhancements and deferred maintenance at Federal facilities; and for remediation of abandoned mine sites, removal of fish passage barriers, and other critical habitat, forest improvement and watershed enhancement projects on Federal lands and waters: *Provided*, That funds may be transferred to ''National Forest System'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $850,000,000, of which $300,000,000 is for hazardous fuels reduction, forest health, wood to energy grants and rehabilitation and restoration activities on Federal lands, and of which $550,000,000 is for State fire assistance hazardous fuels projects, volunteer fire assistance, cooperative forest health projects, city forest enhancements, and wood to energy grants on State and private lands: *Provided*, That amounts in this paragraph may be transferred to ''State and Private Forestry'' and ''National Forest System'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH FACILITIES

For an additional amount for ''Indian Health Facilities'', $550,000,000, for priority health care facilities construction projects and deferred maintenance, and the purchase of equipment and related services, including but not limited to health information technology: *Provided*, That notwithstanding any other provision of law, the amounts available under this paragraph shall be allocated at the discretion of the Director of the Indian Health Service: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Facilities Capital'', $150,000,000, for deferred maintenance projects, and for repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623): *Provided*, That funds may be transferred to ''Salaries and Expenses'': *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

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: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 5 percent instead of the percentage specified in such section.

TITLE IX—LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

Subtitle A—Labor

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (''WIA''), $4,000,000,000, 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;

(2) $1,200,000,000 for grants to the States for youth activities, including summer jobs for youth: *Provided*, 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 jobs for youth provided with such funds: *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 no portion of the additional funds provided herein 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, such funds shall be allotted as if the total amount of funding available for youth activities in the fiscal year does not exceed $1,000,000,000;

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

(4) $500,000,000 for the dislocated workers assistance national reserve to remain available for Federal obligation through June 30, 2010: *Provided*, That such funds shall be made available for grants only to eligible entities that serve areas of high unemployment or high poverty and only for the purposes described in subsection 173(a)(1) of the WIA: *Provided further*, That the Secretary of Labor shall ensure that applicants for such funds demonstrate how income support, child care, and other supportive services necessary for an individual's participation in job training will be provided;

(5) $50,000,000 for YouthBuild activities, which shall remain available for Federal obligation through June 30, 2010; 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 the energy efficiency and renewable energy industries specified in section 171(e)(1)(B)(ii) of the WIA (as amended by the Green Jobs Act of 2007): *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 further*, That the provisions of section 1103 of this Act shall not apply to this appropriation:

Provided, That the additional funds provided to States under this heading are not subject to section 191(a) of the WIA: *Provided further*, That notwithstanding section 1106 of this Act, there shall be no amount set aside from the appropriations made in subsections (1) through (3) under this heading and the amount set aside for subsections (4) through (6) shall be up to 1 percent instead of the percentage specified in such section.

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: *Provided*, That funds shall be allotted within 30 days of such enactment to current grantees in proportion to their allotment in program year 2008.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to the States in accordance with section 6 of the Wagner-Peyser Act, $500,000,000, 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, with respect to such funds, section 6(b)(1) of such Act shall be applied by substituting ''one-third'' for ''two-thirds'' in subparagraph (A), with the remaining one-third of the sums to be allotted in accordance with section 132(b)(2)(B)(ii)(III) of the Workforce Investment Act of 1998: *Provided further*, That not less than $250,000,000 of the amount provided under this heading 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.

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'', ''Occupational Safety and Health Administration'', and ''Employment and Training Administration—Program Administration'' for enforcement, oversight, and coordination activities: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

OFFICE OF JOB CORPS

For an additional amount for ''Office of Job Corps'', $300,000,000, 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 to up to 30 percent of such funds, if such 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 referred to in 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 the provision of additional training for careers in the energy efficiency and renewable energy industries: *Provided further*, That priority should be given to activities that can commence promptly following enactment and to those projects that will create the greatest impact on the energy efficiency of Job Corps facilities: *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 September 30, 2009 and quarterly thereafter as long as funding provided under this heading is available for obligation or expenditure.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9101. 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;''.

Subtitle B—Health and Human Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES

For an additional amount for ''Health Resources and Services'', $2,188,000,000 which shall be used as follows:

(1) $500,000,000, of which $250,000,000 shall not be available until October 1, 2009, shall be for grants to health centers authorized under section 330 of the Public Health Service Act (''PHS Act'');

(2) $1,000,000,000 shall be available for renovation and repair of health centers authorized under section 330 of the PHS Act and for the acquisition by such centers of health information technology systems: *Provided*, That the timeframe for the award of grants pursuant to section 1103(b) of this Act shall not be later than 180 days after the date of enactment of this Act instead of the timeframe specified in such section;

(3) $88,000,000 shall be for fit-out and other costs related to moving into a facility to be secured through a competitive lease procurement to replace or renovate a headquarters building for Public Health Service agencies and other components of the Department of Health and Human Services; and

(4) $600,000,000, of which $300,000,000 shall not be available until October 1, 2009, shall be for the training of nurses and primary care physicians and dentists as authorized under titles VII and VIII of the PHS Act, for the provision of health care personnel under the National Health Service Corps program authorized under title III of the PHS Act, and for the patient navigator program authorized under title III of the PHS Act.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'' for equipment, construction, and renovation of facilities, including necessary repairs and improvements to leased laboratories, $462,000,000: *Provided*, That notwithstanding any other provision of law, the Centers for Disease Control and Prevention may award a single contract or related contracts for development and construction of facilities that collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18: *Provided further*, That in accordance with applicable authorities, policies,

and procedures, the Centers for Disease Control and Prevention shall acquire real property, and make any necessary improvements thereon, to relocate and consolidate property and facilities of the National Institute for Occupational Safety and Health.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for ''National Center for Research Resources'', $1,500,000,000 for grants or contracts under section 481A of the Public Health Service Act to 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 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 such funds 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: *Provided further*, That the Center, in obligating such funds, shall require that each entity that applies for a grant or contract under section 481A for any project shall include in its application an assurance described in section 1621(b)(1)(I) of the Public Health Service Act: *Provided further*, That the Center shall give priority in the award of grants and contracts under section 481A of such Act to those applications that are expected to generate demonstrable energy-saving or beneficial environmental effects: *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this heading.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $1,500,000,000, of which $750,000,000 shall not be available until October 1, 2009: *Provided*, That such funds shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2009: *Provided further*, That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund): *Provided further*, That the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this heading.

BUILDINGS AND FACILITIES

For an additional amount for ''Buildings and Facilities'', $500,000,000, to fund high priority repair 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: *Provided further*, That funds transferred to the Office of the Director may be transferred to the national research institutes and national 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 the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this paragraph: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be not more than 1 percent instead of the percentage specified in such section.

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, including 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 9201 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 the provisions of section 1103 of this Act shall not apply to the peer-reviewed grants awarded under this paragraph: *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 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 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.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

For an additional amount for ''Low-Income Home Energy Assistance'' for making payments under section 2602(b) and section 2602(d) of the Low-Income Home Energy Assistance Act of 1981, $1,000,000,000, which shall become available on October 1, 2009: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

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, of which $1,000,000,000 shall become available on October 1, 2009, which shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for ''Children and Families Services Programs'', $3,200,000,000, which shall be used as follows:

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

$500,000,000 shall become available on October 1, 2009;

(2) $1,100,000,000 for expansion of Early Head Start programs, as described in section 645A of the Head Start Act, of which $550,000,000 shall become available on October 1, 2009: *Provided*, That of the funds provided in this sentence, up to 10 percent shall be available for the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act: *Provided further*, That the preceding proviso shall apply to this appropriation in lieu of the provisions of section 1106 of this Act: *Provided further*, That the provisions of section 1103 of this Act shall not apply to this appropriation;

(3) $1,000,000,000 for carrying out activities under sections 674 through 679 of the Community Services Block Grant Act, of which $500,000,000 shall become available on October 1, 2009, and of which no part shall be subject to paragraphs (2) and (3) of section 674(b) of such Act: *Provided*, That notwithstanding section 675C(a)(1) of such Act, 100 percent of the funds made available to a State from this additional amount 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'': *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation; and

(4) $100,000,000 for carrying out activities under section 1110 of the Social Security Act, of which $50,000,000 shall become available on October 1, 2009: *Provided*, That the Secretary of Health and Human Services shall distribute such amount under the Compassion Capital Fund to eligible faith-based and community organizations: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for ''Aging Services Programs'' under section 311, and subparts 1 and 2 of part C, of title III of the Older Americans Act of 1965, $200,000,000, of which $100,000,000 shall become available on October 1, 2009: *Provided*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

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'' to carry out section 9202 of this Act, $2,000,000,000, 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 the provisions of section 1103 of this Act shall not apply to this appropriation: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 0.25 percent instead of the percentage specified in such section: *Provided further*, That funds available under this heading shall become available for obligation only upon submission of an annual operating plan by the Secretary to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the 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: *Provided further*, That the Comptroller General of the United States shall review on an annual basis the expenditures from funds provided under this heading to determine if such funds are used in a manner consistent with the purpose and requirements under this heading.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Health and Social Services Emergency Fund'' to support advanced research and development pursuant to section 319L of the Public Health Service Act, $430,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation.

For an additional amount for ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools, $420,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation: *Provided further*, That products purchased with these funds may, at the discretion of the Secretary of Health and Human Services (''Secretary''), be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccine and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: *Provided further*, That funds appropriated in this paragraph may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposed specified in this sentence.

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: *Provided*, That the Secretary shall prepare and submit a report by not later than November 1, 2009, and by not later than 15 days after the end of each month thereafter, updating the status of actions taken and funds obligated in this and previous appropriations Acts for pandemic influenza preparedness and response activities, biomedical advanced research and development activities, Project BioShield, and Cyber Security.

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, $3,000,000,000: *Provided*, That the provisions of section 1103 of this Act shall not apply to this appropriation: *Provided further*, That of the amount appropriated under this heading not less than $2,350,000,000 shall be transferred to the Centers for Disease Control and Prevention as follows:

(1) not less than $954,000,000 shall be used as an additional amount to carry out the immunization program authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act (''section 317 immunization program''), of which $649,900,000 shall be available on October 1, 2009;

(2) not less than $296,000,000 shall be used as an additional amount to carry out Part A of title XIX of the Public Health Service Act, of which $148,000,000 shall be available on October 1, 2009;

(3) not less than $545,000,000 shall be used as an additional amount to carry out chronic disease, health promotion, and genomics programs, as jointly determined by the Secretary of Health and Human Services (''Secretary'') and the Director of the Centers for Disease Control and Prevention (''Director'');

(4) not less than $335,000,000 shall be used as an additional amount to carry out domestic HIV/AIDS, viral hepatitis, sexually-transmitted diseases, and tuberculosis prevention programs, as jointly determined by the Secretary and the Director;

(5) not less than $60,000,000 shall be used as an additional amount to carry out environmental health programs, as jointly determined by the Secretary and the Director;

(6) not less than $50,000,000 shall be used as an additional amount to carry out injury prevention and control programs, as jointly determined by the Secretary and the Director;

(7) not less than $30,000,000 shall be used as an additional amount for public health workforce development activities, as jointly determined by the Secretary and the Director;

(8) not less than $40,000,000 shall be used as an additional amount for the National Institute for Occupational Safety and Health to carry out research activities within the National Occupational Research Agenda; and

(9) not less than $40,000,000 shall be used as an additional amount for the National Center for Health Statistics:

Provided further, That of the amount appropriated under this heading not less than $150,000,000 shall be available for an additional amount to carry out activities to implement a national action plan to prevent healthcare-associated infections, as determined by the Secretary, of which not less $50,000,000 shall be provided to States to implement healthcare-associated infection reduction strategies: *Provided further*, That of the amount appropriated under this heading $500,000,000 shall be used to carry out evidence-based clinical and community-based prevention and wellness strategies and public health workforce development activities authorized by the Public Health Service Act, as determined by the Secretary, that deliver specific, measurable health outcomes that address chronic and infectious disease rates and health disparities, which shall include evidence-based interventions in obesity, diabetes, heart disease, cancer, tobacco cessation and smoking prevention, and oral health, and which may be used for the Healthy Communities program administered

by the Centers for Disease Control and Prevention and other existing community-based programs administered by the Department of Health and Human Services: *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 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 (1) summarizing the annual evaluations of programs from the preceding proviso; and (2) making recommendations concerning future spending on prevention and wellness activities, including any recommendations made by the United States Preventive Services Task Force in the area of clinical preventive services and the Task Force on Community Preventive Services in the area of community preventive services: *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 no later than 1 year after the date of enactment of this Act that includes recommendations on the national priorities for clinical and community-based prevention and wellness activities that will have a positive impact in preventing illness or reducing healthcare costs and that considers input from stakeholders: *Provided further*, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided under this heading in fiscal year 2009 (excluding funds to carry out the section 317 immunization program), but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided under this heading in fiscal year 2010 (excluding funds to carry out the section 317 immunization program), but not later than November 1, 2009, that indicate the prevention priorities to be addressed; provide measurable goals for each prevention priority; detail the allocation of resources within the Department of Health and Human Services; and identify 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.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9201. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS RESEARCH.

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

(b) PURPOSE; 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;

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

(C) opportunities to assure 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) 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.

(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.

(d) 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 Federal activities on comparative effectiveness research and recommendations for additional investments in 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, appropriate organizational expenditures and opportunities for better coordination of comparative effectiveness research by relevant Federal departments and agencies.

(e) 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.

SEC. 9202. INVESTMENT IN HEALTH INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall 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 Office of the National Coordinator for Health Information Technology. Such investment shall include investment in at least 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) Integration of health information technology, including electronic medical records, into the initial and ongoing training of health professionals and others in the healthcare industry who would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information as determined by the Secretary.

(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic records, into a provider's delivery of care, including community health centers receiving assistance under section 330 of the Public Health Service Act 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 Childrens 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.

The Secretary shall implement paragraph (3) in coordination with State agencies administering the Medicaid program and the State Children's Health Insurance Program.

(b) LIMITATION.—None of the funds appropriated to carry out this section may be used to make significant investments in, or provide significant funds for, the acquisition of hardware or software or for the use of an electronic health or medical record, or significant components thereof, unless such investments or funds are for certified products that would permit the full and accurate electronic exchange and use of health information in a medical record, including standards for security, privacy, and quality improvement functions adopted by the Office of the National Coordinator for Health Information Technology.

(c) REPORT.—The Secretary shall annually report to the Committees on Energy and Commerce, on Ways and Means, on Science and Technology, and on Appropriations of the House of Representatives and the Committees on Finance, on Health, Education, Labor, and Pensions, and on Appropriations of the Senate on the uses of these funds and their impact on the infrastructure for the electronic exchange and use of health information.

Subtitle C—Education

DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

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 $5,500,000,000 shall be available

for targeted grants under section 1125 of the ESEA, of which $2,750,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $2,750,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That $5,500,000,000 shall be available for education finance incentive grants under section 1125A of the ESEA, of which $2,750,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $2,750,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That $2,000,000,000 shall be for school improvement grants under section 1003(g) of the ESEA, of which $1,000,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $1,000,000,000 shall become available on July 1, 2010, and shall remain available through September 30, 2011: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

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 remain available through September 30, 2010: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

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, $1,066,000,000: *Provided*, That $1,000,000,000 shall be available for subpart 1, part D of title II of the ESEA, of which $500,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $500,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *Provided further*, That the provisions of section 1106 of this Act shall not apply to these funds: *Provided further*, That $66,000,000 shall be available for subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, of which $33,000,000 shall become available on July 1, 2009, and shall remain available through September 30, 2010, and $33,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011.

INNOVATION AND IMPROVEMENT

For an additional amount for ''Innovation and Improvement'' to carry out subpart 1, part D and subpart 2, part B of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $225,000,000: *Provided*, That $200,000,000 shall be available for subpart 1, part D of title V of the ESEA: *Provided further*, 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 $25,000,000 shall be available for subpart 2, part B of title V of the ESEA: *Provided further*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

SPECIAL EDUCATION

For an additional amount for ''Special Education'' for carrying out section 611 and part C of the Individuals with Disabilities Education Act (''IDEA''), $13,600,000,000: *Provided*, That $13,000,000,000 shall be available for section 611 of the IDEA, of which $6,000,000,000 shall become available on July 1, 2009, and remain available through September 30, 2010, and $7,000,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *Provided further*, That $600,000,000 shall be available for part C of the IDEA, of which $300,000,000 shall become available on July 1, 2009, and remain available through September 30, 2010, and $300,000,000 shall become available on July 1, 2010, and remain available through September 30, 2011: *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 from funds available for obligation on July 1, 2009, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further*, That by July 1, 2010, the Secretary shall reserve the amount needed for grants under section 643(e) of the IDEA from funds available for obligation on July 1, 2010, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: *Provided further*, 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 the provisions of section 1106 of this Act shall not apply to this appropriation.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For an additional amount for ''Rehabilitation Services and Disability Research'' for providing grants to States to carry out the Vocational Rehabilitation Services program under part B of title I and parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act of 1973, $700,000,000: *Provided*, That $500,000,000 shall be available for part B of title I of the Rehabilitation Act, of which $250,000,000 shall become available on October 1, 2009: *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 the provisions of section 1106 of this Act shall not apply to these funds: *Provided further*, That $200,000,000 shall be available for parts B and C of chapter 1 and chapter 2 of title VII of the Rehabilitation Act, of which $100,000,000 shall become available on October 1, 2009: *Provided further*, That $34,775,000 shall be for State Grants, $114,581,000 shall be for independent living centers, and $50,644,000 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''), $16,126,000,000, which shall remain available through September 30, 2011: *Provided*, That $15,636,000,000 shall be available for subpart 1of part A of title IV of the HEA: *Provided further*, That $490,000,000 shall be available for part C of title IV of the HEA, of which $245,000,000 shall become available on October 1, 2009: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

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

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, $50,000,000, which shall remain available through September 30, 2011: *Provided*, That such amount shall also be available for an independent audit of programs and activities authorized under section 459A of such Act: *Provided further*, That the provisions of section 1106 of this Act shall not apply to this appropriation.

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: *Provided*, That section 203(c)(1) of such Act shall not apply to awards made with these funds.

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: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall be 1 percent instead of the percentage specified in such section.

SCHOOL MODERNIZATION, RENOVATION, AND REPAIR

For carrying out section 9301 of this Act, $14,000,000,000: *Provided*, That amount available under section 9301 of this Act for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR

For carrying out section 9302 of this Act, $6,000,000,000: *Provided*, That amount available under section 9302 of this Act for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

GENERAL PROVISIONS, THIS SUBTITLE

SEC. 9301. 21ST CENTURY GREEN HIGH-PERFORMING PUBLIC SCHOOL FACILITIES.

(a) DEFINITIONS.—In this section:

(1) The term ''Bureau-funded school'' has the meaning given to such term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

(2) The term ''charter school'' has the meaning given such term in section 5210 of the Elementary and Secondary Education Act of 1965.

(3) The term ''local educational agency''—

(A) has the meaning given to that term in section 9101 of the Elementary and Secondary Education Act of 1965, and shall also include the Recovery School District of Louisiana and the New Orleans Public Schools; and

(B) includes any public charter school that constitutes a local educational agency under State law.

(4) The term ''outlying area''—

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

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

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

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

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

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

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

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

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

(c) ALLOCATION OF FUNDS.—

(1) RESERVATIONS.—

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

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

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

(B) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $6,000,000 of such amount for administration and oversight of this section.

(2) ALLOCATION TO STATES.—

(A) STATE-BY-STATE ALLOCATION.—Of the amount appropriated to carry out this section, and not reserved under paragraph (1), each State shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2008 relative to the total amount received by all local educational agencies in every State under such part for such fiscal year.

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

(i) providing technical assistance to local educational agencies;

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

(iii) developing a school energy efficiency quality plan.

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

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

(3) SPECIAL RULES.—

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

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

(d) USE IT OR LOSE IT REQUIREMENTS.—

(1) DEADLINE FOR BINDING COMMITMENTS.—Each local educational agency receiving funds under this section shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after such funds are awarded, if later) to make use of 50 percent of such funds, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after such funds are awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by a local educational agency (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the agency specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this subsection.

(2) REDISTRIBUTION OF UNCOMMITTED FUNDS.—A State shall recover or deobligate any funds not committed in accordance with paragraph (1), and redistribute such funds to other local educational agencies eligible under this section and able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

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

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

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

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

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

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

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

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

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

(9) technology activities that are carried out in connection with school repair and renovation, including—

(A) wiring;

(B) acquiring hardware and software;

(C) acquiring connectivity linkages and resources; and

(D) acquiring microwave, fiber optics, cable, and satellite transmission equipment;

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

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

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

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

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

(C) make them more energy efficient; or

(D) reduce class size; and

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

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

(1) payment of maintenance costs; or

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

(g) SUPPLEMENT, NOT SUPPLANT.—A local educational agency receiving a grant under this section shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available for modernization, renovation, or repair of public school facilities.

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

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

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

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

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

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

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

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

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

(l) CHARTER SCHOOLS.—A local educational agency receiving an allocation under this section shall use an equitable portion of that allocation for allowable activities benefitting charter schools within its jurisdiction, as determined based on the percentage of students from low-income families in the schools of the agency who are enrolled in charter schools and on the needs of those schools as determined by the agency.

(m) GREEN SCHOOLS.—

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

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

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

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

(n) YOUTHBUILD PROGRAMS.—The Secretary of Education, in consultation with the Secretary of Labor, shall work with recipients of funds under this section to promote appropriate opportunities for participants in a YouthBuild program (as defined in section 173A of the Workforce Investment Act of 1998 (29 U.S.C. 2918a)) to gain employment experience on modernization, renovation, and repair projects funded under this section.

(o) REPORTING.—

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

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

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

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

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

(E) the cost of each project, which, if any, of the standards described in subsection (k)(1) the project met, and any demonstrable or expected academic, energy, or environmental benefits as a result of the project;

(F) if flooring was installed, whether—

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

(ii) it was made from sustainable materials; and

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

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

(2) REPORTS BY SECRETARY.—Not later than December 31, 2011, the Secretary of Education shall submit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate a report on grants made under this section, including the information described in paragraph (1), the types of modernization, renovation, and repair funded, and the number of students impacted, including the number of students counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965.

SEC. 9302. HIGHER EDUCATION MODERNIZATION, RENOVATION, AND REPAIR.

(a) PURPOSE.—Grants awarded under this section shall be for the purpose of modernizing, renovating, and repairing institution of higher education facilities that are primarily used for instruction, research, or student housing.

(b) GRANTS TO STATE HIGHER EDUCATION AGENCIES.—

(1) FORMULA.—From the amounts appropriated to carry out this section, the Secretary of Education shall allocate funds to State higher education agencies based on the number of students attending institutions of higher education, with the State higher education agency in each State receiving an amount that is in proportion to the number of full-time equivalent undergraduate students attending institutions of higher education in such State for the most recent fiscal year for which there are data available, relative to the total number of full-time equivalent undergraduate students attending institutions of higher education in all States for such fiscal year.

(2) APPLICATION.—To be eligible to receive an allocation from the Secretary under paragraph (1), a State higher education agency shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(3) REALLOCATION.—Amounts allocated to a State higher education agency under this section that are not obligated by such agency within 6 months of the date the agency receives such amounts shall be returned to the Secretary, and the Secretary shall reallocate such amounts to State higher education agencies in other States on the same basis as the original allocations under paragraph (1)(B).

(4) ADMINISTRATION AND OVERSIGHT EXPENSES.—From the amounts appropriated to carry out this section, not more than $6,000,000 shall be available to the Secretary for administrative and oversight expenses related to carrying out this section.

(c) USE OF GRANTS BY STATE HIGHER EDUCATION AGENCIES.—

(1) SUBGRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), each State higher education agency receiving an allocation under subsection (b)(1) shall use the amount allocated to award subgrants to institutions of higher education within the State to carry out projects in accordance with subsection (d)(1).

(B) SUBGRANT AWARD ALLOCATION.—A State higher education agency shall award subgrants to institutions of higher education under this section based on the demonstrated need of each institution for facility modernization, renovation, and repair.

(C) PRIORITY CONSIDERATIONS.—In awarding subgrants under this section, each State higher education agency shall give priority consideration to institutions of higher education with any of the following characteristics:

(i) The institution is eligible for Federal assistance under title III or title V of the Higher Education Act of 1965.

(ii) The institution was impacted by a major disaster or emergency declared by the President (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), including an institution affected by a Gulf hurricane disaster, as such term is defined in section 824(g)(1) of the Higher Education Act of 1965 (20 U.S.C. 11611–3(g)(1)).

(iii) The institution demonstrates that the proposed project or projects to be carried out with a subgrant under this section will increase the energy efficiency of the institution's facilities and comply with the LEED Green Building Rating System.

(2) ADMINISTRATIVE AND OVERSIGHT EXPENSES.—Of the allocation amount received under subsection (b)(1), a State higher education agency may reserve not more than 5 percent of such amount, or $500,000, whichever is less, for administrative and oversight expenses related to carrying out this section.

(d) USE OF SUBGRANTS BY INSTITUTIONS OF HIGHER EDUCATION.—

(1) PERMISSIBLE USES OF FUNDS.—An institution of higher education receiving a subgrant under this section shall use such subgrant to modernize, renovate, or repair facilities of the institution that are primarily used for instruction, research, or student housing, which may include any of the following:

(A) Repair, replacement, or installation of roofs, electrical wiring, plumbing systems, sewage systems, or lighting systems.

(B) Repair, replacement, or installation of heating, ventilation, or air conditioning systems (including insulation).

(C) Compliance with fire and safety codes, including—

(i) professional installation of fire or life safety alarms; and

(ii) modernizations, renovations, and repairs that ensure that the institution's facilities are prepared for emergencies, such as improving building infrastructure to accommodate security measures.

(D) Retrofitting necessary to increase the energy efficiency of the institution's facilities.

(E) Renovations to the institution's facilities necessary to comply with accessibility requirements in the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(F) Abatement or removal of asbestos from the institution's facilities.

(G) Modernization, renovation, and repair relating to improving science and engineering laboratories, libraries, and instructional facilities.

(H) Upgrading or installation of educational technology infrastructure.

(I) Installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet), or geothermal systems, or components of such systems.

(J) Other modernization, renovation, or repair projects that are primarily for instruction, research, or student housing.

(2) GREEN SCHOOL REQUIREMENT.—An institution of higher education receiving a subgrant under this section shall use not less than 25 percent of such subgrant to carry out projects for modernization, renovation, or repair that are certified, verified, or consistent with the applicable provisions of—

(A) the LEED Green Building Rating System;

(B) Energy Star;

(C) the CHPS Criteria;

(D) Green Globes; or

(E) an equivalent program adopted by the State or the State higher education agency.

(3) PROHIBITED USES OF FUNDS.—No funds awarded under this section may be used for—

(A) the maintenance of systems, equipment, or facilities, including maintenance associated with any permissible uses of funds described in paragraph (1);

(B) 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;

(C) modernization, renovation, or repair of facilities—

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or

(ii) in which a substantial portion of the functions of the facilities are subsumed in a religious mission; or

(D) construction of new facilities.

(4) USE IT OR LOSE IT REQUIREMENTS.—

(A) DEADLINE FOR BINDING COMMITMENTS.—Each institution of higher education receiving a subgrant under this section shall enter into contracts or other binding commitments not later than 1 year after the date of the enactment of this Act (or not later than 9 months after the subgrant is awarded, if later) to make use of 50 percent of the funds awarded, and shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the subgrant is awarded, if later) to make use of the remaining funds. In the case of activities to be carried out directly by an institution of higher education receiving such a subgrant (rather than by contracts, subgrants, or other arrangements with third parties), a certification by the institution specifying the amounts, planned timing, and purpose of such expenditures shall be deemed a binding commitment for purposes of this section.

(B) REDISTRIBUTION OF UNCOMMITTED FUNDS.—A State higher education agency shall recover or deobligate any subgrant funds not committed in accordance with subparagraph (A), and redistribute such funds to other institutions of higher education that are—

(i) eligible for subgrants under this section; and

(ii) able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation).

(e) APPLICATION OF GEPA.—The grant program authorized in this section is an applicable program (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b). The Secretary shall, notwithstanding section 437 of such Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, establish such program rules as may be necessary to implement such grant program by notice in the Federal Register.

(f) REPORTING.—

(1) REPORTS BY INSTITUTIONS.—Not later than September 30, 2011, each institution of higher education receiving a subgrant under this section shall submit to the State higher education agency awarding such subgrant a report describing the projects for which such subgrant was received, including—

(A) a description of each project carried out, or planned to be carried out, with such subgrant, including the types of modernization, renovation, and repair to be completed by each such project;

(B) the total amount of funds received by the institution under this section and the amount of such funds expended, as of the date of the report, on the such projects;

(C) the actual or planned cost of each such project and any demonstrable or expected academic, energy, or environmental benefits resulting from such project; and

(D) the total number of contracts, and amount of funding for such contracts, awarded by the institution to carry out such projects, as of the date of such report, including the number of contracts, and amount of funding for such contracts, awarded to local, small, minority-owned, women-owned, and veteran-owned businesses, as such terms are defined by the Small Business Act.

(2) REPORTS BY STATES.—Not later than December 31, 2011, each State higher education agency receiving a grant under this section shall submit to the Secretary a report containing a compilation of all of the reports under paragraph (1) submitted to the agency by institutions of higher education.

(3) REPORTS BY THE SECRETARY.—Not later than March 31, 2012, the Secretary shall submit to the Committee on Education and Labor in the House of Representatives and the Committee on Health, Education, Labor, and Pensions in the Senate and Committees on Appropriations of the House of Representatives and the Senate a report on grants and subgrants made under this section, including the information described in paragraph (1).

(g) DEFINITIONS.—In this section:

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

(2) ENERGY STAR.—The term ''Energy Star'' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

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

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965.

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

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(7) STATE.—The term ''State'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(8) STATE HIGHER EDUCATION AGENCY.—The term ''State higher education agency'' has the meaning given such term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

SEC. 9303. 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. 9304. INCREASE STUDENT LOAN LIMITS.

(a) AMENDMENTS.—Section 428H(d) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''$2,000'' and inserting ''$4,000''; and

(B) in subparagraph (B), by striking ''$31,000'' and inserting ''$39,000''; and

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i)(I) and clause (iii)(I), by striking ''$6,000'' each place it appears and inserting ''$8,000''; and

(ii) in clause (ii)(I) and clause (iii)(II), by striking ''$7,000'' each place it appears and inserting ''$9,000''; and

(B) in subparagraph (B), by striking ''$57,500'' and inserting ''$65,500''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans first disbursed on or after January 1, 2009.

SEC. 9305. STUDENT LENDER SPECIAL ALLOWANCE.

(a) TEMPORARY CALCULATION RULE.—Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end the following new clause:

''(vii) TEMPORARY CALCULATION RULE DURING UNSTABLE COMMERCIAL PAPER MARKETS.—

''(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on October 1, 2008, and ending on December 31, 2008, in computing the special allowance paid pursuant to this subsection with respect to loans for which the first disbursement is made on or after January 1, 2000, clause (i)(I) of this subparagraph shall be applied by substituting 'the rate that is the average rate of the 3-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association, minus 0.13 percent,' for 'the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period'.

''(II) PARTICIPATION INTERESTS.—Notwithstanding subclause (I) of this clause, the special allowance paid on any loan held by a lender that has sold participation interests in such loan to the Secretary shall be the rate computed under this subparagraph without regard to subclause (I) of this clause, unless the lender agrees that the participant's yield with respect to such participation interest is to be calculated in accordance with subclause (I) of this clause.''.

(b) CONFORMING AMENDMENTS.—Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is further amended—

(1) in clause (i)(II), by striking ''such average bond equivalent rate'' and inserting ''the rate determined under subclause (I)''; and

(2) in clause (v)(III), by striking ''(iv), and (vi)'' and inserting ''(iv), (vi), and (vii)''.

Subtitle D—Related Agencies

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'' to carry out the Domestic Volunteer Service Act of 1973 and the National and

Community Service Act of 1990 (''1990 Act''), $160,000,000, which shall be used to expand existing AmeriCorps grants: *Provided*, That funds made available under this heading may be used to provide adjustments to awards made prior to September 30, 2010 in order to waive the match requirement authorized in section 121(e)(4) of part I of subtitle C of the 1990 Act, if the Chief Executive Officer of the Corporation for National and Community Service (''CEO'') determines that the grantee has reduced capacity to meet this requirement: *Provided further*, That in addition to requirements identified herein, funds provided under this heading shall be subject to the terms and conditions under which funds are appropriated in fiscal year 2009: *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 under this heading 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 November 1, 2009, that detail the allocation of resources and the increased number of volunteers 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.

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 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).

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Limitation on Administrative Expenses'', $900,000,000, which shall be used as follows:

(1) $400,000,000 for the construction and associated costs to establish a new National Computer Center, which may include lease or purchase of real property: *Provided*, 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 the Committees on Appropriations of the House of Representatives and the Senate shall be notified 15 days in advance of the lease or purchase of such site: *Provided further*, That such center shall continue to be a government-operated facility; and

(2) $500,000,000 for processing disability and retirement workloads: *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.

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $920,000,000: *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, $600,000,000 shall be for training and recruit troop housing, $220,000,000 shall be for permanent party troop housing, and $100,000,000 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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $350,000,000: *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, $170,000,000 shall be for sailor and marine housing and $180,000,000 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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $280,000,000: *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, $200,000,000 shall be for airmen 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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $3,750,000,000, for the construction of hospitals and ambulatory surgery centers: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for ''Military Construction, Army National Guard'', $140,000,000: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for ''Military Construction, Air National Guard'', $70,000,000: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for ''Military Construction, Army Reserve'', $100,000,000: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, NAVY RESERVE

For an additional amount for ''Military Construction, Navy Reserve'', $30,000,000: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For an additional amount for ''Military Construction, Air Force Reserve'', $60,000,000: *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 shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For an additional amount to be deposited into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $300,000,000: *Provided*, 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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL FACILITIES

For an additional amount for ''Medical Facilities'' for non-recurring maintenance, including energy projects, $950,000,000: *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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for ''National Cemetery Administration'' for monument and memorial repairs, $50,000,000: *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 the House of Representatives and the Senate an expenditure plan for funds provided under this heading.

TITLE XI—DEPARTMENT OF STATE

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $276,000,000, of which up to $120,000,000 shall be available for the design and construction of a backup information management facility in the United States to support mission-critical operations and projects, and up to $98,527,000 shall be available to carry out the Department of State's responsibilities under the Comprehensive National Cybersecurity Initiative: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Construction'' for the water quantity program to meet immediate repair and rehabilitation requirements, $224,000,000: *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'', and such amount shall be in lieu of amounts available under section 1106 of this Act: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

TITLE XII—TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

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 I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, $3,000,000,000: *Provided*, That such funds shall not be subject to apportionment formulas, special apportionment categories, or minimum percentages under chapter 471: *Provided further*, That the conditions, certifications, and assurances required for grants under subchapter I of chapter 471 of such title apply: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into contracts or other binding commitments to make use of not less than 50 percent of the funds awarded shall be 120 days after award of the grant.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE INVESTMENT

For projects and activities eligible under section 133 of title 23, United States Code, section 144 of such title (without regard to subsection (g)), and sections 103, 119, 134, 148, and 149 of such title, $30,000,000,000, of which $300,000,000 shall be for Indian reservation roads under section 204 of such title; $250,000,000 shall be for park roads and parkways under section 204 of such title; $20,000,000 shall be for highway surface transportation and technology training under section 140(b) of such title; and $20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 0.2 percent of the funds made available under this heading instead of the percentage specified in such section: *Provided further*, That, after making the set-asides authorized by the previous provisos, the funds made available under this heading shall be distributed among the States, and Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161, but, in the case of the Puerto Rico Highway Program and the Territorial Highway Program, under section 120(a)(5) of such division: *Provided further*, That 45 percent of the funds distributed to a State under this heading shall be suballocated within the State in the manner and for the purposes described in section 133(d) of title 23, United States Code, (without regard to the comparison to fiscal year 2005 in paragraph (2)): *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts within 120 days of enactment of this Act, are included in an approved Statewide Transportation Improvement Program (STIP) and/or Metropolitan Transportation Improvement Program (TIP), are projected for completion within a three-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 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 Indian reservation roads and park roads and parkways which shall be administered in accordance with chapter 2 of title 23, United States Code: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall, at the option of the recipient, be up to 100 percent of the total cost thereof: *Provided further*, That 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 the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, if less than 50 percent of the funds made available to each State and territory under this heading are obligated within 180 days after the date of distribution of those funds to the States and territories, then the portion of the 50 percent of the total funding distributed to the State or territory that has not been obligated shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States and territories that have obligated at least 50 percent of the funds made available under this heading and are able to obligate amounts in addition to those previously distributed, except that, for those funds suballocated within the State, if less than 50 percent of the funds so suballocated within the State are obligated within 150 days of suballocation, then the portion of the 50 percent of funding so suballocated that has not been obligated will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, any funds made available under this heading that are not obligated by August 1, 2010, shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States able to obligate amounts in addition to those previously distributed, except that funds suballocated within the State that are not obligated by June 1, 2010, will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That notwithstanding section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act.

FEDERAL RAILROAD ADMINISTRATION

CAPITAL ASSISTANCE FOR INTERCITY PASSENGER RAIL SERVICE

For an additional amount for ''Capital Assistance for Intercity Passenger Rail Service'' to enable the Secretary of Transportation to make grants for capital costs as authorized by chapter 244 of title 49 United States Code, $300,000,000: *Provided*, That notwithstanding section 1103 of this Act, the Secretary shall give preference to projects for the repair, rehabilitation, upgrade, or purchase of railroad assets or infrastructure that can be awarded within 180 days of enactment of this Act: *Provided further*, That in awarding grants for the acquisition of a piece of rolling stock or locomotive, the Secretary shall give preference to FRA-compliant rolling stock and locomotives: *Provided further*, That the Secretary shall give preference to projects that support the development of intercity high speed rail service: *Provided further*, That the Federal share shall be, at the option of the recipient, up to 100 percent.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for ''Capital and Debt Service Grants to the National Railroad Passenger Corporation'' (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), $800,000,000: *Provided*, That priority shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure: *Provided further*, That none of the funds under this heading shall be used to subsidize the operating losses of Amtrak: *Provided further*, Notwithstanding section 1103 of this Act, funds made

available under this heading shall be awarded not later than 7 days after the date of enactment of this Act.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

For transit capital assistance grants, $6,000,000,000, of which $5,400,000,000 shall be for grants under section 5307 of title 49, United States Code and shall be apportioned in accordance with section 5336 of such title (other than subsections (i)(1) and (j)) but may not be combined or commingled with any other funds apportioned under such section 5336, and of which $600,000,000 shall be for grants under section 5311 of such title and shall be apportioned in accordance with such section 5311 but may not be combined or commingled with any other funds apportioned under that section: *Provided*, That of the funds provided for section 5311 under this heading, 3 percent shall be made available for section 5311(c)(1): *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*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 180 days after apportionment: *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, of the funds apportioned in accordance with section 5336, up to three-quarters of 1 percent shall be available for administrative expenses and program management oversight and of the funds apportioned in accordance with section 5311, up to one-half of 1 percent shall be available for administrative expenses and program management oversight and both amounts shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, $2,000,000,000: *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 funds available under the Formula and Bus Grants account: *Provided further*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 180 days after apportionment: *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: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

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, $1,000,000,000: *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 award contracts based on bids within 120 days of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into contracts or other binding commitments to make use of not less than 50 percent of the funds awarded shall be 120 days after award: *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 applicable chapter 53 requirements shall apply, except 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: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

PUBLIC HOUSING CAPITAL FUND

For an additional amount for ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (''the Act''), $5,000,000,000: *Provided*, That the Secretary of Housing and Urban Development shall distribute at least $4,000,000,000 of this amount by the same formula used for amounts made available in fiscal year 2008: *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 notwithstanding any other provision of the Act or regulations, (1) funding provided herein may not be used for Operating Fund activities pursuant to section 9(g) of the Act, and (2) any restriction of funding to replacement housing uses shall be inapplicable: *Provided further*, That public housing agencies shall prioritize capital projects underway or already in their 5-year plans: *Provided further*, That of the amount provided under this heading, the Secretary may obligate up to $1,000,000,000, for competitive grants to public housing authorities for activities including: (1) investments that leverage private sector funding or financing for housing renovations and energy conservation retrofit investments; (2) rehabilitation of units using sustainable materials and methods that improve energy efficiency, reduce energy costs, or preserve and improve units with good access to public transportation or employment centers; (3) increase the availability of affordable rental housing by expediting rehabilitation projects to bring vacant units into use or by filling the capital investment gap for redevelopment or replacement housing projects which have been approved or are otherwise ready to proceed but are stalled due to the inability to obtain anticipated private capital; or (4) address the needs of seniors and persons with disabilities through improvements to housing and related facilities which attract or promote the coordinated delivery of supportive services: *Provided further*, That the Secretary may waive statutory or regulatory provisions related to the obligation and expenditure of capital funds if necessary to facilitate the timely expenditure of funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment).

ELDERLY, DISABLED, AND SECTION 8 ASSISTED HOUSING ENERGY RETROFIT

For grants or loans 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 (42 U.S.C. 1437f), to accomplish energy retrofit investments, $2,500,000,000: *Provided*, That such loans or grants shall be provided through 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: *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: *Provided further*, That the Secretary shall undertake appropriate underwriting and oversight with respect to such transactions: *Provided further*, That the Secretary may set aside funds made available under this heading for an efficiency incentive payable upon satisfactory completion of energy retrofit investments, and may provide additional incentives if such investments resulted in extraordinary job creation for low-income and very low-income persons: *Provided further*, that of the funds provided under this heading, 1 percent shall be available only for staffing, training, technical assistance, technology, monitoring, research and evaluation activities.

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.), $500,000,000: *Provided*, That $250,000,000 of the amount appropriated under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date that funds are available to the recipients: *Provided further*, That in allocating the funds appropriated under this heading, the Secretary of Housing and Urban Development shall not require an additional action plan from grantees: *Provided further*, That the Secretary may obligate $250,000,000 of the amount appropriated under this heading for competitive grants to eligible entities that apply for funds as authorized under NAHASDA: *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.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for ''Community Development Fund'' $1,000,000,000, 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 according to the same funding formula used in fiscal year 2008: *Provided further*, That in allocating the funds appropriated in this paragraph, the Secretary of Housing and Urban Development shall not require an additional action plan from grantees: *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 provided in this paragraph, 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 related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute.

For a further additional amount for ''Community Development Fund'', $4,190,000,000, to be used for neighborhood stabilization activities related to 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 (Public Law 110–289), of which—

(1) not less than $3,440,000,000 shall be allocated by a competition for which eligible entities shall be States, units of general local government, and nonprofit entities or consortia of nonprofit entities: *Provided*, That the award criteria for such competition shall include grantee capacity, leveraging potential, targeted impact of foreclosure prevention, 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 amounts made available under this Section may be used to (A) establish financing mechanisms for purchase and redevelopment of foreclosed-upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers; (B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell or rent such homes and properties; (C) establish and operate land banks for homes that have been foreclosed upon; (D) demolish foreclosed properties that have become blighted structures; and (E) redevelop demolished or vacant foreclosed properties in order to sell or rent such properties; and

(2) up to $750,000,000 shall be awarded by competition to nonprofit entities or consortia of nonprofit entities to provide community stabilization assistance by (A) accelerating state and local government and nonprofit productivity; (B) increasing the scale and efficiency of property transfers of foreclosed and vacant residential properties from financial institutions and government entities to qualified local housing providers in order to return the properties to productive affordable housing use; (C) building industry and property management capacity; and (D) partnering with private sector real estate developers and contractors and leveraging private sector capital: *Provided further*, That such community stabilization assistance shall be provided primarily in States and areas with high rates of defaults and foreclosures to support the acquisition, rehabilitation and property management of single-family and multi-family homes and to work in partnership with the private sector real estate industry and to leverage available private and public funds for those purposes: *Provided further*, That for purposes of this paragraph qualified local housing providers shall be nonprofit organizations with demonstrated capabilities in real estate development or acquisition and rehabilitation or property management of single- or multi-family homes, or local or state governments or instrumentalities of such governments: *Provided further*, That qualified local housing providers shall be expected to utilize and leverage additional local nonprofit, governmental, for-profit and private resources: *Provided further*, That in the case of any foreclosure on any dwelling or residential real property acquired with any amounts made available under this heading, any 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 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 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 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 acquisition or financing, the owner and any 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 this paragraph shall not preempt any State or local law that provides more protection for tenants: *Provided further*, That amounts made available under this heading may be used for the costs of demolishing foreclosed housing that is deteriorated or unsafe: *Provided further*, That the amount for demolition of such housing may not exceed 10 percent of amounts allocated under this paragraph to States and units of general local government: *Provided further*, That no amounts from a grant made under this paragraph 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 section 2301(d)(4) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is repealed.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for ''HOME Investment Partnerships Program'' as authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act (''the Act''), $1,500,000,000: *Provided*, That the amount appropriated under this heading shall be distributed according to the same funding formula used in fiscal year 2008: *Provided further*, That the Secretary of Housing and Urban Development may waive statutory or regulatory provisions related to the obligation of such funds if necessary to facilitate the timely expenditure of funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment): *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 that funds are available to the recipients.

SELF-HELP AND ASSISTED HOMEOWNERSHIP OPPORTUNITY PROGRAM

For an additional amount for ''Self-Help and Assisted Homeownership Opportunity Program'', as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, $10,000,000: *Provided*, That in awarding competitive grant funds, the Secretary of Housing and Urban Development shall give priority to the provision and rehabilitation of sustainable, affordable single and multifamily units in low-income, high-need rural areas: *Provided further*, That in selecting projects to be funded, grantees 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 grantee.

HOMELESS ASSISTANCE GRANTS

For an additional amount for ''Homeless Assistance Grants'', for the emergency shelter grants program as authorized under subtitle B of tile IV of the McKinney-Vento Homeless Assistance Act, $1,500,000,000: *Provided*, That in addition to homeless prevention activities specified in the emergency shelter grant program, funds provided under this heading may 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, legal services, credit repair, resolution of security or utility deposits, utility payments, rental assistance for a final month at a location, and moving costs assistance; or other appropriate homelessness prevention activities; *Provided further*, That these funds shall be allocated pursuant to the formula authorized by section 413 of such Act: *Provided further*, That the Secretary of Housing and Urban Development may waive statutory or regulatory provisions related to the obligation and use of emergency shelter grant funds necessary to facilitate the timely expenditure of funds.

OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

For an additional amount for ''Lead Hazard Reduction'', for the Lead Hazard Reduction Program as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, $100,000,000: *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 of the total amount made available under this heading, $30,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs.

GENERAL PROVISIONS, THIS TITLE

SEC. 12001. MAINTENANCE OF EFFORT AND REPORTING REQUIREMENTS TO ENSURE TRANSPARENCY AND ACCOUNTABILITY.

(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 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 covered agency a statement identifying the amount of funds the State planned to expend as of the date of enactment of this Act from non-Federal sources in 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.

(b) 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.

(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 jobs created or sustained by the Federal funds provided for projects under the appropriation, including information on job sectors and pay levels; and

(G) for each covered program report information tracking the actual aggregate expenditures by each grant recipient from non-Federal 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 30 days after the date of enactment of this Act and shall submit updated reports not later than 60 days, 120 days, 180 days, 1 year, and 3 years after such date of enactment.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED AGENCY.—The term ''covered agency'' means the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Federal Transit Administration of the Department of Transportation.

(2) COVERED PROGRAM.—The term ''covered program'' means funds appropriated in this Act for ''Grants-in-Aid for Airports'' to the Federal Aviation Administration; for ''Highway Infrastructure Investment'' to the Federal Highway Administration; for ''Capital Assistance for Intercity Passenger Rail Service'' to the Federal Railroad Administration; for ''Transit Capital Assistance'', ''Fixed Guideway Infrastructure Investment'', and ''Capital Investment Grants'' to the Federal Transit 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.

SEC. 12002. 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. 12003. 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 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. 12004. 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. 171520(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—STATE FISCAL STABILIZATION FUND

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $79,000,000,000, which shall be administered by the Department of Education, of which $39,500,000,000 shall become available on July 1, 2009 and remain available through September 30, 2010, and $39,500,000,000 shall become available on July 1, 2010 and remain available through September 30, 2011: *Provided*, That the provisions of section 1103 of this Act shall not apply to the funds reserved under section 13001(c) of this title: *Provided further*, That the amount made available under section 13001(b) of this title for administration and oversight shall take the place of the set-aside under section 1106 of this Act.

GENERAL PROVISIONS, THIS TITLE

SEC. 13001. ALLOCATIONS.

(a) OUTLYING AREAS.—From each year's appropriation to carry out this title, the Secretary of Education shall first allocate one half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $12,500,000 each year for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $7,500,000,000 each year for grants under sections 13006 and 13007.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not obligate within one year of receiving a grant, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 13002. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—For each fiscal year, the Governor shall use at least 61 percent of the State's allocation under section 13001 for the support of elementary, secondary, and postsecondary education.

(2) RESTORING 2008 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 principal elementary and secondary funding formula, that is needed to restore State support for elementary and secondary education to the fiscal year 2008 level; and

(ii) to provide the amount of funds to public institutions of higher education in the State that is needed to restore State support for postsecondary education to the fiscal year 2008 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to restore State support for education to 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.

(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.—For each fiscal year, the Governor may use up to 39 percent of the State's allocation under section 1301 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education.

SEC. 13003. 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''), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (''the Perkins Act'').

(b) PROHIBITION.—A local educational agency may not use funds received under this title for capital projects unless authorized by ESEA, IDEA, or the Perkins Act.

SEC. 13004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—An institution of higher education may not use funds received under this title for construction, renovation, or facility repair.

SEC. 13005. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 13001 shall submit an annual application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) FIRST YEAR APPLICATION.—In the first of such applications, the Governor shall—

(1) include the assurances described in subsection (e);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation.

(c) SECOND YEAR APPLICATION.—In the second year application, the Governor shall—

(1) include the assurances described in subsection (e); and

(2) describe how the State intends to use its allocation.

(d) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 13006 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (e), and the strategies the State is employing to help ensure that high-need students in the State continue making progress towards meeting the State's student academic achievement standards;

(3) describe how the State would use its grant funding, including how it will allocate the funds to give priority to high-need schools and local educational agencies; and

(4) include a plan for evaluating its progress in closing achievement gaps.

(e) ASSURANCES.—An application under subsection (b) or (c) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009 and 2010, maintain State support for public institutions of higher education (not including support for capital projects or for research and development) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take actions to comply with section 1111(b)(8)(C) of ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of 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) ASSESSMENTS.—The State—

(A) will enhance the quality of academic assessments described in section 1111(b)(3) of 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)); and

(B) will comply with the requirements of paragraphs 3(C)(ix) and (6) of section 1111(b) of ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of 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.

SEC. 13006. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—From the total amount reserved under section 13001(c) that is not used for section 13007, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), and (4) of section 13005(e).

(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 13005 and such other criteria as the Secretary determines appropriate.

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 13007. INNOVATION FUND.

(a) IN GENERAL.—

(1) PROGRAM ESTABLISHED.—From the total amount reserved under section 13001(c), the Secretary may reserve up to $325,000,000 each year to establish an Innovation Fund, which shall consist of academic achievement awards that recognize States, local educational agencies, or schools that meet the requirements described in subsection (b).

(2) BASIS FOR AWARDS.—The Secretary shall make awards to States, local educational agencies, or schools that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such States, local educational agencies, and schools to expand their work and serve as models for best practices;

(B) to allow such States, local educational agencies, and schools 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, a State, local educational agency, or school shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

SEC. 13008. 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 teachers, in implementing a State student longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases; and

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance.

SEC. 13009. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 13006 and 13007 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. 13010. 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 13008.

SEC. 13011. 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. 13012. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(4) any other term used in this title that is defined in section 9101 of ESEA (20 U.S.C. 7801) shall have the meaning given the term in that section.

DIVISION B—OTHER PROVISIONS

TITLE I—TAX PROVISIONS

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the ''American Recovery and Reinvestment Tax Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is 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:

Sec. 1000. Short title, etc.

Subtitle A—Making Work Pay

Sec. 1001. Making work pay credit.

Subtitle B—Additional Tax Relief for Families With Children

Sec. 1101. Increase in earned income tax credit.

Sec. 1102. Increase of refundable portion of child credit.

Subtitle C—American Opportunity Tax Credit

Sec. 1201. American opportunity tax credit.

Subtitle D—Housing Incentives

Sec. 1301. Waiver of requirement to repay first-time homebuyer credit.

Sec. 1302. Coordination of low-income housing credit and low-income housing grants.

Subtitle E—Tax Incentives for Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

Sec. 1401. Special allowance for certain property acquired during 2009.

Sec. 1402. Temporary increase in limitations on expensing of certain depreciable business assets.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

Sec. 1411. 5-year carryback of operating losses.

Sec. 1412. Exception for TARP recipients.

PART 3—INCENTIVES FOR NEW JOBS

Sec. 1421. Incentives to hire unemployed veterans and disconnected youth.

PART 4—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

Sec. 1431. Clarification of regulations related to limitations on certain built-in losses following an ownership change.

Subtitle F—Fiscal Relief for State and Local Governments

PART 1—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.

PART 2—TAX CREDIT BONDS FOR SCHOOLS

Sec. 1511. Qualified school construction bonds.

Sec. 1512. Extension and expansion of qualified zone academy bonds.

PART 3—TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS

Sec. 1521. Taxable bond option for governmental bonds.

PART 4—RECOVERY ZONE BONDS

Sec. 1531. Recovery zone bonds.

Sec. 1532. Tribal economic development bonds.

PART 5—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

Sec. 1541. Repeal of withholding tax on government contractors.

Subtitle G—Energy Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

Sec. 1601. Extension of credit for electricity produced from certain renewable resources.

Sec. 1602. Election of investment credit in lieu of production credit.

Sec. 1603. Repeal of certain limitations on credit for renewable energy property.

Sec. 1604. Coordination with renewable energy grants.

PART 2—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

Sec. 1611. Increased limitation on issuance of new clean renewable energy bonds.

Sec. 1612. Increased limitation and expansion of qualified energy conservation bonds.

PART 3—ENERGY CONSERVATION INCENTIVES

Sec. 1621. Extension and modification of credit for nonbusiness energy property.

Sec. 1622. Modification of credit for residential energy efficient property.

Sec. 1623. Temporary increase in credit for alternative fuel vehicle refueling property.

PART 4—ENERGY RESEARCH INCENTIVES

Sec. 1631. Increased research credit for energy research.

Subtitle H—Other Provisions

PART 1—APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS

Sec. 1701. Application of certain labor standards to projects financed with certain tax-favored bonds.

PART 2—GRANTS TO PROVIDE FINANCING FOR LOW-INCOME HOUSING

Sec. 1711. Grants to States for low-income housing projects in lieu of low-income housing credit allocations for 2009.

PART 3—GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS

Sec. 1721. Grants for specified energy property in lieu of tax credits.

PART 4—STUDY OF ECONOMIC, EMPLOYMENT, AND RELATED EFFECTS OF THIS ACT

Sec. 1731. Study of economic, employment, and related effects of this Act.

Subtitle A—Making Work Pay

SEC. 1001. MAKING WORK PAY CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

''SEC. 36A. MAKING WORK PAY CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of—

''(1) 6.2 percent of earned income of the taxpayer, or

''(2) $500 ($1,000 in the case of a joint return).

''(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) 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) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual other than—

''(A) any nonresident alien individual,

''(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

''(C) an estate or trust.

Such term shall not include any individual unless the requirements of section 32(c)(1)(E) are met with respect to such individual.

''(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.

''(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2010.''.

(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.

(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.

(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, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) 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.''.

(e) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Additional Tax Relief for Families With Children

SEC. 1101. INCREASE IN EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010—

''(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN.—In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

''(B) REDUCTION OF MARRIAGE PENALTY.—

''(i) IN GENERAL.—The dollar amount in effect under paragraph (2)(B) shall be $5,000.

''(ii) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in 2010, the $5,000 amount in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(iii) ROUNDING.—Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1102. INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 24(d) is amended to read as follows:

''(4) SPECIAL RULE FOR 2009 AND 2010.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be zero.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle C—American Opportunity Tax Credit

SEC. 1201. 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'.

''(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.—

(1) Section 24(b)(3)(B) is amended by inserting ''25A(i),'' after ''23,''.

(2) Section 25(e)(1)(C)(ii) is amended by inserting ''25A(i),'' after ''24,''.

(3) Section 26(a)(1) is amended by inserting ''25A(i),'' after ''24,''.

(4) Section 25B(g)(2) is amended by inserting ''25A(i),'' after ''23,''.

(5) Section 904(i) is amended by inserting ''25A(i),'' after ''24,''.

(6) Section 1400C(d)(2) is amended by inserting ''25A(i),'' after ''24,''.

(7) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''25A,'' before ''35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

(e) TREASURY STUDIES REGARDING EDUCATION INCENTIVES.—

(1) STUDY REGARDING COORDINATION WITH NON-TAX EDUCATIONAL INCENTIVES.—The Secretary of the Treasury, or the Secretary's delegate, shall study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965.

(2) STUDY REGARDING IMPOSITION OF COMMUNITY SERVICE REQUIREMENTS.—The Secretary of the Treasury, or the Secretary's delegate, shall study the feasibility of requiring students to perform community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

Subtitle D—Housing Incentives

SEC. 1301. WAIVER OF REQUIREMENT TO REPAY FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(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 July 1, 2009—

''(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.''.

(b) CONFORMING AMENDMENT.—Subsection (g) of section 36 is amended by striking ''subsection (c)'' and inserting ''subsections (c) and (f)(4)(D)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after December 31, 2008.

SEC. 1302. COORDINATION OF LOW-INCOME HOUSING CREDIT AND LOW-INCOME HOUSING GRANTS.

Subsection (i) of section 42 of the Internal Revenue Code of 1986 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 1711 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 E—Tax Incentives for Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 1401. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) 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''.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 1402. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 1411. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) such net operating loss shall be reduced by 10 percent of such loss (determined without regard to this subparagraph),

''(II) 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',

''(III) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(IV) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph—

''(i) such loss from operations shall be reduced by 10 percent of such loss (determined without regard to this paragraph), and

''(ii) paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 1412. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART 3—INCENTIVES FOR NEW JOBS

SEC. 1421. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) IN GENERAL.—Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

''(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010.—

''(A) IN GENERAL.—Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) UNEMPLOYED VETERAN.—The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as—

''(I) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

''(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.

''(ii) DISCONNECTED YOUTH.—The term 'disconnected youth' means any individual who is certified by the designated local agency—

''(I) as having attained age 16 but not age 25 on the hiring date,

''(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,

''(III) as not regularly employed during such 6-month period, and

''(IV) as not readily employable by reason of lacking a sufficient number of basic skills.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART 4—CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

SEC. 1431. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

(a) FINDINGS.—Congress finds as follows:

(1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.

(2) Internal Revenue Service Notice 2008–83 is inconsistent with the congressional intent in enacting such section 382(m).

(3) The legal authority to prescribe Internal Revenue Service Notice 2008–83 is doubtful.

(4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008–83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation on built-in losses following an ownership change of a bank.

(b) DETERMINATION OF FORCE AND EFFECT OF INTERNAL REVENUE SERVICE NOTICE 2008–83 EXEMPTING BANKS FROM LIMITATION ON CERTAIN BUILT–IN LOSSES FOLLOWING OWNERSHIP CHANGE.—

(1) IN GENERAL.—Internal Revenue Service Notice 2008–83—

(A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and

(B) shall have no force or effect with respect to any ownership change after such date.

(2) BINDING CONTRACTS.—Notwithstanding paragraph (1), Internal Revenue Service Notice 2008–83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009 if such change—

(A) is pursuant to a written binding contract entered into on or before such date, or

(B) is pursuant to a written agreement entered into on or before such date and such agreement was described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required by reason of such ownership change.

Subtitle F—Fiscal Relief for State and Local Governments

PART 1—IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

''(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

''(A) IN GENERAL.—In applying paragraph (2)(A), there shall not be taken into account tax-exempt obligations issued during 2009 or 2010.

''(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

''(C) REFUNDINGS.—For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) TREATMENT AS FINANCIAL INSTITUTION PREFERENCE ITEM.—Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: ''That portion of any obligation not taken into account under paragraph (2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

''(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010.—

''(i) INCREASE IN LIMITATION.—In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '$30,000,000' for '$10,000,000'.

''(ii) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

''(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS.—In the case of a qualified financing issue issued during 2009 or 2010—

''(I) subparagraph (F) shall not apply, and

''(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue 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 one or more ultimate borrowers each of whom is a qualified borrower.

''(v) QUALIFIED PORTION.—For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

''(vi) QUALIFIED BORROWER.—For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS ISSUED DURING 2009 AND 2010 NOT TREATED AS TAX PREFERENCE ITEM.—Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

''(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS FOR INTEREST ON TAX-EXEMPT BONDS ISSUED AFTER 2008.—Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

''(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

PART 2—TAX CREDIT BONDS FOR SCHOOLS

SEC. 1511. 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 sum of—

''(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

''(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

''(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 (f), zero after 2010.

''(d) 60 PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

''(1) IN GENERAL.—60 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

''(2) MINIMUM ALLOCATIONS TO STATES.—

''(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

''(i) the amount allocated to such State under this subsection for such year, and

''(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's adjusted minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

''(B) ADJUSTED MINIMUM PERCENTAGE.—A State's adjusted minimum percentage for any calendar year is the product of—

''(i) the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year, multiplied by

''(ii) 1.68.

''(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) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

''(1) IN GENERAL.—40 percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year.

''(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

''(3) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection 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 subsection (d)(1).

''(4) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

''(A) 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

''(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) 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.

''(f) 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) or (e).''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended by striking ''or'' at the end of subparagraph (C), by inserting ''or'' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

''(E) a qualified school construction bond,''.

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54F. Qualified school construction bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1512. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Section 54E(c)(1) is amended by striking ''and 2009'' and inserting ''and $1,400,000,000 for 2009 and 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART 3—TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS

SEC. 1521. TAXABLE BOND OPTION FOR GOVERNMENTAL 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—Taxable Bond Option for Governmental Bonds

''Sec. 54AA. Taxable bond option for governmental bonds.

"SEC. 54AA. TAXABLE BOND OPTION FOR GOVERNMENTAL BONDS.

''(a) IN GENERAL.—If a taxpayer holds a taxable governmental 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 taxable governmental 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) TAXABLE GOVERNMENTAL BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'taxable governmental 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, and

''(B) the issuer makes an irrevocable election to have this section apply.

''(2) APPLICABLE RULES.—For purposes of applying paragraph (1)—

''(A) a taxable governmental bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6432,

''(B) the yield on a taxable governmental bond shall be determined without regard to the credit allowed under subsection (a), and

''(C) a bond shall not be treated as a taxable governmental 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 taxable governmental bond is entitled to a payment of interest under such bond.

''(f) SPECIAL RULES.—

''(1) INTEREST ON TAXABLE GOVERNMENTAL BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—For purposes of this title, interest on any taxable governmental 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 6432.

''(2) QUALIFIED BOND.—For purposes of this subsection, the term 'qualified bond' means any taxable governmental bond issued as part of an issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for capital expenditures, and

''(B) the issuer makes an irrevocable election to have this subsection apply.

''(h) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6432.''.

(b) CREDIT FOR QUALIFIED BONDS ISSUED BEFORE 2011.—Subchapter B of chapter 65, as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6432. 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(h).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or 6428'' and inserting ''6428, or 6432,''.

(2) Section 54A(c)(1)(B) is amended by striking ''subpart C'' and inserting ''subparts C and J''.

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking ''and I'' and inserting '', I, and J''.

(4) Section 6401(b)(1) is amended by striking ''and I'' and inserting ''I, and J''.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart J. Taxable bond option for governmental bonds.''.

(6) The table of sections for subchapter B of chapter 65, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 6432. Credit for qualified bonds allowed to issuer on advance basis.''.

(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 taxable governmental bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART 4—RECOVERY ZONE BONDS

SEC. 1531. RECOVERY ZONE BONDS.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

"PART III—RECOVERY ZONE BONDS

''Sec. 1400U–1. Allocation of recovery zone bonds.

''Sec. 1400U–2. Recovery zone economic development bonds.

''Sec. 1400U–3. Recovery zone facility bonds.

"SEC. 1400U–1. ALLOCATION OF RECOVERY ZONE BONDS.

''(a) ALLOCATIONS.—

''(1) IN GENERAL.—The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States 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.

''(2) 2008 STATE EMPLOYMENT DECLINE.—For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of—

''(A) the number of individuals employed in such State determined for December 2007, over

''(B) the number of individuals employed in such State determined for December 2008.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion the each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State.

''(B) LARGE MUNICIPALITIES.—For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

''(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES.—For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—There is a national recovery zone economic development bond limitation of $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, home foreclosures, or general distress, and

''(2) any area for which a designation as an empowerment zone or renewal community is in effect.

"SEC. 1400U–2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

''(a) IN GENERAL.—In the case of a recovery zone economic development bond—

''(1) such bond shall be treated as a qualified bond for purposes of section 6432, and

''(2) subsection (b) of such section shall be applied by substituting '55 percent' for '35 percent'.

''(b) RECOVERY ZONE ECONOMIC DEVELOPMENT BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone economic development bond' means any taxable governmental bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

''(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for one or more qualified economic development purposes, and

''(B) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U–1.

''(c) QUALIFIED ECONOMIC DEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

''(1) capital expenditures paid or incurred with respect to property located in such zone,

''(2) expenditures for public infrastructure and construction of public facilities, and

''(3) expenditures for job training and educational programs.

''SEC. 1400U–3. RECOVERY ZONE FACILITY BONDS.

''(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any recovery zone facility bond.

''(b) RECOVERY ZONE FACILITY BOND.—

''(1) IN GENERAL.—For purposes of this section, the term 'recovery zone facility bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

''(B) such bond is issued before January 1, 2011, and

''(C) the issuer designates such bond for purposes of this section.

''(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

''(c) RECOVERY ZONE PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if—

''(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the recovery zone took effect,

''(B) the original use of which in the recovery zone commences with the taxpayer, and

''(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

''(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

''(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

''(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

''(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

''(d) NONAPPLICATION OF CERTAIN RULES.—Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

''PART III. RECOVERY ZONE BONDS.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1532. TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end the following new subsection:

''(f) TRIBAL ECONOMIC DEVELOPMENT BONDS.—

''(1) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.

''(B) NATIONAL LIMITATION.—There is a national tribal economic development bond limitation of $2,000,000,000.

''(2) BONDS TREATED AS EXEMPT FROM TAX.—In the case of a tribal economic development bond—

''(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State, and

''(B) 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 is not exempt from tax under section 103 by reason of subsection (c) (determined without regard to this subsection) but would be so exempt if issued by a State or local government, and

''(ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

''(B) EXCEPTIONS.—The term tribal economic development bond shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance—

''(i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or

''(ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

''(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond 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 studies conducted under this paragraph, including the Secretary's recommendations regarding such amendment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

PART 5—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1541. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle G—Energy Incentives

PART 1—RENEWABLE ENERGY INCENTIVES

SEC. 1601. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subsection (d) of section 45 is amended—

(1) by striking ''2010'' in paragraph (1) and inserting ''2013'',

(2) by striking ''2011'' each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting ''2014'', and

(3) by striking ''2012'' in paragraph (11)(B) and inserting ''2014''.

(b) TECHNICAL AMENDMENT.—Paragraph (5) of section 45(d) is amended by striking ''and before'' and all that follows and inserting '' and before October 3, 2008.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1602. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Subsection (a) of section 48 is amended by adding at the end the following new paragraph:

''(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—

''(A) IN GENERAL.—In the case of any qualified investment credit facility placed in service in 2009 or 2010—

''(i) such facility shall be treated as energy property for purposes of this section, and

''(ii) the energy percentage with respect to such property shall be 30 percent.

''(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.

''(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term 'qualified investment credit facility' means any facility described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) 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.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1603. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

(a) REPEAL OF LIMITATION ON CREDIT FOR QUALIFIED SMALL WIND ENERGY PROPERTY.—Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).

(b) REPEAL OF LIMITATION ON PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

(1) IN GENERAL.—Subsection (a) of section 48 is amended by striking paragraph (4).

(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) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2),the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

SEC. 1604. COORDINATION WITH RENEWABLE ENERGY GRANTS.

Section 48 is amended by adding at the end the following new subsection:

''(d) COORDINATION WITH DEPARTMENT OF ENERGY GRANTS.—In the case of any property with respect to which the Secretary of Energy makes a grant under section 1721 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 2—INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1611. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL LIMITATION.—The national new clean renewable energy bond limitation shall be increased by $1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).''.

SEC. 1612. INCREASED LIMITATION AND EXPANSION OF QUALIFIED ENERGY CONSERVATION BONDS.

(a) INCREASED LIMITATION.—Subsection (e) of section 54D is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL LIMITATION.—The national qualified energy conservation bond limitation shall be increased by $2,400,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (1), (2), and (3).''.

(b) LOANS AND GRANTS TO IMPLEMENT GREEN COMMUNITY PROGRAMS.—

(1) IN GENERAL.—Subparagraph (A) of section 54D(f)(1) is amended by inserting ''(or loans or grants for capital expenditures to implement any green community program)'' after ''Capital expenditures''.

(2) BONDS TO IMPLEMENT GREEN COMMUNITY PROGRAMS NOT TREATED AS PRIVATE ACTIVITY BONDS FOR PURPOSES OF LIMITATIONS ON QUALIFIED ENERGY CONSERVATION BONDS .—Subsection (e) of section 54D is amended by adding at the end the following new paragraph:

''(4) BONDS TO IMPLEMENT GREEN COMMUNITY PROGRAMS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of paragraph (3) and subsection (f)(2), a bond shall not be treated as a private activity bond solely because proceeds of the issue of which such bond is a part are to be used for loans or grants for capital expenditures to implement any green community program.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART 3—ENERGY CONSERVATION INCENTIVES

SEC. 1621. 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) EXTENSION.—Section 25C(g)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1622. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) REMOVAL OF CREDIT LIMITATION FOR PROPERTY PLACED IN SERVICE.—

(1) IN GENERAL.—Paragraph (1) of section 25D(b) is amended to read as follows:

''(1) MAXIMUM CREDIT FOR FUEL CELLS.—In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed $500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 25D(e) is amended—

(A) by striking all that precedes subparagraph (B) and inserting the following:

''(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

''(A) MAXIMUM EXPENDITURES FOR FUEL CELLS.—The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be $1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.'', and

(B) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1623. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Section 30C(e) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010.—In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011—

''(A) in the case of any such property which does not relate to hydrogen—

''(i) subsection (a) shall be applied by substituting '50 percent' for '30 percent',

''(ii) subsection (b)(1) shall be applied by substituting '$50,000' for '$30,000', and

''(iii) subsection (b)(2) shall be applied by substituting '$2,000' for '$1,000', and

''(B) in the case of any such property which relates to hydrogen, subsection (b) 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.

PART 4—ENERGY RESEARCH INCENTIVES

SEC. 1631. INCREASED RESEARCH CREDIT FOR ENERGY RESEARCH.

(a) IN GENERAL.—Section 41 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) ENERGY RESEARCH CREDIT.—In the case of any taxable year beginning in 2009 or 2010—

''(1) IN GENERAL.—The credit determined under subsection (a)(1) shall be increased by 20 percent of the qualified energy research expenses for the taxable year.

''(2) QUALIFIED ENERGY RESEARCH EXPENSES.—For purposes of this subsection, the term 'qualified energy research expenses' means so much of the taxpayer's qualified research expenses as are related to the fields of fuel cells and battery technology, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

''(3) COORDINATION WITH OTHER RESEARCH CREDITS.—

''(A) INCREMENTAL CREDIT.—The amount of qualified energy research expenses taken into account under subsection (a)(1)(A) shall not exceed the base amount.

''(B) ALTERNATIVE SIMPLIFIED CREDIT.—For purposes of subsection (c)(5), the amount of qualified energy research expenses taken into account for the taxable year for which the credit is being determined shall not exceed—

''(i) in the case of subsection (c)(5)(A), 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined, and

''(ii) in the case of subsection (c)(5)(B)(ii), zero.

''(C) BASIC RESEARCH AND ENERGY RESEARCH CONSORTIUM PAYMENTS.—Any amount taken into account under paragraph (1) shall not be taken into account under paragraph (2) or (3) of subsection (a).''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 41(i)(1)(B), as redesignated by subsection (a), is amended by inserting ''(in the case of the increase in the credit determined under subsection (h), December 31, 2010)'' after ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle H—Other Provisions

PART 1—APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS

SEC. 1701. 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 qualified 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).

PART 2—GRANTS TO PROVIDE FINANCING FOR LOW-INCOME HOUSING

SEC. 1711. 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.

(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.

(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.

PART 3—GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS

SEC. 1721. GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Upon application, the Secretary of Energy shall, within 60 days of the application and subject to the requirements of this section, provide a grant to each person who places in service specified energy property during 2009 or 2010 to reimburse such person for a portion of the expense of such facility as provided in subsection (b).

(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 facility.

(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 (c), 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 (c), 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) SPECIFIED ENERGY PROPERTY.—For purposes of this section, the term ''specified energy property'' means any of the following:

(1) QUALIFIED FACILITIES.—Any facility described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d) of the Internal Revenue Code of 1986.

(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 HEATPUMP PROPERTY.—Any property described in clause (vii) of section 48(a)(3)(A) of such Code.

(d) APPLICATION OF CERTAIN RULES.—In making grants under this section, the Secretary of Energy shall apply rules similar to the rules of section 50 of the Internal Revenue Code of 1986. In applying such rules, if the facility is disposed of, or otherwise ceases to be a qualified renewable energy facility, the Secretary of Energy shall provide for the recapture of the appropriate percentage of the grant amount in such manner as the Secretary of Energy determines appropriate.

(e) EXCEPTION FOR CERTAIN NON-TAXPAYERS.—The Secretary of Energy shall not make any grant under this section to any Federal, State, or local government (or any political subdivision, agency, or instrumentality thereof) or 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.

(f) 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.

(g) COORDINATION BETWEEN DEPARTMENTS OF TREASURY AND ENERGY.—The Secretary of the Treasury shall provide the Secretary of Energy with such technical assistance as the Secretary of Energy may require in carrying out this section. The Secretary of Energy shall provide the Secretary of the Treasury with such information as the Secretary of the Treasury may require in carrying out the amendment made by section 1604.

(h) APPROPRIATIONS.—There is hereby appropriated to the Secretary of Energy such sums as may be necessary to carry out this section.

(i) TERMINATION.—The Secretary of Energy 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.

PART 4—STUDY OF ECONOMIC, EMPLOYMENT, AND RELATED EFFECTS OF THIS ACT

SEC. 1731. STUDY OF ECONOMIC, EMPLOYMENT, AND RELATED EFFECTS OF THIS ACT.

On February 1, 2010, and every 3 months thereafter in calendar year 2010, the Comptroller General of the United States shall submit to the Committee on Ways and Means a written report on the most recent national (and, where available, State-by-State) information on—

(1) the economic effects of this Act;

(2) the employment effects of this Act, including—

(A) a comparison of the number of jobs preserved and the number of jobs created as a result of this Act; and

(B) a comparison of the numbers of jobs preserved and the number of jobs created in each of the public and private sectors;

(3) the share of tax and non-tax expenditures provided under this Act that were spent or saved, by group and income class;

(4) how the funds provided to States under this Act have been spent, including a breakdown of—

(A) funds used for services provided to citizens; and

(B) wages and other compensation for public employees; and

(5) a description of any funds made available under this Act that remain unspent, and the reasons why.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers and Struggling Families Act''.

Subtitle A—Unemployment Insurance

SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

''(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.''.

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) FEDERAL-STATE AGREEMENTS.—Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (hereinafter in this section referred to as the ''Secretary''). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) ADDITIONAL COMPENSATION.—Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this paragraph) plus an additional $25.

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

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

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

(c) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

(d) PAYMENTS TO STATES.—

(1) IN GENERAL.—

(A) FULL REIMBURSEMENT.—There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of additional compensation (as described in subsection (b)(1)) paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) TERMS OF PAYMENTS.—Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) APPLICABILITY.—

(1) IN GENERAL.—An agreement entered into under this section shall apply to weeks of unemployment—

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010.—In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION.—Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

(f) FRAUD AND OVERPAYMENTS.—The provisions of section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2356) shall apply with respect to additional compensation (as described in subsection (b)(1)) to the same extent and in the same manner as in the case of emergency unemployment compensation.

(g) APPLICATION TO OTHER UNEMPLOYMENT BENEFITS.—

(1) IN GENERAL.—Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (h)(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 (h)(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 (h)(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) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such programs shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

''(D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has any dependents (as defined by State law), in an amount equal to at least $15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than $50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less).

''(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after the date of the enactment of this subsection prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

''(B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.

''(ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

''(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

''(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

''(iii) No application under subparagraph (A) may be considered if submitted before the date of the enactment of this subsection or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2011.

''(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

''(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

''(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve $7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 902, 910, or 1203 of the amount in the Federal unemployment account as of any given time.

Any amount so reserved for which the Secretary of the Treasury has not received a certification under paragraph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2011, become unrestricted as to use as part of the Federal unemployment account.

''(7) For purposes of this subsection, the terms 'benefit year', 'base period', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

''(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

''(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

''(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

''(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(D) staff-assisted reemployment services for unemployment compensation claimants.''.

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

Subtitle B—Assistance for Vulnerable Individuals

SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.

(a) 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.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as are necessary for payment to the Emergency Fund.

''(3) GRANTS.—

''(A) GRANT RELATED TO CASELOAD INCREASES.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) CASELOAD INCREASE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the average monthly assistance caseload of the State for the quarter exceeds the average monthly assistance caseload of the State for the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be 80 percent of the amount (if any) by which the total expenditures of the State for basic assistance (as defined by the Secretary) in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total expenditures of the State for such assistance for the corresponding quarter in the emergency fund base year of the State.

''(B) GRANT RELATED TO INCREASED EXPENDITURES FOR NON-RECURRENT SHORT TERM BENEFITS.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) NON-RECURRENT SHORT TERM EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for non-recurrent short term benefits in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State for non-recurrent short term benefits in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(C) GRANT RELATED TO INCREASED EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—

''(i) IN GENERAL.—For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that—

''(I) requests a grant under this subparagraph for the quarter; and

''(II) meets the requirement of clause (ii) for the quarter.

''(ii) SUBSIDIZED EMPLOYMENT EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for subsidized employment in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total of such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

''(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

''(4) AUTHORITY TO MAKE NECESSARY ADJUSTMENTS TO DATA AND COLLECT NEEDED DATA.—In determining the size of the caseload of a State and the expenditures of a State for basic assistance, non-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 to ensure that the data reflect expenditures under the State program funded under this part and qualified State expenditures. 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 a fiscal year shall not exceed 25 percent of the 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) DEFINITIONS.—In this subsection:

''(A) AVERAGE MONTHLY ASSISTANCE CASELOAD.—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).''.

(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 2009 or 2010, then, at State option, during the emergency fund base year of the State with respect to the average monthly assistance caseload of the State (within the meaning of section 403(c)(8)(B)))'' before ''under the State''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2102. ONE-TIME EMERGENCY PAYMENT TO SSI RECIPIENTS.

(a) PAYMENT AUTHORITY.—

(1) IN GENERAL.—At the earliest practicable date in calendar year 2009 but not later than 120 days after the date of the enactment of this section, the Commissioner of Social Security shall make a one-time payment to each individual who is determined by the Commissioner in calendar year 2009 to be an individual who—

(A) is entitled to a cash benefit under the supplemental security income program under title XVI of the Social Security Act (other than pursuant to section 1611(e)(1)(B) of such Act) for at least 1 day in the calendar month in which the first payment under this section is to be made; or

(B)(i) was entitled to such a cash benefit (other than pursuant to section 1611(e)(1)(B) of such Act) for at least 1 day in the 2-month period preceding that calendar month; and

(ii) whose entitlement to that benefit ceased in that 2-month period solely because

the income of the individual (and the income of the spouse, if any, of the individual) exceeded the applicable income limit described in paragraph (1)(A) or (2)(A) of section 1611(a) of such Act.

(2) AMOUNT OF PAYMENT.—Subject to subsection (b)(1) of this section, the amount of the payment shall be—

(A) in the case of an individual eligible for a payment under this section who does not have a spouse eligible for such a payment, an amount equal to the average of the cash benefits payable in the aggregate under section 1611 or 1619(a) of the Social Security Act to eligible individuals who do not have an eligible spouse, for the most recent month for which data on payment of the benefits are available, as determined by the Commissioner of Social Security; or

(B) in the case of an individual eligible for a payment under this section who has a spouse eligible for such a payment, an amount equal to the average of the cash benefits payable in the aggregate under section 1611 or 1619(a) of the Social Security Act to eligible individuals who have an eligible spouse, for the most recent month for which data on payment of the benefits are available, as so determined.

(b) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO WITHHOLD PAYMENT TO RECOVER PRIOR OVERPAYMENT OF SSI BENEFITS.—The Commissioner of Social Security may withhold part or all of a payment otherwise required to be made under subsection (a) of this section to an individual, in order to recover a prior overpayment of benefits to the individual under the supplemental security income program under title XVI of the Social Security Act, subject to the limitations of section 1631(b) of such Act.

(2) PAYMENT TO BE DISREGARDED IN DETERMINING UNDERPAYMENTS UNDER THE SSI PROGRAM.—A payment under subsection (a) shall be disregarded in determining whether there has been an underpayment of benefits under the supplemental security income program under title XVI of the Social Security Act.

(3) NONASSIGNMENT.—The provisions of section 1631(d) of the Social Security Act shall apply with respect to payments under this section to the same extent as they apply in the case of title XVI of such Act.

(c) PAYMENTS TO BE DISREGARDED FOR PURPOSES OF ALL FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—A payment under subsection (a) shall not be regarded as income to the recipient, and shall not be regarded as a resource of the recipient for the month of receipt and the following 6 months, for purposes of determining the eligibility of any individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) APPROPRIATION.—Out of any sums in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary to carry out this section.

SEC. 2103. TEMPORARY RESUMPTION OF PRIOR CHILD SUPPORT LAW.

During the period that begins with October 1, 2008, and ends with September 30, 2010, section 455(a)(1) of the Social Security Act shall be applied and administered as if the phrase ''from amounts paid to the State under section 458 or'' did not appear in such section.

TITLE III—HEALTH INSURANCE ASSISTANCE FOR THE UNEMPLOYED

SEC. 3001. SHORT TITLE AND TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE OF TITLE.—This title may be cited as the ''Health Insurance Assistance for the Unemployed Act of 2009''.

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

Sec. 3001. Short title and table of contents of title.
Sec. 3002. Premium assistance for COBRA benefits and extension of COBRA benefits for older or long-term employees.
Sec. 3003. Temporary optional Medicaid coverage for the unemployed.

SEC. 3002. PREMIUM ASSISTANCE FOR COBRA BENEFITS AND EXTENSION OF COBRA BENEFITS FOR OLDER OR LONG-TERM EMPLOYEES.

(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 35 percent of the amount of such premium (as determined without regard to this subsection).

(B) PREMIUM REIMBURSEMENT.—For provisions providing the balance of such premium, see section 6431 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 health reimbursement arrangement or a health flexible spending arrangement, 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 12 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—

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

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

(A) IN GENERAL.—Notwithstanding section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who is a qualified beneficiary described in paragraph (3)(A) as of the date of the enactment of this Act and has not made the election referred to in paragraph (3)(B) as of such date, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the 60-day period commencing with the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) COMMENCEMENT OF COVERAGE; NO REACHBACK.—Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)—

(i) shall commence on the date of the enactment of this Act, and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(C) PREEXISTING CONDITIONS.—With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period—

(i) beginning on the date of the qualifying event, and

(ii) ending with the day before the date of the enactment of this Act,

shall be disregarded for purposes of determining the 63-day periods referred to in section 701)(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE.—In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan by reason of such individual's ineligibility for COBRA continuation coverage, the Secretary of Labor (or the Secretary of Health and Human services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in 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 10 business days after receipt of such individual's application for review under this paragraph.

(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(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, such notices shall include an additional notification to the recipient of the availability of premium reduction with respect to such coverage under this subsection.

(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 coordination with administrators of the group health plans (or other entities) that provide or administer the COBRA continuation coverage involved, provide rules requiring the provision of such notice.

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

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

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

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided for failure to so notify the plan, and

(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.

(C) NOTICE RELATING TO RETROACTIVE COVERAGE.—In the case of an individual described in paragraph (3)(A) who has elected COBRA continuation coverage as of the date of enactment of this Act or an individual described in paragraph (4)(A), the administrator of the group health plan (or other 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).

(D) MODEL NOTICES.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph.

(8) SAFEGUARDS.—The Secretary of the Treasury shall provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this subsection.

(9) OUTREACH.—The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on website of the Departments of Labor, Treasury, and Health and Human Services.

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

(A) ADMINISTRATOR.—The term ''administrator'' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(B) COBRA CONTINUATION COVERAGE.—The term ''COBRA continuation coverage'' means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage. Such term does not include coverage under a health flexible spending arrangement.

(C) COBRA CONTINUATION PROVISION.—The term ''COBRA continuation provision'' means the provisions of law described in subparagraph (B).

(D) COVERED EMPLOYEE.—The term ''covered employee'' has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974.

(E) QUALIFIED BENEFICIARY.—The term ''qualified beneficiary'' has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE.—The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(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 is amended by adding at the end the following new section:

''SEC. 6431. COBRA PREMIUM ASSISTANCE.

''(a) IN GENERAL.—The entity to whom premiums are payable under COBRA continuation coverage shall be reimbursed for the amount of premiums not paid by plan beneficiaries by reason of section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009. Such amount shall be treated as a credit against the requirement of such entity to make deposits of payroll taxes and the liability of such entity for payroll taxes. To the extent that such amount exceeds the amount of such taxes, the Secretary shall pay to such entity the amount of such excess. No payment may be made under this subsection to an entity with respect to any assistance eligible individual until after such entity has received the reduced premium from such individual required under section 3002(a)(1)(A) of such Act.

''(b) PAYROLL TAXES.—For purposes of this section, the term 'payroll taxes' means—

''(1) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding),

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

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

''(c) TREATMENT OF CREDIT.—Except as otherwise provided by the Secretary, the credit described in subsection (a) shall be applied as though the employer had paid to the Secretary, on the day that the qualified beneficiary's premium payment is received, an amount equal to such credit.

''(d) TREATMENT OF PAYMENT.—For purposes of section 1324(b)(2) of title 31, United States Code, any payment under this section shall be treated in the same manner as a refund of the credit under section 35.

''(e) REPORTING.—

''(1) IN GENERAL.—Each entity entitled to reimbursement under subsection (a) for any period shall submit such reports as the Secretary may require, including—

''(A) 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), and

''(B) 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).

''(2) TIMING OF REPORTS RELATING TO AMOUNT OF PAYROLL TAXES.—Reports required under paragraph (1)(B) shall be submitted at the same time as deposits of taxes imposed by chapters 21, 22, and 24 or at such time as is specified by the Secretary.

''(f) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including the requirement to report information or the establishment of other methods for verifying the correct amounts of payments and credits under this section. The Secretary shall issue such regulations or guidance with respect to 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 6431 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. 6431. COBRA premium assistance.''.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE.—

(A) IN GENERAL.—Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

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

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

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

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

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

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

(14) COORDINATION WITH HCTC.—

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

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

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

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

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

''SEC. 139C. COBRA PREMIUM ASSISTANCE.

''In the case of an assistance eligible individual (as defined in section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009), gross income does not include any premium reduction provided under subsection (a) of such section.''.

(B) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

''Sec. 139C. COBRA premium assistance.''.

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

(b) EXTENSION OF COBRA BENEFITS FOR OLDER OR LONG-TERM EMPLOYEES.—

(1) ERISA AMENDMENT.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new clauses:

''(x) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—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 attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, clauses (i) and (ii) shall not apply. For purposes of this clause, in the case of a group health plan that is a multiemployer plan, service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(xi) YEAR OF SERVICE.— For purposes of this subparagraph, the term 'year of service' shall have the meaning provided in section 202(a)(3).''.

(2) IRC AMENDMENT.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subclauses:

''(X) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—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 attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, subclauses (I) and (II) shall not apply. For purposes of this subclause, in the case of a group health plan that is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(XI) YEAR OF SERVICE.— For purposes of this clause, the term 'year of service' shall have the meaning provided in section 202(a)(3) of the Employee Retirement Income Security Act of 1974.''.

(3) PHSA AMENDMENT.—Section 2202(2)(A) of the Public Health Service Act is amended by adding at the end the following new clauses:

''(viii) SPECIAL RULE FOR OLDER OR LONG-TERM EMPLOYEES GENERALLY.—In the case of a qualifying event described in section 2203(2) with respect to a covered employee who (as of such qualifying event) has attained age 55 or has completed 10 or more years of service with the entity that is the employer at the time of the qualifying event, clauses (i) and (ii) shall not apply. For purposes of this clause, in the case of a group health plan that is a multiemployer plan (as defined in section 3(37) of the Employee Retirement Income Security Act of 1974), service by the covered employee performed for 2 or more employers during periods for which such employers contributed to such plan shall be treated as service performed for the entity referred to in the preceding sentence.

''(ix) YEAR OF SERVICE.— For purposes of this subparagraph, the term 'year of service' shall have the meaning provided in section 202(a)(3) of the Employee Retirement Income Security Act of 1974.''.

(4) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this subsection 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. 3003. TEMPORARY OPTIONAL MEDICAID COVERAGE FOR THE UNEMPLOYED.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(10)(A)(ii)—

(A) by striking ''or'' at the end of subclause (XVIII);

(B) by adding ''or'' at the end of subclause (XIX); and

(C) by adding at the end the following new subclause

''(XX) who are described in subsection (dd)(1) (relating to certain unemployed individuals and their families);''; and

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

''(dd)(1) Individuals described in this paragraph are—

''(A) individuals who—

''(i) are within one or more of the categories described in paragraph (2), as elected under the State plan; and

''(ii) meet the applicable requirements of paragraph (3); and

''(B) individuals who—

''(i) are the spouse, or dependent child under 19 years of age, of an individual described in subparagraph (A); and

''(ii) meet the requirement of paragraph (3)(B).

''(2) The categories of individuals described in this paragraph are each of the following:

''(A)(i) Individuals who are receiving unemployment compensation benefits; and

''(ii) individuals who were receiving, but have exhausted, unemployment compensation benefits on or after July 1, 2008.

''(B) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, whose family gross income does not exceed a percentage specified by the State (not to exceed 200 percent) of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

''(C) Individuals who are involuntarily unemployed and were involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, who are members of households participating in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq), and who, but for subsection (a)(10)(A)(ii)(XX), are not eligible for medical assistance under this title or health assistance under title XXI.

''(3) The requirements of this paragraph with respect to an individual are the following:

''(A) In the case of individuals within a category described in subparagraph (A)(i) of paragraph (2), the individual was involuntarily separated from employment on or after September 1, 2008, and before January 1, 2011, or meets such comparable requirement as the Secretary specifies through rule, guidance, or otherwise in the case of an individual who was an independent contractor.

''(B) The individual is not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)), but applied without regard to paragraph (1)(F) of such section and without regard to coverage provided by

reason of the application of subsection (a)(10)(A)(ii)(XX).

''(4)(A) No income or resources test shall be applied with respect to any category of individuals described in subparagraph (A) or (C) of paragraph (2) who are eligible for medical assistance only by reason of the application of subsection (a)(10)(A)(ii)(XX).

''(B) Nothing in this subsection shall be construed to prevent a State from imposing a resource test for the category of individuals described in paragraph (2)(B)).

''(C) In the case of individuals described in paragraph (2)(A) or (2)(C), the requirements of subsections (i)(22) and (x) in section 1903 shall not apply.''.

(b) 100 PERCENT FEDERAL MATCHING RATE.—

(1) FMAP FOR TIME-LIMITED PERIOD.—The third sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: ''and for items and services furnished on or after the date of enactment of this Act and before January 1, 2011, to individuals who are eligible for medical assistance only by reason of the application of section 1902(a)(10)(A)(ii)(XX)''.

(2) CERTAIN ENROLLMENT-RELATED ADMINISTRATIVE COSTS.—Notwithstanding any other provision of law, for purposes of applying section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)), with respect to expenditures incurred on or after the date of the enactment of this Act and before January 1, 2011, for costs of administration (including outreach and the modification and operation of eligibility information systems) attributable to eligibility determination and enrollment of individuals who are eligible for medical assistance only by reason of the application of section 1902(a)(10)(A)(ii)(XX) of such Act, as added by subsection (a)(1), the Federal matching percentage shall be 100 percent instead of the matching percentage otherwise applicable.

(c) CONFORMING AMENDMENTS.—(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396c(f)(4)) is amended by inserting ''1902(a)(10)(A)(ii)(XX), or'' after ''1902(a)(10)(A)(ii)(XIX),''.

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1)—

(A) by striking ''or'' at the end of clause (xii);

(B) by adding ''or'' at the end of clause (xiii); and

(C) by inserting after clause (xiii) the following new clause:

''(xiv) individuals described in section 1902(dd)(1),''.

TITLE IV—HEALTH INFORMATION TECHNOLOGY

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title 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. 4001. Short title; table of contents of title.

Subtitle A—Promotion of Health Information Technology

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

Sec. 4101. 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. Relation to HIPAA privacy and security law.

''Sec. 3010. Authorization for appropriations.

Sec. 4102. Technical amendment.

PART II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

Sec. 4111. Coordination of Federal activities with adopted standards and implementation specifications.

Sec. 4112. Application to private entities.

Sec. 4113. Study and reports.

Subtitle B—Testing of Health Information Technology

Sec. 4201. National Institute for Standards and Technology testing.

Sec. 4202. Research and development programs.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

Sec. 4301. 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 on health care.

''Sec. 3017. General grant and loan provisions.

''Sec. 3018. Authorization for appropriations.

PART II—MEDICARE PROGRAM

Sec. 4311. Incentives for eligible professionals.

Sec. 4312. Incentives for hospitals.

Sec. 4313. Treatment of payments and savings; implementation funding.

Sec. 4314. Study on application of EHR payment incentives for providers not receiving other incentive payments.

PART III—MEDICAID FUNDING

Sec. 4321. Medicaid provider HIT adoption and operation payments; implementation funding.

Sec. 4322. Medicaid nursing home grant program.

Subtitle D—Privacy

Sec. 4400. Definitions.

PART I—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

Sec. 4401. Application of security provisions and penalties to business associates of covered entities; annual guidance on security provisions.

Sec. 4402. Notification in the case of breach.

Sec. 4403. Education on Health Information Privacy.

Sec. 4404. Application of privacy provisions and penalties to business associates of covered entities.

Sec. 4405. Restrictions on certain disclosures and sales of health information; accounting of certain protected health information disclosures; access to certain information in electronic format.

Sec. 4406. Conditions on certain contacts as part of health care operations.

Sec. 4407. Temporary breach notification requirement for vendors of personal health records and other non-HIPAA covered entities.

Sec. 4408. Business associate contracts required for certain entities.

Sec. 4409. Clarification of application of wrongful disclosures criminal penalties.

Sec. 4410. Improved enforcement.

Sec. 4411. Audits.

Sec. 4412. Special rule for information to reduce medication errors and improve patient safety.

PART II—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

Sec. 4421. Relationship to other laws.

Sec. 4422. Regulatory references.

Sec. 4423. Effective date.

Sec. 4424. Studies, reports, guidance.

Subtitle E—Miscellaneous Medicare Provisions

Sec. 4501. Moratoria on certain Medicare regulations.

Sec. 4502. Long-term care hospital technical corrections.

Subtitle A—Promotion of Health Information Technology

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

SEC. 4101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

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

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3000. DEFINITIONS.

''In this title:

''(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record 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' means a hospital, skilled nursing facility, nursing facility, home health entity or other long term care

facility, health care clinic, Federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), 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, and any other category of facility or clinician determined appropriate by the Secretary.

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

''(5) HEALTH INFORMATION TECHNOLOGY.—The term 'health information technology' means hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services that are specifically designed for use by health care entities for the electronic creation, maintenance, 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

"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 prevention 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 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. The Coordinator shall make such determination, and report to the Secretary such determination, not later than 45 days after the date the recommendation is received by the Coordinator.

''(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, and improving the continuity of care among health care settings.

''(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 develop a program (either directly or by contract) for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include testing of the technology in accordance with section 4201(b) of the HITECH 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.

''(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 the required level of Federal funding, expectations for regional, State, and private investment, and the expected contributions by volunteers to activities for the utilization of such records.

''(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.

''(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 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.

''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.

''(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, 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.

''(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) 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).

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

''(2) MEMBERSHIP.—The membership of the HIT Policy 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) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

''SEC. 3003. HIT STANDARDS COMMITTEE.

''(a) ESTABLISHMENT.—There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for 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.—

''(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) 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 4201(a) of the HITECH Act.

''(C) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

''(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(3) SCHEDULE.—Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed 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.

''(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.

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall provide leadership 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) CONSIDERATION.—The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

''(4) 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.

''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.—

''(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, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

''(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

''(3) PUBLICATION.—The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

''(b) ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall, through the rulemaking process described in section 3004(a), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

''(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).

''SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

''For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 4111 of the HITECH Act.

''SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

''(a) IN GENERAL.—Except as provided under section 4112 of the HITECH Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

''(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

''SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator shall support the development, routine updating, and provision of qualified EHR technology (as defined in section 3000) consistent with subsections (b) and (c) unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace.

''(b) CERTIFICATION.—In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

''(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

''SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—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 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) AHIC.—

''(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

''(2) 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.

''(c) RULES OF CONSTRUCTION.—

''(1) ONCHIT.—Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

''(2) AHIC.—Nothing in sections 3002 or 3003 or subsection (b) 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 in a manner that would permit the Secretary to choose to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

''SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

''(a) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

''(1) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

''(2) 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.

''(b) DEFINITION.—For purposes of this section, the term 'HIPAA privacy and security law' means—

''(1) 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 HITECH Act; and

''(2) regulations under such provisions.

''SEC. 3010. AUTHORIZATION FOR APPROPRIATIONS.

''There is authorized to be appropriated to the Office of the National Coordinator for Health Information Technology to carry out this subtitle $250,000,000 for fiscal year 2009.''.

SEC. 4102. 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 II—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 4111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined in the Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 4101.

(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 4101, 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 4101, shall apply for purposes of this part.

SEC. 4112. APPLICATION TO PRIVATE ENTITIES.

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 4101.

SEC. 4113. STUDY AND REPORTS.

(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.—

(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

SEC. 4201. 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 4101, 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 4101, 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. 4202. RESEARCH AND DEVELOPMENT PROGRAMS.

(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.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(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 coordinate Federal research and development programs related to the development and deployment of health information technology, including activities related to—

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;

(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C—Incentives for the Use of Health Information Technology

PART I—GRANTS AND LOANS FUNDING

SEC. 4301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 4101, is amended by adding at the end the following new subtitle:

"Subtitle B—Incentives for the Use of Health Information Technology

"SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

''(a) IN GENERAL.—The Secretary shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 3001. To the greatest extent practicable, the Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers 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 providers, as defined in section 3000, 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.

''(8) Provision of $300 million to support regional or sub-national efforts towards health information exchange.

''(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.

"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

''(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.

''(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 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:

''(A) A detailed explanation of the program and the programs goals.

''(B) Procedures to be followed by the applicants.

''(C) Criteria for determining qualified applicants.

''(D) Maximum support levels expected to be available to centers under the program.

''(7) APPLICATION REVIEW.—The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the 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.

''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.

''(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.

''(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—

''(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;

''(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—

''(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.

''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;

''(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors 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.

''(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 ON HEALTH CARE.

''(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.

''(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.

''SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

''(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.

''(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.

''SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

''For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.''.

PART II—MEDICARE PROGRAM

SEC. 4311. 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.—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 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.

''(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 clause (iii), 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.

''(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. If the first payment year for an eligible professional is after 2015 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 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 computer equipment, of the hospital.

''(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.

''(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 a reporting period for a payment year (or, for purposes of subsection (a)(7), for a 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).

''(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 the determination of any incentive payment under this subsection and the payment adjustment under subsection (a)(7), including the determination of a meaningful EHR user under paragraph (2), a limitation under paragraph (1)(B), and the exception under subsection (a)(7)(B).

''(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 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) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(C) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(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 2016 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for a 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 2016, 99 percent;

''(II) for 2017, 98 percent; and

''(III) for 2018 and each subsequent year, 97 percent.

''(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2019 AND SUBSEQUENT YEARS.—For 2019 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

''(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

''(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of

subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

''(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS.—No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

''(E) DEFINITIONS.—For purposes of this paragraph:

''(i) COVERED PROFESSIONAL SERVICES.—The term 'covered professional services' has the meaning given such term in subsection (k)(3).

''(ii) ELIGIBLE PROFESSIONAL.—The term 'eligible professional' means a physician, as defined in section 1861(r).

''(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.''.

(c) APPLICATION TO CERTAIN HMO-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 patient care services to enrollees of such organization; and

''(II) furnishes at least 80 percent of the professional services of the eligible professional 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.—If an eligible professional described in paragraph (2) 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.

''(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.

''(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 are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of such eligible professionals 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).

''(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.''.

(d) CONFORMING AMENDMENTS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended—

(1) in subsection (a)(1)(A), by striking ''and (i)'' and inserting ''(i), and (l)'';

(2) in subsection (c)—

(A) in paragraph (1)(D)(i), by striking ''section 1886(h)'' and inserting ''sections 1848(o) and 1886(h)''; and

(B) in paragraph (6)(A), by inserting after ''under part B,'' the following: ''excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,''; and

(3) in subsection (f), by inserting ''and for payments under subsection (l)'' after ''with the organization''.

(e) CONFORMING AMENDMENTS TO E-PRESCRIBING.—

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(a)(5)(A)) is amended—

(A) in clause (i), by striking ''or any subsequent year'' and inserting '', 2013, 2014, or 2015''; and

(B) in clause (ii), by striking ''and each subsequent year'' and inserting ''and 2015''.

(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 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. 4312. INCENTIVES FOR HOSPITALS.

(a) INCENTIVE PAYMENT.—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 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 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 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, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

''(i) For the 1,150th through the 23,000th discharge, $200.

''(ii) For any discharge greater than the 23,000th, $0.

''(D) MEDICARE SHARE.—The Medicare share specified under this subparagraph for a 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 hospital) of—

''(I) the 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 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 total number of inpatient-bed-days with respect to the hospital during such period; and

''(II) the total amount of the 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 total amount of the hospital's charges during such period.

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 a reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for a 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).

''(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.—A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include—

''(I) an attestation;

''(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

''(III) a survey response;

''(IV) reporting under subparagraph (A)(iii); and

''(V) other means specified by the Secretary.

''(ii) USE OF PART D DATA.—Notwithstanding sections 1860D–15(d)(2)(B) and 1860D–15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D–15 that are 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 the determination of any incentive payment under this subsection and the payment adjustment under subsection (b)(3)(B)(ix), including the determination of a meaningful EHR user under paragraph (3), determination of measures applicable to services furnished by eligible hospitals under this subsection, and the exception under subsection (b)(3)(B)(ix)(II).

''(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 other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that a hospital has the opportunity to review the other relevant data that are to be made public with respect to the hospital prior to such data being made public.

''(5) CERTIFIED EHR TECHNOLOGY DEFINED.—The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) ELIGIBLE HOSPITAL.—The term 'eligible hospital' means a subsection (d) hospital.

''(B) REPORTING PERIOD.—The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.''.

(b) INCENTIVE MARKET BASKET ADJUSTMENT.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (viii)(I), by inserting ''(or, beginning with fiscal year 2016, by one-quarter)'' after ''2.0 percentage points''; and

(2) by adding at the end the following new clause:

''(ix)(I) For purposes of clause (i) for fiscal year 2016 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 the 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 2016, 66⅔ percent for fiscal year 2017, and 100 percent for fiscal year 2018 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.

''(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 2016 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.

''(IV) For purposes of this clause, the term 'reporting period' means, with respect to a fiscal year, any period (or periods), with respect to the fiscal year, as specified by the Secretary.''.

(c) APPLICATION TO CERTAIN HMO-AFFILIATED ELIGIBLE HOSPITALS.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23), as amended by section 4311(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 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 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), is an eligible hospital under section 1886(n), 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.''.

(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 4311(d)(1), is amended—

(A) in subsection (c)—

(i) in paragraph (1)(D)(i), by striking ''1848(o)'' and inserting '', 1848(o), and 1886(n)''; and

(ii) in paragraph (6)(A), by inserting ''and subsections (b)(3)(B)(ix) and (n) of section 1886'' after ''section 1848''; and

(B) in subsection (f), by inserting ''and subsection (m)'' after ''under subsection (l)''.

SEC. 4313. 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, $60,000,000 for each of fiscal years 2009 through 2015 and $30,000,000 for each succeeding fiscal year through fiscal year 2019, which shall be available for purposes of carrying out the provisions of (and amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4314. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment 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 3000 of the Public Health Service Act) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XVIII or XIX of the Social Security Act, or otherwise, for such purposes.

(2) DETAILS OF STUDY.—Such study shall include an examination of—

(A) the adoption rates of certified EHR technology by such health care providers;

(B) the clinical utility of such technology by such health care providers;

(C) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;

(D) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other funding under this Act, title XVIII or XIX of the Social Security Act, or otherwise;

(E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(F) any other issues the Secretary deems to be appropriate.

(b) REPORT.—Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).

PART III—MEDICAID FUNDING

SEC. 4321. 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 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) by Medicaid providers described in subsection (t)(1); 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)(A) For purposes of subsection (a)(3)(F), the payments for certified EHR technology (and support services including maintenance that is for, or is necessary for the operation of, such technology) by Medicaid providers described in this paragraph are payments made by the State in accordance with this subsection of the applicable percent (as specified in subparagraph (B)) of the net allowable costs of Medicaid providers (as defined in paragraph (2)) for such technology (and support services).

''(B) For purposes of subparagraph (A), the applicable percent is—

''(i) in the case of a Medicaid provider described in paragraph (2)(A), 85 percent; and

''(ii) in the case of a Medicaid provider described in paragraph (2)(B), 100 percent.

''(2) In this subsection and subsection (a)(3)(F), the term 'Medicaid provider' means—

''(A) an eligible professional (as defined in paragraph (3)(B)) who is not hospital-based and has at least 30 percent of the professional's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title; and

''(B)(i) a children's hospital, (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 standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title, or (iii) a Federally-qualified health center or rural health clinic that has at least 30 percent of the center's or clinic's patient volume (as estimated in accordance with standards 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 the eligible professional has waived, in a manner specified by the Secretary, any right to payment under section 1848(o) with respect to the adoption or support of certified EHR technology by the professional. In applying clauses (ii) and (iii) of subparagraph (B), the standards established by the Secretary for patient volume shall include individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

''(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 physician as defined in paragraphs (1) and (2) of section 1861(r), and includes a certified nurse mid-wife and a nurse practitioner.

''(C) 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 computer equipment, of the hospital.

''(4)(A) The term 'allowable costs' means, with respect to certified EHR technology of a Medicaid provider, costs of such technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) as determined by the Secretary to be reasonable.

''(B) The term 'net allowable costs' means allowable costs reduced by any payment that is made to the Medicaid provider involved from any other source that is directly attributable to payment for certified EHR technology or services described in subparagraph (A).

''(C) In no case shall—

''(i) the aggregate allowable costs under this subsection (covering one or more years) with respect to a Medicaid provider described in paragraph (2)(A) for purchase and initial implementation of certified EHR technology (and services described in subparagraph (A)) exceed $25,000 or include costs over a period of longer than 5 years;

''(ii) for costs not described in clause (i) relating to the operation, maintenance, or use of certified EHR technology, the annual allowable costs under this subsection with respect to such a Medicaid provider for costs not described in clause (i) for any year exceed $10,000;

''(iii) payment described in paragraph (1) for costs described in clause (ii) be made with respect to such a Medicaid provider over a period of more than 5 years;

''(iv) the aggregate allowable costs under this subsection with respect to such a Medicaid provider for all costs exceed $75,000; or

''(v) the allowable costs, whether for purchase and initial implementation, maintenance, or otherwise, for a Medicaid provider described in paragraph (2)(B)(iii) exceed such aggregate or annual limitation as the Secretary shall establish, based on an amount determined by the Secretary as being adequate to adopt and maintain certified EHR technology, consistent with paragraph (6).

''(5) Payments described in paragraph (1) are not in accordance with this subsection unless the following requirements are met:

''(A) The State provides assurances satisfactory to the Secretary that amounts received under subsection (a)(3)(F) with respect to costs of a Medicaid provider are paid directly to such provider without any deduction or rebate.

''(B) Such Medicaid provider is responsible for payment of the costs described in such paragraph that are not provided under this title.

''(C) With respect to payments to such Medicaid provider for costs other than costs related to the initial adoption of certified EHR technology, 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).

''(D) To the extent specified by the Secretary, the certified EHR technology is compatible with State or Federal administrative management systems.

''(6)(A) In no case shall the payments described in paragraph (1), with respect to a hospital, exceed in the aggregate the product of—

''(i) the overall hospital EHR amount for the hospital computed under subparagraph (B); and

''(ii) the Medicaid share for such hospital computed under subparagraph (C).

''(B) For purposes of this paragraph, the overall hospital EHR amount, with respect to a hospital, is the sum of the applicable amounts specified in section 1886(n)(2)(A) for such hospital 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 publish in the Federal Register the overall hospital EHR amount for each hospital eligible for payments under this subsection. In computing amounts under paragraph 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 hospital 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).

''(7) With respect to health care providers other than hospitals, the Secretary shall ensure coordination of the different programs for payment of such health care providers for adoption or use of health information technology (including certified EHR technology), as well as payments for such health care providers provided under this title or title XVIII, to assure no duplication of funding.

''(8) In carrying out paragraph (5)(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.

''(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 under paragraph (1).''.

(b) IMPLEMENTATION FUNDING.—In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, $40,000,000 for each of fiscal years 2009 through 2015 and $20,000,000 for each succeeding fiscal year through fiscal year 2019, which shall be available for purposes of carrying out the provisions of (and the amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4322. MEDICAID NURSING FACILITY GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a grant program to enhance the meaningful use of certified electronic health records in nursing facilities. In establishing such program, the Secretary shall use payment incentives for meaningful use of certified EHR technology, similar to those specified in sections 4311, 4312, and 4321, as appropriate. For the purpose of such incentives, the Secretary shall define meaningful use in a manner so as to be consistent with such sections to the extent practicable. The Secretary shall award funds to not more than 10 States to carry out activities under this section.

(b) ACTIVITIES.—The Secretary shall require a State participating in the grant program to—

(1) provide payment incentives to nursing facilities contingent on the demonstration of meaningful use of certified electronic health records;

(2) require participating nursing facilities to engage in programs to improve the quality and coordination of care through the use of certified EHR technology, including for persons who are repeatedly admitted to acute care hospitals from the nursing facility and persons who receive services across multiple medical and social services providers (including facility and community-based providers); and

(3) provide for training of appropriate personnel in the use of certified electronic health records.

(c) TARGETING.—The Secretary shall require a State participating in the grant program to target nursing facilities with a significant percentage (but not less than the average in the State) of the facility's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under title XIX of the Social Security Act.

(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to States with a high proportion of total national nursing facility days paid under title XIX of the Social Security Act.

(e) LIMITATIONS ON USE OF FUNDS.—A State may not make payments to a nursing facility in excess of 90 percent of the costs of such nursing facility for the adoption and operation of certified EHR technology.

(f) APPLICATION.—No grant may be made to a State under this section unless the State submits an application to the Secretary in a form and manner specified by the Secretary.

(g) REPORT.—Not later than the end of the 3-year period beginning on the date that grants under this section are first awarded, the Secretary shall submit a report to Congress on the activities under this grant program and the effect of this program on quality and coordination of care under title XIX of the Social Security Act.

(h) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services to carry out this section $600,000,000, to remain available until expended.

Subtitle D—Privacy

SEC. 4400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—The term ''breach'' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security, privacy, or integrity of protected health information maintained by or on behalf of a person. Such term does not include any unintentional acquisition, access, use, or disclosure of such information by an employee or agent of the covered entity or business associate involved if such acquisition, access, use, or disclosure, respectively, was made in good faith and within the course and scope of the employment or other contractual relationship of such employee or agent, respectively, with the covered entity or business associate and if such information is not further acquired, accessed, used, or disclosed by such employee or agent.

(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 1171(5) of the Social Security Act.

(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 4101.

(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 individually identifiable health information on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or 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 I—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

SEC. 4401. 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, in consultation with industry 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 4101, as such provisions are in effect as of the date before the enactment of this Act.

SEC. 4402. 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)).

(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.

(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 involved may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

(4) POSTING ON HHS PUBLIC WEBSITE.—The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) CONTENT OF NOTIFICATION.—Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) UNSECURED PROTECTED HEALTH INFORMATION.—

(1) DEFINITION.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this section, the term ''unsecured protected health information'' means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term ''unsecured protected health information'' shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) GUIDANCE.—For purposes of paragraph (1) and section 407(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 use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 4101.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall

prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 4403. EDUCATION ON HEALTH INFORMATION PRIVACY.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

(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.

SEC. 4404. 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.

SEC. 4405. 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 4424(c).

(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 4423 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)(A) not later than 18 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 4101. 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 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) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a covered entity to account for disclosures of protected health information that are not made by such covered entity or by a business associate acting on behalf of the covered entity.

(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.

(d) REVIEW OF HEALTH CARE OPERATIONS.—Not later than 18 months after the date of the enactment of this title, the Secretary shall promulgate regulations to eliminate from the definition of health care operations under section 164.501 of title 45, Code of Federal Regulations, those activities that can reasonably and efficiently be conducted through the use of information that is de-identified (in accordance with the requirements of section 164.514(b) of such title) or that should require a valid authorization for use or disclosure. In promulgating such regulations, the Secretary may choose to narrow or clarify activities that the Secretary chooses to retain in the definition of health care operations and the Secretary shall take into account the report under section 424(d). In such regulations the Secretary shall specify the date on which such regulations shall apply to disclosures made by a covered entity, but in no case would such date be sooner than the date that is 24 months after the date of the enactment of this section.

(e) 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 research or public health activities (as described in sections 164.501, 164.512(i), and 164.512(b) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(B) The purpose of the exchange is for the treatment of the individual and the price charges reflects not more than the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of health care operations in section 164.501 of title 45, Code of Federal Regulations.

(D) 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.

(E) 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.

(F) 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 (E).

(3) REGULATIONS.—The Secretary shall promulgate regulations to carry out paragraph (this subsection, including exceptions described in paragraph (2), not later than 18 months after the date of the enactment of this title.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(f) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

(g) CLARIFICATION.—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.

SEC. 4406. 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 covered entity or business associate may not receive direct or indirect payment in exchange for making any communication 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, except—

(A) a business associate of a covered entity may receive payment from the covered entity for making any such communication on behalf of the covered entity that 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; or

(B) a covered entity may receive payment in exchange for making any such communication if the entity 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.

(b) FUNDRAISING.—Fundraising for the benefit of a covered entity shall not be considered a health care operation for purposes of section 164.501 of title 45, Code of Federal Regulations.

(c) EFFECTIVE DATE.—This section shall apply to contracting occurring on or after the effective date specified under section 4423.

SEC. 4407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii) or (iii) of section 4424(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) or (iii) of section 4424(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 402 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 4402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 4402(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 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 section. The provisions of this section shall apply to breaches of security that are discovered on or after the date

that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—The provisions of this section shall not apply to breaches of security occurring on or after the earlier of the following the dates:

(A) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Secretary.

(B) The date on which a standard relating to requirements for entities that are not covered entities that includes requirements relating to breach notification has been promulgated by the Federal Trade Commission and has taken effect.

SEC. 4408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this title.

SEC. 4409. 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. 4410. IMPROVED ENFORCEMENT.

(a) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(1) in subsection (b)(1), by striking ''the act constitutes an offense punishable under section 1177'' and inserting ''a penalty has been imposed under section 1177 with respect to such act''; and

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

''(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

''(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

''(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.''.

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this 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 of 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.—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:

''(c) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

''(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

''(A) to enjoin further such violation by the defendant; or

''(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

''(2) STATUTORY DAMAGES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

''(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

''(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

''(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

''(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

''(A) to intervene in the action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

''(6) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) maintains a physical place of business.

''(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

''(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).''.

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking ''A penalty may not be imposed under subsection (a)'' and inserting ''No penalty may be imposed under subsection (a) and no damages obtained under subsection (c)'';

(B) in paragraph (2)(A)—

(i) in the matter before clause (i), 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 (c)''; 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 (c)'' 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:

''(d) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office of Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.''.

SEC. 4411. 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.

SEC. 4412. SPECIAL RULE FOR INFORMATION TO REDUCE MEDICATION ERRORS AND IMPROVE PATIENT SAFETY.

Nothing under this subtitle shall prevent a pharmacist from communicating with patients in order to reduce medication errors and improve patient safety provided there is no remuneration other than for the treatment of the individual and payment for such treatment of the individual as defined in 45 CFR 164.501. The Secretary may by regulation authorize a pharmacy to receive remuneration that does not exceed their reasonable out-of-pocket costs for such communications if the Secretary determines that allowing this remuneration improves patient care and protects protected health information.

PART II—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

SEC. 4421. 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.

SEC. 4422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

SEC. 4423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

SEC. 4424. 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 4411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of 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.

Subtitle E—Miscellaneous Medicare Provisions

SEC. 4501. 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.—

(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. 4502. 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—

(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 ''free-standing 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''.

(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—MEDICAID PROVISIONS

SEC. 5000. TABLE OF CONTENTS OF TITLE.

The table of contents of this title is as follows:

Sec. 5000. Table of contents of title.
Sec. 5001. Temporary increase of Medicaid FMAP.
Sec. 5002. Moratoria on certain regulations.
Sec. 5003. Transitional Medicaid assistance (TMA).
Sec. 5004. Protections for Indians under Medicaid and CHIP.
Sec. 5005. Consultation on Medicaid and CHIP.
Sec. 5006. Temporary increase in DSH allotments during recession.

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 4.9 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)(2)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 4.9 percentage points.

(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 10 percent increase under subsection (d) instead of applying a 20 percent increase under subsection (d).

(c) ADDITIONAL ADJUSTMENT TO REFLECT INCREASE IN UNEMPLOYMENT.—

(1) IN GENERAL.—Subject to subsections (e), (f), and (g), in the case of a State that is a high unemployment State (as defined in paragraph (2)) for a calendar quarter during the recession adjustment period, the FMAP (taking into account the application of subsections (a) and (b)) for such quarter shall be further increased by the high unemployment percentage point adjustment specified in paragraph (3) for the State for the quarter.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—In this subsection, subject to subparagraph (B), the term ''high unemployment State'' means, with respect to a calendar quarter in the recession adjustment period, a State that is 1 of the 50 States or the District of Columbia and for which the State unemployment increase percentage (as computed under paragraph (5)) for the quarter is not less than 1.5 percentage points.

(B) MAINTENANCE OF STATUS.—If a State is a high unemployment State for a calendar quarter, it shall remain a high unemployment State for each subsequent calendar quarter ending before July 1, 2010.

(3) HIGH UNEMPLOYMENT PERCENTAGE POINT ADJUSTMENT.—

(A) IN GENERAL.—The high unemployment percentage point adjustment specified in this paragraph for a high unemployment State for a quarter is equal to the product of—

(i) the SMAP for such State and quarter (determined after the application of subsection (a) and before the application of subsection (b)); and

(ii) subject to subparagraph (B), the State unemployment reduction factor specified in paragraph (4) for the State and quarter.

(B) MAINTENANCE OF ADJUSTMENT LEVEL FOR CERTAIN QUARTERS.—In no case shall the State unemployment reduction factor applied under subparagraph (A)(ii) for a State for a quarter (beginning on or after January 1, 2009, and ending before July 1, 2010) be less than the State unemployment reduction factor applied to the State for the previous quarter (taking into account the application of this subparagraph).

(4) STATE UNEMPLOYMENT REDUCTION FACTOR.—In the case of a high unemployment State for which the State unemployment increase percentage (as computed under paragraph (5)) with respect to a calendar quarter is—

(A) not less than 1.5, but is less than 2.5, percentage points, the State unemployment reduction factor for the State and quarter is 6 percent;

(B) not less than 2.5, but is less than 3.5, percentage points, the State unemployment reduction factor for the State and quarter is 12 percent; or

(C) not less than 3.5 percentage points, the State unemployment reduction factor for the State and quarter is 14 percent.

(5) 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.

(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 U.S.C. 1308) shall each be increased by 20 percent (or, in the case of an election under subsection (b)(2), 10 percent).

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and—

(1) the increases applied under subsections (a), (b), and (c) shall not apply with respect—

(A) to payments under parts A, B, and D of title IV or title XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.);

(B) to 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)); and

(C) to payments for disproportionate share hospital (DSH) payment adjustments under section 1923 of such Act (42 U.S.C. 1396r–4); and

(2) the increase provided under subsection (c) shall not apply with respect to payments under part E of title IV of such Act.

(f) STATE INELIGIBILITY AND LIMITATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), 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.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to paragraph (3), 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 paragraph (1) 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.

(3) SPECIAL RULES.—A State shall not be ineligible under paragraph (1)—

(A) 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, 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

(B) on the basis of a restriction that was effective under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay (of not longer than 1 calendar quarter) in the approval of a request for a new waiver under section 1115 of such Act with respect to such restriction.

(4) 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.

(5) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(6) NO WAIVER AUTHORITY.—The Secretary may not waive the application of this subsection or subsection (g) under section 1115 of the Social Security Act or otherwise.

(g) 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 (a), (b), or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for quarters during the recession adjustment period, than the 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) RECESSION ADJUSTMENT PERIOD.—The term ''recession adjustment period'' means the period beginning on October 1, 2008, and ending on December 31, 2010.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) SMAP.—The term ''SMAP'' means, for a State, 100 percent minus the Federal medical assistance percentage.

(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.

SEC. 5002. MORATORIA ON CERTAIN REGULATIONS.

(a) EXTENSION OF MORATORIA ON CERTAIN MEDICAID REGULATIONS.—The following sections are each amended by striking ''April 1, 2009'' and inserting ''July 1, 2009'':

(1) Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), as amended by section 7001(a)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252).

(2) 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).

(3) Section 7001(a)(3)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252).

(b) ADDITIONAL MEDICAID MORATORIUM.—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).

SEC. 5003. TRANSITIONAL MEDICAID 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''.

(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.

(A) in subclause (XIX), by striking ''or'' at the end;

(B) in subclause (XX), by adding ''or'' at the end; and

(C) by adding at the end the following new subclause:

''(XXI) who are described in subsection (ee) (relating to individuals who meet certain income standards);''.

(2) GROUP DESCRIBED.—Section 1902 of such Act (42 U.S.C. 1396a), as amended by section 3003(a) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended by adding at the end the following new subsection:

''(ee)(1) Individuals described in this subsection are individuals—

''(A) whose income does not exceed an income eligibility level established by the State that does not exceed the highest income eligibility level established under the State plan under this title (or under its State child health plan under title XXI) for pregnant women; and

''(B) who are not pregnant.

''(2) At the option of a State, individuals described in this subsection may include individuals who, had individuals applied on or before January 1, 2007, would have been made eligible pursuant to the standards and processes imposed by that State for benefits described in clause (XV) of the matter following subparagraph (G) of section subsection (a)(10) pursuant to a waiver granted under section 1115.

''(3) At the option of a State, for purposes of subsection (a)(17)(B), in determining eligibility for services under this subsection, the State may consider only the income of the applicant or recipient.''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(B) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (ee) shall be limited to family planning services and supplies described in section 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting'' after ''cervical cancer''.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 3003(c)(2) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended in the matter preceding paragraph (1)—

(A) in clause (xiii), by striking ''or'' at the end;

(B) in clause (xiv), by adding ''or'' at the end; and

(C) by inserting after clause (xiii) the following:

''(xv) individuals described in section 1902(ee),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

''SEC. 1920C. (a) STATE OPTION.—State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(ee) (relating to individuals who meet certain income eligibility standard) during a presumptive eligibility period. In the case of an individual described in section 1902(ee), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) and, at the State's option, medical diagnosis and treatment services that are provided in conjunction with a family planning service in a family planning setting.

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

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(ee); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities in order to prevent fraud and abuse.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of law, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a presumptive eligibility period in accordance with such section''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting ''for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section''.

(c) CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Section 1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

''(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.''.

SEC. 5004. 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:

''(vi) 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:

''(ix) 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.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2009.

(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 section 3003(a) of the Health Insurance Assistance for the Unemployed Act of 2009, is amended by adding at the end the following new subsection:

''(ee) 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)) is amended by adding at the end the following new subparagraph:

''(E) 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.''.

SEC. 5005. CONSULTATION ON MEDICAID AND CHIP.

(a) IN GENERAL.—Section 1139 of the Social Security Act (42 U.S.C. 1320b–9) is amended to read as follows:

''CONSULTATION WITH TRIBAL TECHNICAL ADVISORY GROUP (TTAG)

''SEC. 1139. The Secretary shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group, which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary shall include in such Group a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).''.

(b) SOLICITATION OF ADVICE UNDER MEDICAID AND CHIP.—

(1) MEDICAID STATE PLAN AMENDMENT.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (70), by striking ''and'' at the end;

(B) in paragraph (71), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (71), the following new paragraph:

''(72) 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.''.

(2) APPLICATION TO CHIP.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 5004(b), is amended by adding at the end the following new subparagraph:

''(F) Section 1902(a)(72) (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section 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.

SEC. 5006. 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 subparagraph (B);

''(II) for fiscal year 2010 is equal to 102.5 percent of the 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.''.

TITLE VI—BROADBAND COMMUNICATIONS

SEC. 6001. INVENTORY OF BROADBAND SERVICE CAPABILITY AND AVAILABILITY.

(a) ESTABLISHMENT.—To provide a comprehensive nationwide inventory of existing broadband service capability and availability, the National Telecommunications and Information Administration (''NTIA'') shall develop and maintain a broadband inventory map of the United States that identifies and depicts the geographic extent to which broadband service capability is deployed and available from a commercial provider or public provider throughout each State.

(b) PUBLIC AVAILABILITY AND INTERACTIVITY.—Not later than 2 years after the date of enactment of this Act, the NTIA 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 NTIA in a form that is interactive and searchable.

SEC. 6002. WIRELESS AND BROADBAND DEPLOYMENT GRANT PROGRAMS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The National Telecommunications and Information Administration (''NTIA'') is authorized to carry out a program to award grants to eligible entities for the non-recurring costs associated with the deployment of broadband infrastructure in rural, suburban, and urban areas, in accordance with the requirements of this section.

(2) PROGRAM WEBSITE.—The NTIA shall develop and maintain a website to make publicly available information about the program described in paragraph (1), including—

(A) each prioritization report submitted by a State under subsection (b);

(B) a list of eligible entities that have applied for a grant under this section, and the area or areas the entity proposes to serve; and

(C) the status of each such application, whether approved, denied, or pending.

(b) STATE PRIORITIES.—

(1) PRIORITIES REPORT SUBMISSION.—Not later than 75 days after the date of enactment of this section, each State intending to participate in the program under this section shall submit to the NTIA a report indicating the geographic areas of the State which—

(A) for the purposes of determining the need for Wireless Deployment Grants under subsection (c), the State considers to have the greatest priority for—

(i) wireless voice service in unserved areas; and

(ii) advanced wireless broadband service in underserved areas; and

(B) for the purposes of determining the need for Broadband Deployment Grants under subsection (d), the State considers to have the greatest priority for—

(i) basic broadband service in unserved areas; and

(ii) advanced broadband service in underserved areas.

(2) LIMITATION.—The unserved and underserved areas identified by a State in the report required by this subsection shall not represent, in the aggregate, more than 20 percent of the population of such State.

(c) WIRELESS DEPLOYMENT GRANTS.—

(1) AUTHORIZED ACTIVITY.—The NTIA shall award Wireless Deployment Grants in accordance with this subsection from amounts authorized for Wireless Deployment Grants by this subtitle to eligible entities to deploy necessary infrastructure for the provision of wireless voice service or advanced wireless broadband service to end users in designated areas.

(2) GRANT DISTRIBUTION.—The NTIA shall seek to distribute grants, to the extent possible, so that 25 percent of the grants awarded under this subsection shall be awarded to eligible entities for providing wireless voice service to unserved areas and 75 percent of grants awarded under this subsection shall be awarded to eligible entities for providing advanced wireless broadband service to underserved areas.

(d) BROADBAND DEPLOYMENT GRANTS.—

(1) AUTHORIZED ACTIVITY.—The NTIA shall award Broadband Deployment Grants in accordance with this subsection from amounts authorized for Broadband Deployment Grants by this subtitle to eligible entities to deploy necessary infrastructure for the provision of basic broadband service or advanced broadband service to end users in designated areas.

(2) GRANT DISTRIBUTION.—The NTIA shall seek to distribute grants, to the extent possible, so that 25 percent of the grants awarded under this subsection shall be awarded to eligible entities for providing basic broadband service to unserved areas and 75 percent of grants awarded under this subsection shall be awarded to eligible entities for providing advanced broadband service to underserved areas.

(e) GRANT REQUIREMENTS.—The NTIA shall—

(1) adopt rules to protect against unjust enrichment; and

(2) ensure that grant recipients—

(A) meet buildout requirements;

(B) maximize use of the supported infrastructure by the public;

(C) operate basic and advanced broadband service networks on an open access basis;

(D) operate advanced wireless broadband service on a wireless open access basis; and

(E) adhere to the principles contained in the Federal Communications Commission's broadband policy statement (FCC 05–151, adopted August 5, 2005).

(f) APPLICATIONS.—

(1) SUBMISSION.—To be considered for a grant awarded under subsection (c) or (d), an eligible entity shall submit to the NTIA an application at such time, in such manner, and containing such information and assurances as the NTIA may require. Such an application shall include—

(A) a cost-study estimate for serving the particular geographic area to be served by the entity;

(B) a proposed build-out schedule to residential households and small businesses in the area;

(C) for applicants for Wireless Deployment Grants under subsection (c), a build-out schedule for geographic coverage of such areas; and

(D) any other requirements the NTIA deems necessary.

(2) SELECTION.—

(A) NOTIFICATION.—The NTIA shall notify each eligible entity that has submitted a complete application whether the entity has been approved or denied for a grant under this section in a timely fashion.

(B) GRANT DISTRIBUTION CONSIDERATIONS.—In awarding grants under this section, the NTIA shall, to the extent practical—

(i) award not less than one grant in each State;

(ii) give substantial weight to whether an application is from an eligible entity to deploy infrastructure in an area that is an area—

(I) identified by a State in a report submitted under subsection (b); or

(II) in which the NTIA determines there will be a significant amount of public safety or emergency response use of the infrastructure;

(iii) consider whether an application from an eligible entity to deploy infrastructure in an area—

(I) will, if approved, increase the affordability of, or subscribership to, service to the greatest population of underserved users in the area;

(II) will, if approved, enhance service for health care delivery, education, or children to the greatest population of underserved users in the area;

(III) contains concrete plans for enhancing computer ownership or computer literacy in the area;

(IV) is from a recipient of more than 20 percent matching grants from State, local, or private entities for service in the area and the extent of such commitment;

(V) will, if approved, result in unjust enrichment because the eligible entity has applied for, or intends to apply for, support for the non-recurring costs through another Federal program for service in the area; and

(VI) will, if approved, significantly improve interoperable broadband communications systems available for use by public safety and emergency response; and

(iv) consider whether the eligible entity 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).

(g) COORDINATION AND CONSULTATION.—The NTIA shall coordinate with the Federal Communications Commission and shall consult with other appropriate Federal agencies in implementing this section.

(h) REPORT REQUIRED.—The NTIA shall submit an annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate for 5 years assessing the impact of the grants funded under this section on the basis of the objectives and criteria described in subsection (f)(2)(B)(iii).

(i) RULEMAKING AUTHORITY.—The NTIA shall have the authority to prescribe such rules as necessary to carry out the purposes of this section.

(j) DEFINITIONS.—For the purpose of this section—

(1) the term ''advanced broadband service'' means a service delivering data to the end user transmitted at a speed of at least 45 megabits per second downstream and at least 15 megabits per second upstream;

(2) the term ''advanced wireless broadband service'' means a wireless service delivering to the end user data transmitted at a speed of at least 3 megabits per second downstream and at least 1 megabit per second upstream over an end-to-end internet protocol wireless network;

(3) the term ''basic broadband service'' means a service delivering data to the end user transmitted at a speed of at least 5 megabits per second downstream and at least 1 megabit per second upstream;

(4) the term ''eligible entity'' means—

(A) a provider of wireless voice service, advanced wireless broadband service, basic broadband service, or advanced broadband

service, including a satellite carrier that provides any such service;

(B) a State or unit of local government, or agency or instrumentality thereof, that is or intends to be a provider of any such service; and

(C) any other entity, including construction companies, tower companies, backhaul companies, or other service providers, that the NTIA authorizes by rule to participate in the programs under this section, if such other entity is required to provide access to the supported infrastructure on a neutral, reasonable basis to maximize use;

(5) the term ''interoperable broadband communications systems'' means communications systems which enable public safety agencies to share information among local, State, Federal, and tribal public safety agencies in the same area using voice or data signals via advanced wireless broadband service;

(6) the term ''open access'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(7) the term ''State'' includes the District of Columbia and the territories and possessions;

(8) the term ''underserved area'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(9) the term ''unserved area'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section;

(10) the term ''wireless open access'' shall be defined by the Federal Communications Commission not later than 45 days after the date of enactment of this section; and

(11) the term ''wireless voice service'' means the provision of two-way, real-time, voice communications using a mobile service.

(k) REVIEW OF DEFINITIONS.—Not later than 3 months after the date the NTIA makes a broadband inventory map of the United States accessible to the public pursuant to section 6001(b), the Federal Communications Commission shall review the definitions of ''underserved area'' and ''unserved area'', as defined by the Commission within 45 days after the date of enactment of this Act (as required by paragraphs (8) and (9) of subsection (j)), and shall revise such definitions based on the data used by the NTIA to develop and maintain such map.

SEC. 6003. NATIONAL BROADBAND PLAN.

(a) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this section, the Federal Communications 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.

(b) CONTENTS OF PLAN.—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—

(1) an analysis of the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;

(2) a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public; and

(3) 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.

TITLE VII—ENERGY

SEC. 7001. 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. 7002. 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:

''(A) IN GENERAL.—In carrying out the initiative, the Secretary shall provide financial support to smart grid demonstration projects in urban, suburban, and rural areas, including areas where electric system assets are controlled by tax-exempt 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:

''(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 INTERNET-BASED PROTOCOLS AND STANDARDS.—The Secretary shall require as a condition of receiving funding under this subsection that demonstration projects utilize open Internet-based protocols and standards if available.''.

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

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

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

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

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

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

''(e) PROCEDURES AND RULES.—The Secretary shall—

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

''(2) require as a condition of receiving a grant under this section that grant recipients utilize open Internet-based protocols and standards if available;

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

''(4) maintain public records of grants made, recipients, and qualifying smart grid investments which have received grants;

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

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

SEC. 7003. 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.

''(a) IN GENERAL.—Notwithstanding section 1703, the Secretary may make guarantees under this section only for commercial technology projects under subsection (b) that will commence construction not later than September 30, 2011.

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

''(1) Renewable energy systems, including incremental hydropower, that generate electricity.

''(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.

''(c) FACTORS RELATING TO ELECTRIC POWER TRANSMISSION SYSTEMS.—In determining to make guarantees to projects described in subsection (b)(2), the Secretary shall 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.

''(d) 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').

''(e) LIMITATION.—Funding under this section for projects described in subsection (b)(3) shall not exceed $500,000,000.

''(f) 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. 7004. 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 ''$5,000''.

(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.

SEC. 7005. 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. 7006. ADDITIONAL STATE ENERGY GRANTS.

(a) IN GENERAL.—Amounts appropriated in paragraph (6) under the heading ''Department of Energy—Energy Programs—Energy Efficiency and Renewable Energy'' in title V of division A of this Act 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 authorization provided in section 365(f) of such Act only if the governor of the recipient State notifies the Secretary of Energy that the governor will seek, to the extent of his or her authority, to ensure that each of the following will occur:

(1) The applicable State regulatory authority will implement the following regulatory policies for each electric and gas utility with respect to which the State regulatory authority has ratemaking authority:

(A) Policies that ensure that a utility's recovery of prudent fixed costs of service is timely and independent of its retail sales, without in the process shifting prudent costs from variable to fixed charges. This cost shifting constraint shall not apply to rate designs adopted prior to the date of enactment of this Act.

(B) Cost recovery for prudent investments by utilities in energy efficiency.

(C) An earnings opportunity for utilities associated with cost-effective energy efficiency savings.

(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.

(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.—No limitation on the percentage of funding that may be used for the purchase and installation of equipment and materials for energy efficiency 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.

SEC. 7007. INAPPLICABILITY OF LIMITATION.

The limitations in section 399A(f)(2), (3), and (4) of the Energy Policy and Conservation Act (42 U.S.C. 6371h–1(f)(2), (3), and (4)) shall not apply to grants funded with appropriations provided by this Act, except that such grant funds shall be available for not more than an amount equal to 80 percent of the costs of the project for which the grant is provided.

The CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111–9.

Mr. OBERSTAR. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OBERSTAR:

Page 207, line 21, strike ''120 days'' and insert ''90 days''.

Page 209, line 7, strike ''120 days'' and insert ''90 days''.

Page 210, line 9, strike ''180 days'' and insert ''90 days''.

Page 210, lines 20 and 21, strike ''150 days'' and insert ''75 days''.

Page 211, line 25, strike ''180 days'' and insert ''90 days''.

Page 214, line 2, strike ''180 days'' and insert ''90 days''.

Page 215, line 7, strike ''180 days'' and insert ''90 days''.

Page 216, line 8, strike ''120 days'' and insert ''90 days''.

Page 216, line 13, strike ''120 days'' and insert ''90 days''.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. I yield myself 3 minutes.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. This amendment will shorten the time that States, cities, transit agencies, and aviation authorities have to obligate 50 percent of the highway transit and aviation funds provided under this Recovery Act to 90 days from the proposed 180 days.

I have had extensive consultations over the past 5 months with State and local officials about creating jobs by June to show that we can deliver economic recovery to this country. Transit agencies and State Departments of Transportation have for years said, Give us the money. We have the jobs. We need to get things going. So here is your opportunity. They have said, We can deliver.

There are 1,400,000 construction workers out of work. And I will say that when Bud Shuster—and he was chairman of the committee at the time in 1998—we moved the T–21 bill and we had 3 million new construction jobs as a result of that legislation. We can do that again. There's 15 percent unemployment in the construction trades across the country.

At a recent hearing, Carole Brown, Chair of the Chicago Transit Authority, testified that they have an unfunded deferred maintenance backlog of $5 billion, $500 million of which can be obligated within 90 days. She said, ''If you write me a check today, I will be spending the check tomorrow.''

Governor Doyle of Wisconsin said, ''There is not going to be any barrier on getting this thing done immediately. I think any Governor would have a pretty hard explanation about why the State next door or the other State is actually using the money while they are losing the money.'' He said further, ''We are looking at what we can put out to bid before the actual grant is in hand.''

California. The Commissioner of California, Will Kempton, on the conference call and again today in our committee hearing on rail issues, said, Not only do we have contractor capacity, we have well over 100,000 building trades craftsmen out of work. We are getting eight to nine bids per contract, and they are coming in at 25 percent below engineering estimates. We're getting a good deal. We can deliver. The contractors are ready, he said. The contractor community is prepared.

Transit options. Transit systems have options to buy 10,000 buses, $5 billion worth. Options for more than 1,000 rail vehicles, valued at $2 billion. They can be exercised in weeks, not months. Weeks. We heard today from the Rail Car Institute that they are down 50 percent in orders. Even of those that were on backlog, they are down 50 percent because of the recession in the rail sector.

We need this stimulus. We can put these to work.

I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I do not intend to oppose the gentleman's amendment.

The CHAIR. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. LEWIS of California. I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. I rise in strong support of the Oberstar amendment. This is a very simple amendment to understand. Chairman OBERSTAR and I have worked, as he said, we have worked together since last fall to create a stimulus package of infrastructure projects that are ready to go and in which we can employ people as soon as possible. That is the objective of Oberstar amendment.

We need to pass this amendment because we are not interested in funding projects or providing a stimulus package and not have the money into our States and our communities to build that infrastructure that will be real and not employ people.

This stimulus package is all about employing people. Whether it's Minneapolis, the great State of Minnesota, which Mr. OBERSTAR represents, or my State, look at the statistics. Look at the newspapers and the people who are losing their jobs. We need to get this money out as soon as possible so people who want to work, have a choice of work, have that opportunity.

This amendment, the Oberstar amendment, puts that money out there and it employs people immediately. No games played in this. This is not a bail-out-to-financial-institution fiasco. This is putting people to work now that are crying out for jobs and stimulating our economy.

I am pleased to rise in support. I have been pleased to join with Mr. OBERSTAR, who's been doing everything possible to get jobs and our infrastructure and our economy moving forward.

Mr. OBERSTAR. I yield myself 10 seconds, and thank the gentleman from Florida for his thoughtful remarks and for the participation and cooperation we have had. In our committee, there are no Republican roads or Democratic bridges; they are all American roads and all American bridges. And we work together.

I yield 1 minute to the distinguished Chair of the Surface Subcommittee, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. The needs are great. There are many projects on the shelf. We heard from the President's hometown, the head of the Transit Authority, $500 million on the shelf. Bus options. Ready to go. They need the money. Critical repairs. Ready to go. Engineering work done. They just need the money.

Under the original proposal of this bill, they would have only got less than half that. Now we get them closer to the $500 million. We are still not there. This is a good start. And if there's any transit director or any airport director or any Department of Transportation head or Governor across the country who can't find worthwhile investments to put people to work for these projects, given our transportation infrastructure deficits, then they will be looking for a job in the near future because that money will go to another State, another transit district, another airport that can spend it productively and put people to work and meet America's transportation infrastructure needs.

Mr. LEWIS of California. Mr. Chairman, I yield 1 minute to my colleague from the Appropriations Committee, the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the ranking member. I rise in opposition to the gentleman's amendment. This is an issue that we have dealt with in the full committee markup. I believe Chairman OLVER, wisely, slightly extended the time by States to make these investments in transportation investment. And now we're debating an amendment to make that timeframe even shorter than before.

The CBO, Congressional Budget Office, has scored this amendment and said this amendment will not make a lick of difference as to how quickly these funds will spend out. Instead, we are asking our States to make hurried judgments. Haste sometimes make waste. We should expect our States to make wise decisions, and for that they could use a little more time.

I urge a ''no'' vote.

Mr. OBERSTAR. May I inquire if the gentleman from California has other speakers?

Mr. LEWIS of California. I have no additional speakers. I yield back the balance of my time.

Mr. OBERSTAR. I yield myself such time as I may consume to respond to the gentleman from Iowa, if I may have the gentleman's attention.

I have been on the phone—CBO has not—with the Commissioners of Transportation from the principal States and from the Association of Transportation officials. They have committed to have projects obligated or under contract in 90 days for the first $15 billion of this funding, and the next $15 billion in 180 days.

Our committee is going to hold oversight hearings. Every 30 days we are going to hold the feet to their fire and a blow torch to their bottom side to make sure that they deliver jobs in the timeframe that they have said they can do.

So every State is going to be on call, on notice. This is a dress rehearsal for the next authorization. If we can't deliver jobs in this context, how are they going to do it in the next 6-year authorization bill?

The CBO has very conservatively scored on the basis of previous history, not on the basis of the real world that we live in, that I have insisted on.

The CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. MARKEY OF MASSACHUSETTS

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 111–9.

Mr. MARKEY of Massachusetts. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MARKEY of Massachusetts:

Page 637, lines 10 through 15, amend subparagraph (F) to read as follows:

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

Page 638, lines 12 through 14, amend paragraph (2) to read as follows:

''(2) require as a condition of receiving a grant under this section that grant recipients utilize Internet-based or other open protocols and standards if available and appropriate;

The CHAIR. Pursuant to House Resolution 92, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I offer this technical amendment to clarify language that was adopted by the Energy and Commerce Committee concerning the grant program for smart grids. This language is supported by companies across energy and technology industries, from Duke Energy to General Electric to Google.

The underlying bill directs the Department of Energy to make grants for programs that support new technologies that can help Americans use energy more wisely and more efficiently. One provision in the bill requires the Secretary to ensure that the funds are used to promote innovation in the dynamic smart grid area.

The purpose of this amendment is simply to clarify that any sort of open protocol should be supported. Some industry participants were concerned that the language adopted by the committee would have been restricted to just Internet protocol technology. This amendment makes clear that any open protocol will be eligible for funding in order to not preclude future innovation.

This provision has support from leading companies who see our energy future shaped as much by information technology as by horsepower. This provision has won support from leading electric companies, and I have already made reference earlier to Duke and to General Electric and to Google. But those are representative companies of the wide range of corporate support for this open protocol approach.

I reserve the balance of my time.

Mr. LEWIS of California. I claim the time in opposition. I have no speakers in opposition.

I yield back the balance of my time.

Mr. MARKEY of Massachusetts. Mr. Chairman, I yield back the balance of my time, and I move that the amendment be adopted.

The CHAIR. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. SHUSTER

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 111–9.

Mr. SHUSTER. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SHUSTER:

Page 230, beginning on line 22, strike ''the date of enactment of this Act'' and insert ''October 1, 2008''.

In section 12001 of division A of the bill—

(1) redesignate subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) insert after subsection (a) the following:

(b) FAILURE TO MAINTAIN EFFORT.—If a Governor is unable to certify that Federal funds will not supplant non-Federal funds pursuant to subsection (a), then the Federal funds apportioned to that State under this Act that will supplant non-Federal funds will be recaptured by the appropriate Federal agency and redistributed to States or agencies that can spend the Federal funds without supplanting non-Federal funds.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Pennsylvania (Mr. SHUSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

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Mr. SHUSTER. My amendment is a very simple amendment, a straightforward amendment. And it states that if a governor is unable to certify Federal funds will not supplant non-Federal funds pursuant to the subsection, then the Federal funds apportioned to that State under this act that will supplant non-Federal funds will be recaptured by the appropriate Federal agency and redistributed to States or agencies that can spend the Federal funds without supplanting non-Federal funds.

What this means is that the stimulus moves money out to the States. We want to make certain that there are no games played at the State level with the budgets. For example, if a State budgets $1 billion for highway spending and they are to receive $1 billion from the Federal Government, that they can't move that money around, reduce what they have budgeted for their funding of the highway projects and transportation projects in that State.

I think that is important to put in here to put some teeth in the stimulus bill so that those types of things don't happen, so that we get the full effect, the full impact of the stimulus if it moves forward through the House and the Senate and we have a law that, as I said, will have the full impact of those dollars in the transportation arena in those States that will in fact create jobs. That is the basis of this amendment.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise to claim the time though I am not in opposition to the amendment.

The CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I yield myself 1 minute to commend the gentleman from Pennsylvania for the amendment that he offers, in the spirit of our committee, to make even more firm our intention that the funds from our committee be stimulus, be in place to create additional jobs, not supplant money that States had already planned to use for highway projects, transit projects, aviation projects, but to ensure that the jobs created are additional jobs in this economy. We want them to continue with their program of projects planned for the current fiscal year, but that this recovery money be supplemental to, in addition to, and to clean up the backlog that States have for months and years have complained to us—by ''us'' I mean on our committee—that they need all this additional money.

Mr. LEWIS of California. Will the gentleman yield?

Mr. OBERSTAR. I yield to the distinguished gentleman from California.

Mr. LEWIS of California. I appreciate my friend yielding.

The CHAIR. The time of the gentleman has expired.

Mr. OBERSTAR. I yield myself an additional 1 minute to yield to the gentleman.

Mr. LEWIS of California. I thank the gentleman.

The gentleman and I have worked together for many, many years, and I learned much of his business at his feet in the then-Public Works Committee years ago. And the language in this amendment does stimulate the process and we think will help us try to stimulate the economy; so I appreciate very much the work of my chairman as well as my colleague.

Mr. OBERSTAR. I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman of the Transportation Committee for his kindness and his leadership.

I don't rise in opposition to Mr. SHUSTER's amendment, but to reaffirm it, because of I think the importance of the amendment, and to thank this body for supporting the amendment previously passed by Mr. OBERSTAR that gives us a framework of shortened time to make sure we do get out jobs. All of the economists suggest that we are job hungry, and certainly Mark Zandi indicates that 4 million jobs will be created.

I specifically want to, as I look at the legislation and the amendment of Mr. SHUSTER who comments on highway maintenance, I think that is vital. I want to reemphasize that transit projects that can be considered new starts would fall appropriately under this economic stimulus, create jobs such as the Metro Solutions project, provide $30 million to Texas on rail, if you will, support. And as the Nadler amendment is coming forward, I support the $3 billion that is going to

come forward to increase the amount of money for transit projects.

But the key element of I think what we are doing today is to create jobs. New starts in transit should be considered part of creating those jobs. Specifically the Metro Solutions project I believe will fall in that category and create the kind of engine and jobs that we want.

Let me finally say that I think it is important that I note no bar under certain funding in this stimulus package that would disallow work on inner city or urban parks. That too creates jobs, along with the work incentive and summer youth training program. I hope all of this together will combine to respond to the President's cry creating 4 million jobs.

So I certainly do not oppose this amendment, and I hope the framework does include broadly a lot of the projects that are going to be put forward helping our States and creating jobs.

Thank you Mr. Chair, for affording me this opportunity to address H.R. 1, the "American Recovery and Reinvestment Act of 2009." I believe H.R. 1 can be supported by every member of the House.

I believe that H.R. 1 can be supported by every member of the House. I am hopeful that my colleagues will be mindful of the words of our President, Barack Obama, and pass this important and much needed legislation without further delay.

Mr. Chair, just yesterday the Associated Press reported that tens of thousands of Americans will be losing their jobs. This news was on top of the 2.6 million jobs lost last year under the old Bush Administration. Some of the biggest names in industry have announced lay offs yesterday, from Sprint Nextel, Caterpillar, Home Depot, to GM, all of these companies have announced thousands of lay offs.

Experts believe that without intervention, unemployment will rise to 8.8 percent, the highest since 1983, and it is reported that the worst business conditions in greater than twenty years will exist.

The American Recovery and Reinvestment Act will result in infusing greater than $850 billion into America's ailing economy. With this economic recovery plan, there will be 4 million more jobs and an unemployment rate that will be two percentage points lower by the end of 2010. This is important because the nation is facing tough economic times. It was estimated that the State of Texas had an unemployment rate of 6.0%. While this rate is below the national average, it is a high rate and is a signal that something must done to help America and the Texas economy recover. H.R. 1 provides such hope to America.

H.R. 1 provides for unprecedented accountability and transparency measures that are built into the legislation to help ensure that tax dollars are spend wisely. $550 billion is strategically targeted to priority investments; $275 billion in targeted tax cuts will also help spur economic recovery. All of these laudable aims are achieved without earmarks. This Act represents the culmination of priorities shared with the new Obama Administration and is sure to help America's economy in the longterm.

AMENDMENTS

While the House Rules Committee met last night, the Committee determined not allow an open rule despite my vociferous arguments to the contrary. Nevertheless, if there was an open rule, I would have offered the following four amendments to H.R. 1.

Amendment #1

First, I would have offered several amendments that specifically addressed the issue of funding for parklands, either rural or urban in the bill. I would have made clear that the funding in the bill in Title VIII does not preclude the use of the funding "for the restoration, creation, or maintenance of local and community parks, including urban and rural parks."

The inclusion of such language would make imminently clear the Congress's intent to work on green spaces and the creation of green jobs in a new America. This is a priority already articulated by the present Obama Administration.

I am pleased that there is no limitation on the use of the funds appropriated under this bill for use in urban parklands in Title VII. My language would have made the obligations express.

Amendment #2

Second, I would have offered an amendment that allowed local parks and recreation facilities to provided with $125 million for construction, improvements, repair or replacement of facilities related to the revitalization of state and local parks and recreation facilities under the Land and Water Conservation Act Stateside Assistance Program, as amended (16 U.S.C. 4601(4)–(11)) except that such funds shall not be subject to the matching requirements in section 4601–89(c) of that Act:

URBAN PARKS

For construction, improvements, repair, or replacement of facilities related to the revitalization of urban parks and recreation facilities, $100 million is made available under the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.), except that such funds shall not be subject to the matching requirements in section 2505(a) of the Act: Provided that the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 5 percent instead of the percentage specified in such section and such funds are to remain available until expended. Cities countries meeting this criterion would have to include the required distress factors as part of their applications for funding.

I am pleased that Title VII does not preclude the use of funding for local, community, and urban parks. My language would have made the obligation express. I am also pleased to learn that funding for the local, community, and urban parks can be funded through the community block grants that have been authorized under this bill.

Parks are important to urban meccas like the City of Houston. Too often those living in the inner cities are deprived of grass and parklands, my amendments and the provision for the development of such parks in this bill would lead to the greening of urban cities.

Mr. Chairman, as many Americans are painfully aware, hundreds of state and local parks and recreational facilities are in disrepair in communities across America due to budget cutbacks and the lack of federal funding during the past eight years. In 2001, LWCF received $144 million in federal funds, but by 2006 it had been slashed to a mere $25 million. Unfortunately, funding for Land and Water Conservation Fund Stateside Assistance Program (LWCF) remained at this level for FY07 and FY08. In the state of Texas alone, the unmet need for LWCF is more than $139 million. Similarly, the Urban Park Recreation Recovery program (UPARR) has not been funded since FY 2002 when it received $28.9 million.

Historically, LWCF and UPARR funds have supported tens of thousands of state and local projects with a long track record of supporting afterschool programs, enhancing environmental conservation and education, helping to curb obesity, and contributing to economic vitality. Not funding these programs seriously undermines local educational and athletic programs, the availability of indoor and outdoor recreational activities, and overall quality of life in communities.

Mr. Chairman, communities need the services provided by state and local park and recreation agencies, but these agencies are in desperate need of repair. Hundreds of communities have thousands of capital construction and maintenance projects that are ready to commence pending matching federal funding. These projects such as new roofs for community centers, irrigation systems for sport fields, repairs to bring facilities into ADA compliance, and electrical upgrades to park and recreation facilities would allow communities to preserve, rehabilitate and maintain already existing infrastructure that provides numerous recreational opportunities for citizens. Many of these projects are especially suitable for small or minority businesses and contractors.

State and local park and recreation agencies do more than provide a place for children to play. They are woven into the fabric of each and every community across this nation. Local park and recreation agencies are the largest public provider of after school programs; these agencies work collaboratively with military bases to provide therapeutic recreation services to rehabilitate our soldiers who have been wounded in battle; they improve the quality of life and the functionality of our children who have autism through numerous programs and services and provide so many other essential community services. Additionally, state and local park and recreation agencies serve to protect our environment and promote environmental stewardship. LWCF and UPARR grants have funded projects that contribute to reduced stormwater runoff, enhanced groundwater recharge, pollutant reductions, urban heat island mitigation, and reduced energy demands.

Our nation has a long history of investing in park restoration and construction as a way to create jobs and revitalize the economy. President Franklin Roosevelt created the Citizens Conservation Council (CCC) to build and fix up America's parks as a key component of his strategy to put people back to work during the Great Depression.

Amendment #3

The third amendment that I would have offered would have extended the special rule regarding contracting under this bill to all sections of the bill. The special rule on contracting would provide that for each local agency that received a grant or money under this Act shall ensure, if the agency carries out modernization, renovation, or repair through a contract, the process for any such contract ensures the maximum number of qualified bidders, including local, small, minority, women- and veteran-owned businesses, through full and open competition.

This amendment is important because it ensures that qualified bidders, including local, small, minority, women- and veteran-owned businesses, participate in the process through full and open competition. This would definitely create jobs and help these communities.

Amendment #4

A fourth amendment that I would have offered would have conditioned the release of monies to the Department of Justice to prevent prosecutorial misconduct. Specifically, the language would have prevented the release of money to the Department of Justice unless the State did not fund any antidrug task forces for that fiscal year or the State had in effect State laws that ensured that.

(A) a person is not convicted of a drug offense unless the fact that a drug offense was committed, and the fact that the person that committed that offense, are each supported by separate pieces of evidence other than the eyewitness testimony of a law enforcement officer or an individual acting on behalf of a law enforcement officer; and

(B) a law enforcement officer does not participate in an antidrug task force unless the honesty and integrity of that officer is evaluated and found to be at an appropriately high level.

While I did not formally offer these amendments, I believe that their goals are no less aspirational and that these are indeed good ideas that should be included.

Oberstar amendment
Amendment #1

Mr. Chairman, I support, and I urge my colleagues to support the amendment offered by Chairman OBERSTAR. Chairman OBERSTAR's amendment would amend the aviation, highway, rail, and transit priority consideration and ''use-it-or-lose-it'' provisions to require that 50 percent of the funds be obligated within 90 days. I support this amendment. This amendment would have great import for my District and America.

I have worked tirelessly to rebuild America's infrastructure as well as contributing to America's progress, America, and the creation of American jobs. I worked with Chairman OBEY to ensure that language be included within this legislation. Specifically, I worked to ensure that significant funding be allocated for ready to go transit projects. The New Start Transit Project in Houston, Texas is one such program. Funding for this project is critical for the regional mobility of citizens of the vast communities in and around the 18th Congressional District of Texas.

Cities around the country are struggling with a backlog of transportation projects and have been experiencing difficulty in securing federal, state, and local resources in light of the struggling economy. At the same time, we are facing growing unemployment, particularly in our cities.

Houston has $1.5 billion in transit projects that could be under contract within the 90 days use it or lose it provisions contained in Chairman OBERSTAR's amendment. Not only does Houston need this infrastructure to relieve congestion and provide adequate public transportation, but an investment in Houston's New Start Transit Project means jobs for my constituents through the transportation sector in our communities and around the nation.

I would urge my colleagues to support Chairman OBERSTAR's amendment that any monies appropriated under Title XII be used within 90 days or the use of such funding will be forfeited. This so-called ''Use or Lose It'' amendment addresses the issue of job creation and the necessity that the Nation must act fast. It is believed that with the inclusion of this language entities will act without delay for fear of forfeiting access to much needed funds. These monies are critical for the renovation and improvement of the Nation's transportation and infrastructure and must be expeditiously used to ignite our transportation system across the nation. This infusement of capital into the Nation's transportation and infrastructure will surely create jobs for Americans.

DeFazio/Nadler amendment

Mr. Chairman, I support the amendment offered by Representative DEFAZIO and Representative NADLER. This amendment would increase transit capital funding by $3 billion. This amendment is important to my District because it would provide more funds in the Ne Starts Program. This would be of benefit to the Houston METRO North and Southeast Light Rail Projects. Houston METRO already has environmental clearance and contractors ready to go to complete these projects. Indeed, these projects can be completed within the 90 day ''use or lose'' period.

Houston is undergoing a major capital improvement campaign and is endeavoring to modernize its highways and roads namely spending $70 million over the next several years to convert 83 miles of High Occupancy Vehicle (HOV) lanes to High Occupancy/Toll (HOT) lanes on Interstate 45, US 59, and US 290 in Metropolitan Houston. This project is ready to go and its funding will ensure that the roads and highways remain safe, accountable, and efficient. Because the HOV lanes on I–45, US 59, and US 290 offer a good deal of unused capacity, these roadways would be ideal for conversion to HOT lanes, for the twin purposes of managing Houston's traffic and raising revenue for Houston's transportation projects.

Mr. Chairman, given the exigency of the situation and the Nation's current economic crisis, I would urge this Committee and my colleagues to move this bill quickly to the floor and act without delay. The Nation is at a crossroads and is currently sitting in its nadir, as some pundits would argue, the Nation's economy needs to be infused with capital, critical infrastructure and development, and the American people need to be employed with real jobs. H.R. 1 does this. It creates the development of infrastructure, provides Americans with jobs, and tries to correct the economy. I am hopeful that this bill will help alleviate the economic woes this country faces.

These METRO projects have been planned and discussed for over 20 years, now these projects are ready to go within 90 days. All that these projects need is the capital to begin. If this bill, along with these amendments passed, Houston METRO projects can finally be started fulfilling plans that were twenty years in the making and fulfilling plans that I have labored long to bring to fruition.

EDUCATION

Harris County serves a combined total of 6,649 Head Start children per year. The poverty rate for Harris County's population under age 5 is higher than the national average at 28.7%. H.R. 1—The American Recovery & Reinvestment Act of 2009 will provide $1 Billion for Head Start and $1.1 Billion for Early Head Start—these Head Start monies will allow for new monies that can be used to address the disparity in funding for Harris County Head Start programs.

One key provision in the Recovery Plan is the Making Work Pay Credit, which provides a tax credit of $500 per worker for single workers earning up to $100,000 and married couples earning up to $200,000. Attached is a brief report and state-by-state table from the Center on Budget and Policy Priorities on the number of taxpayers that will benefit from this credit.

Also included in the Recovery Plan are provisions to invest in priorities like education that will jumpstart economic growth, such as $14 billion for School Modernization for K–12 schools to modernize and repair tens of thousands of schools and provide them with 21st century classrooms. In addition, provisions are included to help state and local governments avoid painful budget cuts in priorities like education, with investments such as additional funding for Title I and IDEA (Special Education).

H.R. 1 will provide $206 million for the Houston Independent School District (HISD) in 2009 and will provide nearly $300 million for the HISD in 2010. This is important to the City of Houston, because as the fourth largest city in the United States it deserves a first rate school system. Funding under H.R. 1 will allow HISD to revitalize and improve the quality of education for school age children in Houston.

ENERGY

Because Houston is the energy capitol of the world, it is important that this bill address the question of clean and renewable energy. Certainly, if America is to recover, it must reinvest in its energy. Energy is the life blood of this country.

H.R. 1 contains the following with respect to energy:

Smart Grid/Advanced Battery Technology/Energy Efficiency ($32 billion)

Transforms the nation's electricity systems through the Smart Grid Investment Program to modernize the electricity grid to make it more efficient and reliable. This will jumpstart smart grid demonstration projects in geographically diverse areas, increase federal matching grants for smart grid technology (20% to 50%) including Smart Meters'' that give consumer more choice in their energy consumption at home, and spur research and development. Build new power lines that can transmit clean, renewable energy from sources throughout the nation.

Creates temporary loan guarantees for up to $80 billion for renewable energy power generation and electric transmission projects that begin in the next two years. These would help ease credit constraints for renewable energy investors and spur new private sector investment over the next three years.

Supports U.S. development of advanced vehicle batteries and battery systems through loans and grants so that America can lead the world in transforming the way automobiles are powered. Also includes other initiatives to promote the use of alternative fuel vehicles by federal state and local governments.

Helps state and local governments make investments for innovative best practices to achieve greater energy efficiency and reduce energy usage, including building and home energy conservation programs, energy audits, fuel conservation programs, building retrofits, and ''Smart Growth'' planning and zoning. Also encourages states to adopt updated energy-efficient building codes and regulatory policies to encourage utility-sponsored gains in energy efficiency.

Spurs energy efficiency and renewable energy research, development, demonstration, and deployment activities at universities, companies, and national laboratories to foster energy independence, reduce carbon emissions, and cut utility bills.

Makes key investments in carbon capture and sequestration technology demonstration projects to work toward making coal part of the solution and reducing the amount of carbon dioxide emitted from industrial facilities and fossil fuel power plants.

Tax incentives to spur energy savings and green jobs ($20 billion over 10 years)

Three-year extension of the production tax credit (PTC) for electricity derived from wind (through 2012) and for electricity derived from biomass, geothermal, hydropower, landfill gas, waste-to-energy and marine facilities (through 2013). Also permits businesses that place new renewable energy facilities in service during 2009 and 2010 to claim either a 30 percent investment tax credit (ITC) instead of the production tax credit, or apply for a grant of up to 30 percent of the cost of building a new renewable energy facility from the Energy Department. These provisions will help speed up investment in new facilities and will address current renewable energy credit market concerns.

Promotes energy-efficient investments in homes by extending and expanding tax credits through 2010 for purchases such as new furnaces, energy-efficient windows and doors, or insulation. Increases the credit from 10 percent to 30 percent of the cost of the investment and raises the credit cap from $500 to $1,500, helping American families save money on their energy bills.

Establishes an enhanced R&D tax credit for research expenditures in the fields of fuel cells, battery technology, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration, in 2009 and 2010.

Increases incentives to install pumps that dispense alternative fuels including E85, biodiesel, hydrogen, and natural gas.

Repair public housing and make key energy efficiency retrofits to HUD-assisted housing ($7.5 billion)

Establishes a new program to upgrade HUD sponsored low-income housing (elderly, disable and Section 8) to increase energy efficiency, including new insulation, windows, and furnaces.

Invests in energy efficiency upgrades in public housing, including new windows, furnaces, and insulation to improve living conditions for residents and lower the cost of operating these facilities.

Landmark energy savings at home ($6.2 billion)

Landmark provisions to improve the energy efficiency for more than 1 million modest-income homes through weatherization, expanding the number of families (from 150% to 200% of the federal poverty income levels) and the aid level (from $2,500 to $5,000 per household) to keep up with the rising prices of these upgrades;

This will save modest-income families on average $350 per year on their heating and air conditioning bills.

Green Job Training and Energy Efficient Schools

Provides $500 million to train workers for green-collar jobs.

Creates new modernization, renovation, and repair programs for schools and colleges, with a minimum of 25 percent of the funds focused on green building projects.

Energy sustainability and efficiency grants and loans to help school districts, colleges, local governments, and some hospitals become more energy efficient.

SCIENCE AND TECHNOLOGY

H.R. 1 also addresses science and technology.

Investments in scientific research ($10 billion) National Science Foundation

Provides $3 billion overall for the National Science Foundation, putting the NSF budget on track to double over the next seven years, as called for under the America COMPETES Act (PL 110–69).

Includes $2.5 billion for NSF research and research-related activities. Sustained, targeted investment by NSF in basic research in fundamental science and engineering advances discovery and spurs innovation. Such transformational work holds promise for meeting the economic and environmental challenges facing the country, and competing in an increasingly intense global economy.

The $2.5 billion for research is estimated to support an additional 3,000 new NSF research awards and would immediately engage 12,750 senior personnel, post-docs, graduate students, and undergraduates.

Also includes $100 million for improving instruction in science, technology, engineering, and mathematics (STEM).

Also includes $400 million for the construction and development of major research facilities that perform cutting-edge research.

ARPA–E

Provides $400 million for the Advanced Research Project Agency-Energy (ARPA–E) to support high-risk, high-payoff research into energy sources and energy efficiency in collaboration with private industry and universities.

National Institute of Standards and Technology

Provides $500 million overall for the Commerce Department's National Institute of Standards and Technology (NIST), putting its budget also on track to double over the next seven years, as called for under the America COMPETES Act (PL 110–69).

Includes $300 million for competitive construction grants for research science buildings at colleges, universities, and other research organizations.

Includes $100 million to coordinate research efforts at laboratories and national research facilities by setting standards for manufacturing.

Includes $70 million for the Technology Innovation Program (TIP), which is designed to speed the development of high-risk, transformative research targeted to address key societal challenges, and $30 million for the Manufacturing Extension Partnership (MEP), which is targeted at improving the productivity and competitiveness of small manufacturers.

Certain other key investments in scientific research

$2 billion for the National Institutes of Health (NIH), including $1.5 billion for expanding good jobs in biomedical research to study diseases such as Alzheimer's, Parkinson's, cancer, and heart disease, and $500 million to implement the repair and improvement plan developed by NIH for its campuses.

$600 million for the National Aeronautics and Space Administration (NASA), including $400 million to put more scientists to work doing climate change research.

$1.5 billion for NIH to renovate university research facilities and help them compete for biomedical research grants.

Investments in IT network infrastructure ($37 Billion)

More than 100 high-tech CEOs and business leaders have endorsed the bill's nearly $40 billion in investments in IT network infrastructure, including broadband, health IT, and a smarter energy grid and estimate these investments will create more than 949,000 U.S. jobs, more than half of which will be in small businesses. They stated, ''The investments in a smarter energy grid, health care IT . . ., and accelerating broadband deployment . . . will not only stimulate the economy, but will also accelerate longterm growth.''

Broadband and wireless services

Provides $6 billion for extending broadband and wireless services to underserved communities across the country, so that rural and inner-city businesses can compete with any company in the world.

For every dollar invested in broadband, the economy sees a tenfold return on that investment.

The stimulative impact of this investment would be: (1) jobs to procure, produce, deliver, install, and maintain new infrastructure; and (2) jobs in sectors of the economy that rely on e-commerce, including the retail, high-tech, education, health care, and real estate sectors.

Smarter energy grid

Provides $11 billion for improving the grid, including transforming the nation's electricity systems through the Smart Grid Investment

Program to modernize the grid to make it more efficient and reliable. This will jumpstart smart grid demonstration projects in geographically diverse areas; increase federal matching grants for smart grid technology (to 50% from the current 20%) including "Smart Meters" that give consumers more choice in their energy consumption at home; and spur research and development. The funding will also facilitate the building of new power lines that can transmit clean, renewable energy from sources throughout the nation.

Health Information Technology

Provides $20 billion to accelerate adoption of Health Information Technology (HIT) systems by doctors and hospitals, in order to modernize the health care system, save billions of dollars, reduce medical errors, and improve quality.

Also provides significant financial incentives through the Medicare and Medicaid programs to encourage doctors and hospitals to adopt and use HIT.

Promoting the adoption of Health Information Technology systems will create hundreds of thousands of jobs—many of them high-tech jobs.

The nonpartisan CBO estimates that, as a result of this legislation, approximately 90 percent of doctors and 70 percent of hospitals will be using electronic medical records within the next 10 years.

Mr. Chairman, given the exigency of the situation and the Nation's current economic crisis, I would urge this Committee and my colleagues to move this bill quickly to the floor and act without delay. The Nation is at a crossroads and is currently sitting in its nadir, as some pundits would argue, the Nation's economy needs to be infused with capital, critical infrastructure and development, and the American people need to employed with real jobs. H.R. 1 does this. It creates the development of infrastructure, provides Americans with jobs, and tries to correct the economy. I am hopeful that this bill will help alleviate the economic woes this country faces.

As the Obama administration staked its campaign upon the idea of change and won, I believe that America is ready for a change. We are ready to be lifted from the doldrums of economic morass. We are ready for real change that puts America, its economy, its innovation, and entrepreneurial spirit back in its rightful place. I am hopeful and confident that H.R. 1 does just that and places America back in the spotlight as the sunbeam on the world stage. I strongly urge my colleagues to act quickly and support this bill as vigorously as I do.

Mr. OBERSTAR. Mr. Chairman, how much time remains?

The CHAIR. The gentleman from Minnesota has 1 minute.

Mr. OBERSTAR. And on the other side?

The CHAIR. 3½ minutes.

Mr. OBERSTAR. I reserve the balance of my time.

Mr. SHUSTER. If I can respond to the gentlelady from Texas, I don't believe this cuts anything. It just makes certain that the States aren't able to cut what they have in their budgets. Because, at the end of the day, the idea in the stimulus is to have a net increase in total spending from all levels of government. And if this moves forward, we want to make sure that the States don't reduce what they spend on their transportation projects and use the Federal funds to offset their budget.

Ms. JACKSON-LEE of Texas. Will the gentleman yield for a question?

Mr. SHUSTER. I yield to the gentlewoman.

Ms. JACKSON-LEE of Texas. I notice in the summary it says "highway maintenance." But I think I am agreeing with you that what you are suggesting is new maintenance but also new starts. If something is a new start, for example, in rail, that would create new jobs, and that is something that is in the framework of your thought.

Mr. OBERSTAR. Will the gentleman yield for further clarification?

Mr. SHUSTER. I certainly will.

Mr. OBERSTAR. The legislation provides for $1 billion in new starts for transit. And Houston Transit has been moving through the process, and we are working to accelerate the consideration of its project to the Federal Transit Administration; and, Mr. NADLER will soon offer an amendment to increase the funding for transit. So I am quite confident that there will be enough capacity to accommodate the gentlewoman's concern.

Ms. JACKSON-LEE of Texas. If the gentleman will yield, I thank you very much. That is the framework of my message.

The CHAIR. The gentleman from Pennsylvania controls the time.

Mr. SHUSTER. I appreciate the chairman's clarification.

I yield 30 seconds to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the gentleman, and I rise in support of this amendment.

In the full committee, we offered an amendment to have this applied to all accounts, not just transportation accounts, in the bill, which unfortunately failed. But this is a very, very good start in this portion of the bill. I just wish it extended to the entire $825 billion being spent.

Mr. SHUSTER. Mr. Chairman, how much time do I have left?

The CHAIR. The gentleman from Pennsylvania has 1½ minutes.

Mr. OBERSTAR. We have no further speakers on our side.

I just want to say I concur with the gentleman from Iowa that we required a maintenance of effort in all of those projects in our committee that had matching funds because we wanted to assure that they are a stimulus, and we want to keep the pressure on State and local government people to carry these projects out.

So the gentleman's amendment is needed, it is important, it will assure that we put jobs in place by June, and we ought to support this amendment. I thank the gentleman for offering it.

I yield back the balance of my time.

Mr. SHUSTER. I thank the chairman for not opposing the amendment. And just to close, I think this puts teeth in the legislation that is going to help this bill and improve this bill some. I think it needs a lot more improvement, but this is one step in the right direction.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. NADLER OF NEW YORK

The CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 111–9.

Mr. NADLER of New York. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. NADLER of New York:

Page 213, line 4, after the first dollar amount, insert "(increased by $1,500,000,000)".

Page 213, line 4, after the second dollar amount, insert "(increased by $1,350,000,000)".

Page 213, line 10, after the dollar amount, insert "(increased by $150,000,000)".

Page 216, line 2, after the dollar amount, insert "(increased by $1,500,000,000)".

The CHAIR. Pursuant to House Resolution 92, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER of New York. I yield myself 30 seconds.

Mr. Chairman, this amendment increases transit capital funding by $3 billion to $12 billion. $1.5 billion will go to the Transit Capital Formula Program, which goes to every State, including both urban and rural areas, and $1.5 billion to the New Starts program. The amendment is supported by numerous transportation, labor, and environmental organizations. I have been informed the Transportation Trades Department of the AFL–CIO will be scoring the amendment, and the League of Conservation Voters may be scoring it as well.

This amendment has broad support because people all over the country recognize that investing in transit is one of the smartest things we can do to create jobs here in America, to reduce congestion and dependence on foreign oil, and spur economic growth.

I urge support for the amendment.

I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. LEWIS of California. I yield 1 minute to my colleague from Florida (Mr. MICA).

Mr. MICA. I thank the gentleman.

I am spending all my afternoon supporting some of the amendments from the other side; but let me tell you, the Nadler amendment is one we have to support.

Mr. OBERSTAR as the chairman and I as the ranking Republican, we have been working on an infrastructure proposal since back in September last year to try to get infrastructure going and jobs started in this country, and we are still delayed. And what is most offensive is they took one of the most important parts for rail and transit out of the bill, or actually cut it down, and he is restoring that money. Let me tell you, that is just a little bit of money.

These projects are expensive. Transportation projects in New York, the tunnel across Long Island, $7 billion; the Second Avenue subway tunnel is over $7 billion. Infrastructure projects are expensive, and we are only putting in a small fraction.

Support the Nadler amendment.

The CHAIR. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 30 additional seconds.

Mr. MICA. I thank the gentleman.

Again, folks, this is about creating jobs. And every billion dollars we put in jobs, ready-to-go projects, is 28,000 to 35,000 jobs. So it makes a big difference.

Mr. NADLER is going to make a decision on how many people will go to work, and it may be in your communities throughout the United States. So they give you a choice right now of a few jobs; he gives you a choice of many jobs with sound investments.

Support the Nadler amendment.

Mr. NADLER of New York. I thank the gentleman.

At this point, Mr. Chairman, I now yield 1 minute to the distinguished chairman of the Transportation Committee, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding. I need not take the whole minute; the gentleman from Florida spoke well for both sides.

But in our hearing just a week or so ago, we heard very clearly from the major transit agencies in this country. They have options for buses, they have options on rail cars that could be exercised in days. And we heard from the producer companies, the original equipment manufacturers, they can ramp up production up to 35 percent in days, not weeks or months. These initiatives will create jobs.

MARTA, the Atlanta transit agency, said we need 20 new buses, natural gas buses that will clean the air and increase ridership. They will be produced in Minnesota. Muncie, Indiana needs rail cars. The rail cars will be produced in Boise, Idaho. So jobs are being created all over the country, and in Hayward, California, being produced. We need to do this.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume, and it will be very short.

I would love to support the gentleman's amendment. Indeed, if there were an offset within this bill relative to those things that aren't producing jobs, this is an amendment I could get very excited about. In the meantime, it does raise the top line, and everybody should know that. I know that Mr. OBERSTAR loves that, for it helps him out when he is trying to pass the bill down the line when he is short of money. But in the meantime, on this side of the aisle the vast percentage of my Members would prefer that we have an offset before we start raising the line of spending. So I will reluctantly have to oppose the amendment.

I reserve the balance of my time.

Mr. NADLER of New York. Mr. Chairman, I now yield 10 seconds to the distinguished chairman of the Appropriations Committee, the gentleman from Wisconsin.

Mr. OBEY. I urge support for the amendment.

Mr. NADLER of New York. That was less than 10 seconds.

Mr. Chairman, I now yield 45 seconds to the distinguished chairman of the Highway and Transit Subcommittee, the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman.

We have had the greatest 1-year increase in transit ridership in 50 years. Americans are loving their transit systems to death. Yet, there is $160 billion deferred maintenance on these systems. 12,000 buses have passed their useful life; they are patched together, they are limping along, they are maintenance heavy, they are dirty. They need to be replaced. There are 10,000 options for new buses, buses made in America. They can't be executed because our transit systems don't have the money.

If we pass this amendment, thousands of those new fuel efficient, cleaner buses will be purchased, putting Americans to work in the bus manufacturing and all through the supply chain, in addition to helping people get to work in a more fuel efficient and more comfortable way.

I urge support of the amendment.

□ 1430

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, I rise in strong support of the Nadler amendment and full support for the bill.

With my Texas accent it is hard to say anything in 30 seconds, but with a light rail transit project, the new starts that would come under this amendment, we can put $410 million worth of hiring people to do utility easement work and have light rail in the fourth largest city of the country if this amendment passes. That is why this amendment is important, and I am proud to be here and support it.

Mr. Chair, I rise today in support of Congressman NADLER's amendment to H.R. 1 and the full bill. I ask unanimous consent to place the full statement in the RECORD.

This amendment will increase transit capital funding by $3 billion including $1.5 billion for Capital Assistance Grants, also known as the New Starts program.

It is important that we invest additional capital in the New Starts program simply because these are new projects and they will create new jobs as opposed to just funding existing contracts on existing projects. The latter will not stimulate the economy.

For example, there are two light rail projects in my district that are near the end of the FTA review process and could be under contract with a design-build firm within 90 days.

About $410 million of early work items for the projects are shovel ready because the transit authority has already selected contractors and completed all necessary engineering and design and purchased all necessary rights of way.

These are exactly the kinds of infrastructure projects that make sense for an economic stimulus bill in 2009, creating about 18,000 jobs within 90 to 120 days.

These projects will promote transit ridership which is a far more environmentally friendly way to move people more efficiently.

These projects will also serve economically disadvantaged areas under Community Development Block Grant (CDBG) criteria.

So not only will the projects enhance mobility for transit dependent and lower income persons, but it will rejuvenate the surrounding communities by spurring economic development.

Mr. Chair, Houston METRO has the expertise and experience delivering such projects. They already built and operate one of the most productive light rail lines in the nation.

Therefore, I urge my colleagues to support this amendment to increase New Starts money so that Houston METRO and other transit agencies across the country can start turning dirt, creating jobs, and stimulate this economy.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois (Mr. LIPINSKI).

Mr. LIPINSKI. Mr. Chairman, I thank the gentleman, and I am proud to have worked with him to offer this amendment.

This bill must be a jobs bill, a job-creation bill investing in transit is a certain way to create jobs and do things that are much needed in this country.

The CTA Chairwoman Brown told us last week she could spend $500 million tomorrow to make needed improvements. Likewise, Metra commuter rail and Pace Suburban Bus has ready-to-go projects, has new starts that are ready to go, to put people back to work, get them working, get people moving. So to create more jobs, we need to pass the Nadler amendment.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. MCMAHON).

Mr. MCMAHON. Mr. Chairman, I strongly urge all of my colleagues to support the amendment that I have jointly sponsored under the leadership of Congressman NADLER, together with

our other colleagues, to increase transit funding in H.R. 1 by $3 billion. Bang for the buck, nothing will help create more jobs than funding transportation infrastructure.

I have to say that my district has some of the longest commute times in the country, and we need this mass transportation infrastructure badly. People travel on average an hour and a half each way to work.

I urge everyone to support this amendment.

My district has some of the longest average commute times in the country—with people travelling well over an hour and a half each way to work. Meanwhile our MTA is seeking to raise our bus and subway fares, cut service and if you can imagine raise the toll to $14, just to go from SI to Brooklyn and back.

Unfortunately my district is far from unique. Americans are demanding more support for mass transit and that is why I encourage all of you to support this important Amendment and to support this bill.

Mr. NADLER of New York. I yield 30 seconds to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Chairman, demand for transit service is on the rise. In 2007, over 10 billion trips were taken on mass transit, a 50-year record. Last year, 2008, we had a 4.4 percent increase; and yet, people around the country are seeing decreases and more pressure is on public transportation and they can't keep up with demand.

With this extra $3 billion in this package, we will put people to work and pursue a green economy and get people around.

Mr. NADLER of New York. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. MAFFEI).

(Mr. MAFFEI asked and was given permission to revise and extend his remarks.)

Mr. MAFFEI. Mr. Chairman, I rise today in strong support of Congressman NADLER's amendment for increased transit funding.

Just today in my hometown paper, the Syracuse Post-Standard, it was reported that the Central New York Regional Transportation Authority, also known as Centro, is facing a $5 million shortfall. To close their deficit, they are considering raising fares, cutting service and eliminating routes. This cannot be an option, not now when the economy is facing a recession.

So I ask Members to vote in favor of this amendment. It will help ensure citizens in my district, such as Ann Parquette, who is mentioned in the article, can get to their jobs.

I include my full statement in strong support of this amendment and the related article from the Syracuse Post-Standard for the RECORD.

I rise today in strong support of Congressman NADLER's amendment for increased Transit Funding in the American Reinvestment and Recovery Act. Just today, in my hometown paper the Syracuse Post Standard, it was reported that Central New York Regional Transportation Authority, also known as Centro, is facing a $5 million shortfall. To close their deficit, they are considering raising fares, cutting service and eliminating routes.

This cannot be an option—not now when ridership is at an all time high and more working families are absolutely dependent on public transportation. Across the county, from the suburbs to the city of Syracuse, more people need Centro to get them to work and the grocery store. Centro rider Ann Parquette, who rides the bus to work, thinks she will have to quit her job and find a new one closer to home if they eliminate her route. Other riders who can currently afford the $1 fare are not sure if they can make ends meet if that is increased by the 25 or 50% Centro is considering.

When we're facing a recession, we cannot allow cuts that will hit our lowest income workers the hardest. I urge my fellow Members to join me in voting for the Nadler amendment for increased Transit Funding.

[From the Post-Standard, Jan. 28, 2009]

CENTRO PLANS FARE HIKE, SERVICE CUTS

(By S.J. Velasquez)

Centro is proposing to raise bus fares and cut some services in an effort to make up a projected $5 million shortfall in the coming budget year, Centro officials said Tuesday.

Centro wants to increase the Syracuse base fare from $1 to at least $1.25 and possibly to $1.50, officials said. Almost all other fares would also be increased under the proposal, they said.

Frank Kobliski, executive director of Centro, said the changes are needed to make up for a loss in state aid and mortgage tax revenues and rising costs that create the projected deficit.

''The economy is such that we simply cannot put operators in seats and be able to come remotely close to keeping fares at a dollar,'' he said. ''Some cuts are necessary and inevitable.''

This would be the first fare increase in 14 years, he said.

Centro also is proposing to cut three routes and reduce service on three others.

The biggest savings would come from eliminating its Suburban East No. 723 route that takes riders from Minoa, Manlius and DeWitt to ShoppingTown Mall where many catch other buses. Centro officials said that would save $435,000.

''I don't know what I would do,'' said Ann Parquette, 51, of Minoa, who rides that bus twice a day to get to and from her job in the cafeteria at Jamesville-DeWitt Middle School.

''I'd probably quit my job and work at the school out in Minoa,'' she said. 'That'd be my best bet.''

Parquette said she could get a ride to work from friends, but would have no means of getting home.

Another person who could be stuck is Joseph Honor, 41, of Syracuse, a cook at Red Robin restaurant in Fayetteville. For the past three months since his car broke down, Honor has relied on the bus line to get to and from work.

''People work out there and they need a bus,'' he said.

In downtown Syracuse, Centro rider Stephanie LaDue said the increase in fares would be hard for her to afford.

''I pay $20 a week easily right now,'' LaDue said. ''That will be almost $30 dollars for a . . . bus. This is going to be a pain.''

LaDue, a single mother with a 5–month-old daughter, said she uses the bus to get to and from computer classes and support group meetings.

Centro, which has a $58 million budget this year, is losing about $1.6 million in mortgage tax revenue and expects to lose about $1.33 million in state aid, officials said. The rest of the deficit—about $2.07 million—is caused by increases in the cost of supplies and other operating costs.

Kobliski said a 25-cent fare increase would bring in an additional $1 million, but that increasing the base fare by 50 cents wouldn't necessarily bring in another $1 million because Centro would lose riders.

The final decision on whether to increase fares by a quarter or 50 cents will depend on how much state aid and federal economic stimulus money Centro gets, officials said.

Service reductions could save another $1 million, Kobliski said.

Centro officials said they would tap reserve funds and defer some capital expenditures to make up the shortfall.

In addition to the fare increases, Centro is proposing closing the bus system an hour earlier on weekdays in Syracuse and Onondaga County, which would mean no service after 12:30 a.m. The weekend service already ends at 12:30 a.m.

Ridership is at an all-time high, so some may wonder why Centro is facing a shortfall. Ridership pays about 21 percent of the operational costs; the state pays 47 percent; the remaining 32 percent comes from federal, local and other sources.

Centro will hold public hearings in February and then will present the proposals to the Centro board of directors. If approved, the fare increase would go into effect May 4.

Centro plans to advertise the fare increase and service reductions on its Web site www.centro.org, in buses and in the public forums.

Mr. NADLER of New York. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to say that I appreciate the support of this amendment on a broad bipartisan basis, from Mr. MICA, the ranking member of the Transportation Committee, from Chairman OBERSTAR, and from the chairman of the Appropriations Committee, Mr. OBEY. I urge everyone to vote for it. This $3 billion will make a tremendous difference to mass transit, to new starts in every State in the Union.

Mr. WU. Mr. Chair, I rise today in support of the Nadler/DeFazio/Lipinski/McMahon/Ellison amendment to the American Recovery and Reinvestment Act that would further emphasize the need for America to invest in transit projects across this country by committing $3 billion more to transit projects.

Except for education, there is almost no better way to stimulate the economy than to invest in transportation projects. Additionally, to move us forward to a clean energy economy, relieve traffic congestion, and provide for safer roadways, public transit is one of the best investments the federal government can make.

An additional $3 billion for federal transit projects, which would be distributed by adding $1.5 billion to the Transit Capital Assistance formula program and providing $1.5 billion for New Starts, brings the total funding for transit projects in this bill to $12 billion. This amendment would provide adequate resources to invest in the estimated 736 shovel-ready transit projects across the country.

These projects would bring jobs and a more efficient transportation system into many American communities.

I urge support of this worthy amendment.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. NEUGEBAUER

The CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 111–9.

Mr. NEUGEBAUER. Mr. Chairman, I have that amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. NEUGEBAUER:

Strike division A (and redesignate remaining provisions accordingly).

The CHAIR. Pursuant to House Resolution 92, the gentleman from Texas (Mr. NEUGEBAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. NEUGEBAUER. Mr. Chairman, I rise in support of an amendment that I have offered that would eliminate the $355 billion worth of discretionary programs that are in this bill. A lot of people would think there are a lot of good things in this bill, a lot of good projects. We have heard a lot of Members talk about that. And there probably are some projects in there that would be good for the communities across our country. But there is just one problem: we don't have $355 billion.

What this amendment does is it says what the American people are saying. They are concerned about the fact that we continued to borrow and spend and borrow and spend. In fact, quite honestly how we got into the situation we are in right now is the fact that individuals and companies and even governments have borrowed and spent more money than they have.

When you ask the American people what do you think is the best way to stimulate the economy, 63 percent of them say you should do it with tax cuts for businesses and individuals.

When you ask them do you think we can spend our way out of this economic situation, 61 percent of Americans say we can't spend our way out of this situation.

I think the fact is that we need to understand what is really at stake here. One of the things is that we are making a decision here in somewhat of a vacuum. We don't even know for some of these projects how much money we are going to spend in 2009 because Congress has not finished its business for the current fiscal year. We also don't know what we are going to spend on a lot of these projects in 2010 because the President of the United States has not brought his budget to this body.

And so we are going to plus up and throw out a lot of money when we already have accounts that have money in them that haven't been spent year to date. So making these decisions in a vacuum is a problem.

The other problem I have with this is we are going to spend about $275,000 on each one of these jobs; $275,000, that is a lot of money to spend for jobs, on top of the fact that we are going to have already a $1.2 trillion deficit this year.

What the American people are observing here is we are throwing a lot of money, TARP money, bailout money, and now we want to spend $825 billion worth of money that we don't have that we are going to charge to our grandsons and our children and future generations, and the American people say stop, wait a minute, what's going on here?

Now there are a lot of projects that maybe our Members think are worthy in here, but think about the fact where we read this week where people lost their jobs in America. All of us are concerned about that. If you are talking about a stimulus package, a lot of the programs that are in this spending won't even be spent until 2010, 2011 and 2012. In fact, the GAO says less than 40 percent of the spending programs in here could actually be spent in the next 18 months.

The other piece of the pie that I think concerns a lot of us is have we fully vetted this? This bill creates several new programs in Congress that haven't even gone through the regular committee process. So we are rushing up to spend a lot of money and create a large deficit for our children without much oversight. I think the American people deserve oversight. If we are going to spend money we don't have, particularly, we owe them the process of looking at how much money we are going to spend on a lot of these projects in the 2009 budget, taking a look at the President's 2010 budget, and then determining if there in fact should be some supplemental appropriations to be put in to stimulate this economy.

But I guarantee you that people back home don't think that planting grass, giving money to the arts, or buying cars for Federal employees are going to do much to help them keep or retain or create jobs in America.

I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, how much time does the gentleman have remaining, and who has the right to close?

The CHAIR. The gentleman from Texas has 1 minute remaining, and the gentleman from Wisconsin has the right to close as a manager in opposition to the amendment.

Mr. OBEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am tempted to ask the Chair what year is this? I thought it was—yeah, I didn't think it was 1933—I thought it was 2009, or something close to it. I guess all I would say is, you know, they don't look like Herbert Hoover, but there are an awful lot of people in this Chamber who think like Herbert Hoover, and I think this amendment illustrates that.

If you vote for this amendment, you'll be knocking out all funding for education funding, including every single dollar in this bill to prevent State and local governments from raising taxes in the middle of a recession in order to avoid laying off teachers, in order to avoid laying off speech therapists, school nurses, and the whole shebang.

You would be cutting out all infrastructure. You would be eliminating $30 billion for highway construction. Those jobs go blewy.

You would be eliminating $19 billion for clean water projects, flood control and environmental restoration. Those jobs go blooey.

You would be eliminating all energy funding in this bill, $32 billion to transform the Nation's energy transmission distribution production systems. So those jobs go blooey. And we also lose the chance to modernize this economy.

All science funding, all of the jobs that would be provided in the science area by this bill, those jobs are out the window.

All of the jobs that would be created by giving rural America an opportunity to get wired up with real broadband, just like the rest of the country, that would be out the window, too.

This amendment in my view demonstrates that some people recognize the cost of everything and the value of nothing. It is an amendment that we can ill-afford to pass, and I urge defeat of the amendment.

I reserve the balance of my time.

Mr. NEUGEBAUER. I appreciate the gentleman's comments. But I guess the question I have of the gentleman when he closes, number one, where are we going to get the money?

Number two, does the gentleman know what funding is going to be spent in 2009 and 2010 for these projects? Now he may know because in many of the appropriation bills that have come to this floor, he is the only one who has had much input in that process.

So what we are doing, we are making a decision in a vacuum. To coin the term of the gentleman who just spoke, ''kabooey'' goes to the future of our young, next generation because we have left them with a legacy of huge deficits which we do not have the capacity to pay back. If we keep doing this, compounding this, making decisions on a quick basis and mortgaging their future, we are not doing the job that the American people sent us to do.

So what I am saying is there are a lot of these projects that could be brought in under regular order under the 2009 appropriation bill or that could be brought in in 2010.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the fact is this economy is in mortal danger of absolute collapse. We are trying to avoid that by injecting consumer spending into the economy in hopes that it will reinflate the economy at least to some degree. The fact is that the cost of doing nothing would be astronomical.

Of course this package costs money. How much will it cost us if the credit markets totally freeze up? How much will it cost us if we lose employment opportunities for another 3 to 4 million Americans?

How much will it cost us in added unemployment compensation, in added welfare payments and all of those items if we don't do something to stave off economic disaster?

This amendment is primitive economically. It does not recognize the reality of a modern economy. I urge its defeat.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. NEUGEBAUER. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 6 OFFERED BY MS. WATERS

The CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 111–9.

Ms. WATERS. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. WATERS:
Page 125, line 6, insert ''(including projects funded under section 6002 of division B of this Act)'' after ''sectors''.

□ 1445

The CHAIR. Pursuant to House Resolution 92, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Mr. Chairman and Members, this is not a complicated amendment. It simply clarifies that funds provided for job training in division A of this bill can be used for programs in division B, in particular, for broadband communications deployment. What are we talking about? We are talking about broadband infrastructure. The broadband package authorizes the National Telecommunications and Information Administration, a part of the Commerce Department, to distribute $2.825 billion for wireless and wireline broadband through a grant program.

This is extremely important. Here we are in 2009. There are many communities throughout this country that are simply underserved. They do not have broadband. We are going to take this opportunity to repair or to build out the broadband infrastructure. We're going to take this opportunity to bring these communities up to date so that there can be more jobs, so that businesses can be supported, and so that families can have access to the kind of technology that will help them pursue jobs and careers and for students to have access to the kind of technology that will help them to communicate with other students and with their teachers, et cetera, et cetera. This is very important.

Now, the job training in this bill is in one section, and of course, broadband infrastructure is described in another section. I simply allow the job training resources to be used on broadband infrastructure. Someone has asked, does this mean that you're taking all of the money in job training for broadband? No. This simply means that we make the opportunity available for this money to be used for broadband infrastructure. Where did I get this idea? I was fortunate enough to witness what could be done in the expansion of broadband opportunities. In part of my district, we ended up with a training class at one of our schools for the laying of fiberoptic. And the young people who took advantage of this opportunity ended up getting trained. They got good jobs. Many of them moved into other communities. They bought homes. These are not simply dead-end jobs. These are careers that can be developed with this kind of training. We know that there is job training and there is job training. There is some of this job training that is kind of classroom oriented. There are some jobs that are so-called trained for that don't really exist.

But this is real. We know that the telecommunications industry must keep up with the expansion. We know that they do some training. We know that they did more training in the past. But to the degree that we can help get this training done, we can create jobs, expand broadband opportunities and truly create these careers.

So, I'm very pleased that approximately $1 billion would go to deployment of wireless service, 25 percent to wireless voice service in underserved areas and 75 percent to advance wireless broadband in underserved areas. Approximately $1.825 billion would go to the deployment of broadband via fiber or other wires, 25 percent to basic broadband in unserved areas, and 75 percent to advance broadband in underserved areas. This is a one-time opportunity to get a lot of young people trained. It is not enough to say that we're going to do job training that may lead to simply some jobs for a short period of time. Some of those jobs may be in construction. But they will only last for as long as the project will last. Some of those jobs that we hope to come on line are not going to come on as quickly as we would like them to. But these opportunities are waiting. These opportunities are waiting, and the telecommunications companies and the contractors who work with them can get this job training up and going immediately. And it's not a long time. In the training that I witnessed for fiber optics, we had people on the job within 3 to 4 months.

The CHAIR. The time of the gentlewoman has expired.

Ms. WATERS. I would ask support for this amendment.

Mr. LEWIS of California. I rise to claim the time in opposition, Mr. Chairman.

The CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. LEWIS of California. And I do so very reluctantly, Mr. Chairman, for the gentlelady from California and I have worked together for many years. I'm not very excited about the job training provisions within this bill. I'm opposing the bill generally. And in the final analysis, I will end up voting against her bill. But I am not going to spend a lot of time convincing people that she is wrong.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. FLAKE

The CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 111–9.

Mr. FLAKE. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. FLAKE:
Page 212, strike lines 9 through 24.

The CHAIR. Pursuant to House Resolution 92, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, every year, we have a debate, it seems, in the appropriations process about whether or not we should continue to subsidize Amtrak. We've been having this debate for 40 years. In 40 years, Amtrak has not turned a profit, and the Federal Government has had to subsidize it. Forty years. Yet here, after appropriating I think it was $1.3 billion in subsidy last year to keep Amtrak running, we're talking about providing another $800 million to Amtrak in this stimulus package.

Now I would argue that this is a mistake for two reasons. First, how can we continue to provide this kind of subsidy for a program that continually does not work? Every time a passenger steps aboard an Amtrak train, the Federal taxpayer spends an average of $210 in subsidy for that passenger. Not every year, not every month, but every time a passenger steps on the train, he or she receives a subsidy on the average of $210 from the Federal Government. Yet here we say Amtrak needs more. We haven't done enough.

We are not preparing it for privatization, or we haven't said, you have to bring your load factor up from less than 50 percent. I think it was some 47 percent last year. The airlines have a load factor around 80 percent. But no, we say, let's just give you more subsidy. Let's keep you going as you are

so you don't have to reform. Some reforms supposedly have been put in place, but not reforms that have actually increased the load factor or made Amtrak run any better, but rather it simply put it in need of more subsidies. That is the first reason we ought to oppose it. We're simply continuing and making it longer, stretching the time from which we will see a profitable system.

Second, regardless of the public good argument that you can make or not make in regard to this legislation for Amtrak, you ought to make the argument, or you should make, that this is not stimulus. How in the world is providing another $800 million to a program that continues to fail to turn a profit, a program that we have to continue to subsidize to the tune of $210 per passenger on the average, how can we even argue at all that this is stimulus, that this is somehow good for the economy, that this is the best use for this money, that it's better than letting the taxpayers actually keep it and spend it as they wish, it's better than any other purpose, that we should provide it to a system that is failing, and that is going to stimulate the economy.

I would argue that if you're providing it to a program that continues to run deficits, requiring subsidies of over $1 billion a year, that should tell us, man, we ought to change something here. Maybe we ought to provide stimulus in some other way, some way that would actually stimulate the economy.

Mr. LEWIS of California. Will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from California.

Mr. LEWIS of California. The Members may find it rather amazing to have me rise to be actively supporting an amendment by my colleague from Arizona. The last time I found myself doing that was when I heard in some mix that my friend from Arizona was opposed to subsidies for agriculture, and that is actually in your district. But this one I absolutely climb aboard, and I'm going to ride the train with you all the way.

Mr. FLAKE. Oh, good. I thought I was going to be thrown under the train again. It's nice to have some agreement. But yes. This is simply that if you want to look at it in terms of is this a good idea to continue to subsidize like this? No. Is it stimulus? Certainly not. Certainly not.

I reserve the balance of my time.

Mr. OLVER. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. OLVER. Mr. Chairman, this amendment by the gentleman from Arizona would strike all of the funding for Amtrak, the National Railroad Passenger Corporation.

I want to remind people that the primary objective of this economic recovery bill is to fund ready-to-go projects that create jobs quickly. And very few programs in this bill do that as fast as Amtrak. Amtrak has $1.3 billion in ready-to-go projects that it can spend out in fiscal 2009 and twice that that can be used in fiscal year 2010. Jobs will be created immediately nationwide and include repairing infrastructure, renovating stations to comply with the Americans with Disabilities Act and rehabilitating or purchasing rolling stock for the company.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. I would simply state, I was just told that I'm going to strike all the funding for Amtrak. It makes it sound like we're taking all the funding for Amtrak. I should point out this takes none of the funding from Amtrak that we've approved in the regular appropriation cycle. I wish it did strike it. But it doesn't. As I mentioned, I think we have already provided in the last appropriation bill $1.3 billion in subsidy. This is, yes, $1.3 billion in subsidy. This is another $800 million in addition to that in the stimulus bill that is supposedly supposed to stimulate the economy.

Let me say something else. Some may argue that we have to have Amtrak because so many people rely on it and that it's their only form of transportation. The actual statistics are that less than one-half of 1 percent of intercity travelers rely on Amtrak for travel, less than one-half of 1 percent. So this is not something that we have to say, oh, we've got to subsidize it again in the form of stimulus because so many people rely on it for transportation.

I would say please adopt the amendment.

I yield back the balance of my time.

Mr. OLVER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida, the chairwoman of the Railroad Subcommittee.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I rise in strong opposition to this amendment.

I just finished a 5-hour hearing where we had both passenger rail and freight rail in a hearing. And we have the second largest committee in infrastructure in the entire Congress because there is such an interest in passenger rail.

My colleague, I got some breaking news for you. There is no form of transportation that pays for itself, none whatsoever, whether we are talking about rail, airlines or cars, none of it. We subsidize all of it. The chairman of the committee had recommended $5 billion for rail. This is a very bad idea. I'm encouraging all of my colleagues to vote ''no.'' Kill this bad idea before it multiplies.

Mr. OLVER. Mr. Chairman, how much time do I have?

The CHAIR. The gentleman from Massachusetts has 3 minutes remaining.

Mr. OLVER. Mr. Chairman, let me remind my colleagues, Amtrak provides intercity passenger rail service over approximately 20,000 miles in 46 States which are owned by private freight railroads. But it also owns and maintains 1,000 miles of track, particularly in the Northeast Corridor, and half of all of Amtrak's passengers are carried in the Northeast Corridor.

□ 1500

Amtrak has been consistently undercapitalized during its 37 years' existence. The Department of Transportation's Inspector General estimates that Amtrak's capital backlog on the Northeast Corridor alone exceeds $10 billion to reach a state of good repair.

On the NEC, some bridges date to the late 1800s. The electric tracking system between New York and Washington was funded by the Works Progress Administration as part of a 1930 stimulus bill, economic stimulus. The speed and the capacity and the safety of the Northeast Corridor rail passenger operations are at risk.

This amendment should be defeated, and I urge that there be a ''no'' vote.

I yield the remainder of my time to the chairman—or the ranking member.

Mr. MICA. Thank you. And I don't feel uncomfortable over on this side.

But let me say that this is the wrong amendment at the wrong time here. We just finished, after 11 years of not having an Amtrak reauthorization, in a bipartisan manner we put together reforms for Amtrak that have been called for. Now we have an opportunity—and we've worked together to reform it—to actually get it moving to provide a difference in transportation alternatives, to provide a difference in energy-efficient transportation, to provide a difference in the environment. So why would we want to stop projects that need the funding now and are ready to go and we've made the reforms?

So I do not support the Flake amendment and urge my colleagues to vote against it. And let's get Amtrak transportation and infrastructure moving in this country.

Mr. OBERSTAR. Mr. Chair, I rise in strong opposition to the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The Flake amendment strikes $800 million in capital grants for Amtrak to repair, rehabilitate, and upgrade its assets and infrastructure.

The gentleman's amendment is misguided. Today, we are in the midst of an intercity passenger rail renaissance. People are demanding greater access to Amtrak as an alternative to our over-congested roads and airways; to address continuing anxieties over the cost of fuel; and to combat global warming.

Indeed, Amtrak served more than 28.7 million passengers last year, the sixth straight fiscal year of record ridership.

The $800 million provided in H.R. 1 will create and sustain family-wage construction and manufacturing jobs and is critical to meeting the national demand for improved Amtrak service. It will help Amtrak overhaul, upgrade, and expand its rolling stock; make required ADA compliance upgrades to Amtrak stations; compete a range of needed station and facility improvements that will brag them to a state-of-

good repair; alleviate rail "chokepoints" outside the Northeast Corridor; improve trip time and reliability; improve safety features on the network; and increase the pace of the implementation of security improvements across the Amtrak network.

Supporting the Flake amendment would not only kill this investment in our nation's mobility, it would also kill the benefits flowing from this investment, including the creation of thousands of new jobs, helping our beleaguered rail and steel industries, and improving the flow of our nation's freight traffic. Supporting this amendment will only hurt America's efforts as it seeks to recover from the current economic crisis.

I urge my colleagues to join me in opposing the gentleman's amendment.

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. KISSELL

The CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 111–9.

Mr. KISSELL. Mr. Chairman, I rise to bring forth an amendment that will be known as the Berry Amendment Extension Act.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. KISSELL:

Page 111, after line 7 insert the following new section:

SEC. 7005. PROCUREMENT FOR DEPARTMENT OF HOMELAND SECURITY.

(a) REQUIREMENT.—Except as provided in subsections (c) through (e), 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.

(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, or covers;

(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.

(d) 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.

(e) 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.

(f) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

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

(h) 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 know as FedBizOps.gov (or any successor site).

(i) TRAINING DURING FISCAL YEAR 2008.—

(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 work force developed or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—No provision of this section shall apply to the extent the Secretary of Homeland Security, in consultation with the United States Trade Representative, determines that it is in inconsistent with United States obligations under an international agreement.

(2) REPORT.—The Secretary of Homeland Security shall submit a report each year to Congress containing, with respect to the year covered by the report—

(A) a list of each provision of this section that did not apply during that year pursuant to a determination by the Secretary under paragraph (1); and

(B) a list of each contract awarded by the Department of Homeland Security during that year without regard to a provision in this section because that provision was made inapplicable pursuant to such a determination.

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

The CHAIR. Pursuant to House Resolution 92, the gentleman from North Carolina (Mr. KISSELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. KISSELL. Mr. Chairman, the Berry Amendment has been in effect for over 60 years and has allowed the Department of Defense to purchase uniforms and other textile apparels as needed for our military to be made and manufactured here in the United States.

We know that textiles has brought forth the industrial revolution to the United States from its very beginnings, but not any industry has been hurt any more than textile has in the last few years in terms of lost employment.

Over 60,000 jobs have been lost throughout the Nation in the last year; over 8,000 of those jobs in my home State of North Carolina, over 44 factories have closed. We have thousands of Americans that are ready, willing and able to work, and we're being asked to consider a recovery and reinvestment program to put Americans to work.

This amendment would simply extend the Berry Act to be able to have Homeland Security to purchase uniforms for the TSA to be made in the United States. It would accomplish what we're looking for in the Recovery and Reinvestment Act, it would put Americans to work, and furthermore, it would keep Americans working.

We know that we have lost so many jobs in this area. We have the people that are ready, willing and able to work. I worked in textiles for 27 years. I watched the jobs leave and good people be left wondering where their meals are coming from and how they're going to take care of their families. This is an opportunity to put Americans to work and keep them at work. And what could be better than using our money, our taxpayers' money for that purpose and to put uniforms on the people that serve us?

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from California is recognized.

Mr. LEWIS of California. It is not my intention to take much of that time, but I would yield 30 seconds to Mr. WESTMORELAND.

Mr. WESTMORELAND. Mr. KISSELL, I would yield to you. Do you think it's wise for your constituents that you're trying to help to spend $225,000 per job that pays $50,000?

Mr. KISSELL. That is an incorrect figure, sir; it is less than that. Americans are competitive, and if we're going to spend American taxpayers' money, let's put Americans to work.

Mr. WESTMORELAND. Mr. KISSELL, do you think it's worth your constituents saying that your district would pay $2 billion to create the amount of jobs——

The CHAIR. The gentleman's time has expired.

Mr. KISSELL. I recognize the gentleman from North Carolina, Mr. DAVID PRICE, for 1 minute.

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of the amendment of my North Carolina colleague, Mr. KISSELL. It would apply to the Department of Homeland Security purchasing rules similar to those required of the Defense Department under the Berry Amendment, requiring DHS to purchase clothing and other textile products grown, reprocessed, reused or produced in the U.S. and its possessions.

The proposed amendment would give the Secretary of Homeland Security some flexibility to waive the domestic source requirements in cases where there are inadequate domestic sources to meet the Department's needs. The amendment also makes clear that it would not apply when inconsistent with U.S. obligations under international agreements.

I, nevertheless, have some reservations about how the amendment might restrict the Department in carrying out its Homeland Security mission. The Department is already subject to ''buy American'' requirements. This amendment would go significantly further in requiring 100 percent U.S. content of products, a target that could be impractical or unreasonably costly in some circumstances.

However, I appreciate my colleague's intentions with this amendment. I will be happy to support the amendment with the understanding that some modifications may be required to ensure that it does not pose an undue burden on the Department and it does not compromise the ability of the Department to carry out its Homeland Security mission. I look forward to working with the gentleman to make any needed refinements going forward.

Mr. LEWIS of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania.

Mr. TIM MURPHY of Pennsylvania. In this $835 billion bill being described as a ''jobs'' bill, it's good to see Representative KISSELL was able to offer this amendment to ensure American cloth is used for these uniforms. His arguments are compelling that we should support U.S. jobs.

I offered a similar amendment to the health information technology portion; $20 billion spending there. It was stripped out after the Energy and Commerce Committee passed it unanimously and then rejected by the Rules Committee.

This bill also has a lot of other spending which is not protected for U.S. jobs; $600 million for cars—no guarantee they're U.S. cars; $400 million for fuel-efficient buses. Guarantees for Americans? Not so much. How about $871 million for computers at the State Department, Agriculture and States? No. Nine hundred million for a new computing center for the Social Security Administration? Not there. Two hundred million for scientific equipment for the U.S. Geological Survey? Nope. Five hundred million for new detection systems for the Department of Homeland Security? Absent. How about $6.5 billion for broadband? No guarantee made in the USA. How about $7.7 billion for Federal building construction? Not there.

If this is an American jobs bill, shouldn't we have included ''buy American'' clauses for these other areas as well? It's disappointing and frustrating that what happened with this bill in the Energy and Commerce Committee was actively removed, and then it was refused by the Rules Committee.

I'm glad that we're going to be supporting American textiles. I'm happy we're going to be supporting American steel. In a jobs bill, I'm frustrated that there are no guarantees in here that so many of these other jobs aren't going to happen in the United States.

I worry that of these billions of dollars being spent, much of these parts for computers, services and materials are going to be made overseas. That's not about American jobs.

Mr. KISSELL. Mr. Chairman, I recognize the gentleman from North Carolina, HOWARD COBLE, for 2 minutes.

Mr. COBLE. I thank the gentleman for yielding.

Mr. Chairman, this amendment will immediately help textile and apparel companies because it will cover all uniforms purchased by the Transportation Security Administration employees.

The program can easily be expanded by the Obama administration to cover FEMA, U.S. Customs, Border Protection, and U.S. Immigration Service, nearly 100,000 uniformed employees in all.

And as an aside, my friend from North Carolina has already mentioned it, but the apparel and textile sector has been plagued as a result of the dismal economic climate that we face now. They've lost over 60,000 jobs during the last 12 months. North Carolina alone has lost 8,000 textile and apparel jobs. Forty-four textile plants in America were closed during the past year, 14 in North Carolina.

And not unlike my friend, Mr. KISSELL, I, too, come from a textile family. My mama was a textile worker; sewed pockets in overalls at the old Blue Bell plant in Greensboro. So I know the significance of a textile check subsidizing the family income.

I urge support of this amendment, and I urge my colleagues to support it as well.

Mr. KISSELL. Mr. Chairman, may I inquire as to the time remaining?

The CHAIR. The gentleman from North Carolina has 30 seconds.

Mr. KISSELL. I would just like to conclude by saying we're going to put Americans to work making uniforms for those who protect us. It's a good use of tax money.

Mr. THOMPSON of Mississippi. Mr. Chariman, first, I want to thank the Representative from North Carolina, Mr. KISSELL for his amendment. The original Berry amendment covering procurement for the United States Military has ensured that U.S. troops wore military uniforms made from U.S. textiles and manufactured by U.S. factories since the beginning of World War II.

As we know, things have changed dramatically since 1941. Since 2003, the Department of Homeland Security has also been working hard to provide our citizens with added security both at home and abroad. With over 100,000 uniformed employees, I believe that it is imperative that Berry admendment be extended to include uniform and textile purchases at the Department of Homeland Security and offer my overwhelming support for this amendment.

Recent press reports have shown there are numerous questions of security and safety related to the current procurement process for these items. From the case of Customs and Border Protection uniforms and badges being manufactured in Mexico, to the most recent case of Transportation Security Officers reporting allergic reactions to the formaldehyde used in the production of their new uniforms, we can see the added benefit to not only the U.S. textile and manufacturing industry, but in ensuring that these uniformed employees, receive the quality that they deserve. I, like others, am deeply concerned that we could have people crossing the border illegally wearing CBP or TSA uniforms manufactured in foreign countries.

Chairman, as you know, manufacturing as a whole has been on a steady decline. My own state of Mississippi, much like many others, such as North Carolina, have been negatively impacted by the increase in overseas production of goods. I believe that this legislation is not only about security and safety, but also a way to help those communities that rely on the textile and manufacturing industry.

While the amendment by Mr. KISSELL is a great step to ensuring that all DHS uniforms and textile purchases are made with U.S. components and in U.S. factories, I also believe that it should also be ultimately made permanent during the 111th Congress through the DHS Authorization process.

Thank you for the opportunity to express my support for this important amendment and I encourage all of my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from North Carolina (Mr. KISSELL).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. PLATTS

The CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 111–9.

Mr. PLATTS. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 Offered by Mr. PLATTS:

Page 35, after line 5, insert the following:

PART 4—FURTHER ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

SEC. 1261. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This part may be cited as the ''Whistleblower Protection Enhancement Act of 2009''.

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

PART 4—FURTHER ACCOUNTABILITY AND TRANSPARENCY PROVISIONS

Sec. 1261. Short title; table of contents.
Sec. 1262. Clarification of disclosures covered.
Sec. 1263. Definitional amendments.
Sec. 1264. Rebuttable presumption.
Sec. 1265. Nondisclosure policies, forms, and agreements.
Sec. 1266. Exclusion of agencies by the President.
Sec. 1267. Disciplinary action.
Sec. 1268. Government Accountability Office study on revocation of security clearances.
Sec. 1269. Alternative recourse.
Sec. 1270. National security whistleblower rights.
Sec. 1271. Enhancement of contractor employee whistleblower protections.
Sec. 1272. Prohibited personnel practices affecting the Transportation Security Administration.
Sec. 1273. Clarification of whistleblower rights relating to scientific and other research.
Sec. 1274. Effective date.

SEC. 1262. CLARIFICATION OF DISCLOSURES COVERED.

(a) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction as to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation''; and

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction as to time, place, form, motive, context, forum, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, of information that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''.

(b) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—Title 5, United States Code, is amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214 and in subsections (a) and (e)(1) of section 1221 by inserting ''or 2302(b)(9)(B)–(D)'' after ''section 2302(b)(8)'' each place it appears.

SEC. 1263. DEFINITIONAL AMENDMENTS.

(a) DISCLOSURE.—Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking ''and'' at the end;

(2) in subparagraph (C)(iii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) 'disclosure' means a formal or informal communication, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

''(i) any violation of any law, rule, or regulation; or

''(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.''.

(b) CLEAR AND CONVINCING EVIDENCE.—Sections 1214(b)(4)(B)(ii) and 1221(e)(2) of title 5, United States Code, are amended by adding at the end the following: ''For purposes of the preceding sentence, 'clear and convincing evidence' means evidence indicating that the matter to be proved is highly probable or reasonably certain.''.

SEC. 1264. REBUTTABLE PRESUMPTION.

Section 2302(b) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that such employee or applicant has disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to or readily ascertainable by the employee or applicant could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.''.

SEC. 1265. NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.

(a) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (x), by striking ''and'' at the end;

(2) by redesignating clause (xi) as clause (xii); and

(3) by inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement; and''.

(b) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(1) in paragraph (11), by striking ''or'' at the end;

(2) by redesignating paragraph (12) as paragraph (14); and

(3) by inserting after paragraph (11) the following:

''(12) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosures to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 and following) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.';

''(13) conduct, or cause to be conducted, an investigation, other than any ministerial or nondiscretionary factfinding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section; or''.

SEC. 1266. EXCLUSION OF AGENCIES BY THE PRESIDENT.

Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency; or

''(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

SEC. 1267. DISCIPLINARY ACTION.

Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

''(3)(A) A final order of the Board may impose—

''(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

''(ii) an assessment of a civil penalty not to exceed $1,000; or

''(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under paragraph (8) or (9) of section 2302(b), the Board shall impose disciplinary action if the Board finds that the activity protected under such paragraph (8) or (9) (as the case may be) was the primary motivating factor, unless that employee demonstrates, by a preponderance of the evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

SEC. 1268. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON REVOCATION OF SECURITY CLEARANCES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of security clearance revocations, taking effect after 1996, with respect to personnel that filed claims under chapter 12 of title 5, United States Code, in connection therewith. The study shall consist of an examination of the number of such clearances revoked, the number restored, and the relationship, if any, between the resolution of claims filed under such chapter and the restoration of such clearances.

(b) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the study required by subsection (a).

SEC. 1269. ALTERNATIVE RECOURSE.

(a) IN GENERAL.—Section 1221 of title 5, United States Code, is amended by adding at the end the following:

''(k)(1) If, in the case of an employee, former employee, or applicant for employment who seeks corrective action (or on behalf of whom corrective action is sought) from the Merit Systems Protection Board based on an alleged prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D), no final order or decision is issued by the Board within 180 days after the date on which a request for such corrective action has been duly submitted (or, in the event that a final order or decision is issued by the Board, whether within that 180-day

period or thereafter, then, within 90 days after such final order or decision is issued, and so long as such employee, former employee, or applicant has not filed a petition for judicial review of such order or decision under subsection (h))—

''(A) such employee, former employee, or applicant may, after providing written notice to the Board, bring an action at law or equity for de novo review in the appropriate United States district court, which shall have jurisdiction over such action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury; and

''(B) in any such action, the court—

''(i) shall apply the standards set forth in subsection (e); and

''(ii) may award any relief which the court considers appropriate, including any relief described in subsection (g).

An appeal from a final decision of a district court in an action under this paragraph may, at the election of the appellant, be taken to the Court of Appeals for the Federal Circuit (which shall have jurisdiction of such appeal), in lieu of the United States court of appeals for the circuit embracing the district in which the action was brought.

''(2) For purposes of this subsection, the term 'appropriate United States district court', as used with respect to an alleged prohibited personnel practice, means the United States district court for the district in which the prohibited personnel practice is alleged to have been committed, the judicial district in which the employment records relevant to such practice are maintained and administered, or the judicial district in which resides the employee, former employee, or applicant for employment allegedly affected by such practice.

''(3) This subsection applies with respect to any appeal, petition, or other request for corrective action duly submitted to the Board, whether pursuant to section 1214(b)(2), the preceding provisions of this section, section 7513(d), or any otherwise applicable provisions of law, rule, or regulation.''.

(b) REVIEW OF MSPB DECISIONS.—Section 7703(b) of such title 5 is amended—

(1) in the first sentence of paragraph (1), by striking ''the United States Court of Appeals for the Federal Circuit'' and inserting ''the appropriate United States court of appeals''; and

(2) by adding at the end the following:

''(3) For purposes of the first sentence of paragraph (1), the term 'appropriate United States court of appeals' means the United States Court of Appeals for the Federal Circuit, except that in the case of a prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D) (other than a case that, disregarding this paragraph, would otherwise be subject to paragraph (2)), such term means the United States Court of Appeals for the Federal Circuit and any United States court of appeals having jurisdiction over appeals from any United States district court which, under section 1221(k)(2), would be an appropriate United States district court for purposes of such prohibited personnel practice.''.

(c) COMPENSATORY DAMAGES.—Section 1221(g)(1)(A)(ii) of such title 5 is amended by striking all after ''travel expenses,'' and inserting ''any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1221(h) of such title 5 is amended by adding at the end the following:

''(3) Judicial review under this subsection shall not be available with respect to any decision or order as to which the employee, former employee, or applicant has filed a petition for judicial review under subsection (k).''.

(2) Section 7703(c) of such title 5 is amended by striking ''court.'' and inserting ''court, and in the case of a prohibited personnel practice described in section 2302(b)(8) or 2302(b)(9)(B)–(D) brought under any provision of law, rule, or regulation described in section 1221(k)(3), the employee or applicant shall have the right to de novo review in accordance with section 1221(k).''.

SEC. 1270. NATIONAL SECURITY WHISTLEBLOWER RIGHTS.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended by inserting after section 2303 the following:

''§ 2303a. National security whistleblower rights

''(a) PROHIBITION OF REPRISALS.—

''(1) IN GENERAL.—In addition to any rights provided in section 2303 of this title, title VII of Public Law 105–272, or any other provision of law, an employee or former employee in a covered agency may not be discharged, demoted, or otherwise discriminated against (including by denying, suspending, or revoking a security clearance, or by otherwise restricting access to classified or sensitive information) as a reprisal for making a disclosure described in paragraph (2).

''(2) DISCLOSURES DESCRIBED.—A disclosure described in this paragraph is any disclosure of covered information which is made—

''(A) by an employee or former employee in a covered agency (without restriction as to time, place, form, motive, context, or prior disclosure made to any person by an employee or former employee, including a disclosure made in the course of an employee's duties); and

''(B) to an authorized Member of Congress, an authorized official of an Executive agency, or the Inspector General of the covered agency in which such employee or former employee is or was employed.

''(b) INVESTIGATION OF COMPLAINTS.—An employee or former employee in a covered agency who believes that such employee or former employee has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General and the head of the covered agency. The Inspector General shall investigate the complaint and, unless the Inspector General determines that the complaint is frivolous, submit a report of the findings of the investigation within 120 days to the employee or former employee (as the case may be) and to the head of the covered agency.

''(c) REMEDY.—

''(1) Within 180 days of the filing of the complaint, the head of the covered agency shall, taking into consideration the report of the Inspector General under subsection (b) (if any), determine whether the employee or former employee has been subjected to a reprisal prohibited by subsection (a), and shall either issue an order denying relief or shall implement corrective action to return the employee or former employee, as nearly as possible, to the position he would have held had the reprisal not occurred, including voiding any directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information that constituted a reprisal, as well as providing back pay and related benefits, medical costs incurred, travel expenses, any other reasonable and foreseeable consequential damages, and compensatory damages (including attorney's fees, interest, reasonable expert witness fees, and costs). If the head of the covered agency issues an order denying relief, he shall issue a report to the employee or former employee detailing the reasons for the denial.

''(2)(A) If the head of the covered agency, in the process of implementing corrective action under paragraph (1), voids a directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information that constituted a reprisal, the head of the covered agency may re-initiate procedures to issue a directive or order denying, suspending, or revoking a security clearance or otherwise restricting access to classified or sensitive information only if those re-initiated procedures are based exclusively on national security concerns and are unrelated to the actions constituting the original reprisal.

''(B) In any case in which the head of a covered agency re-initiates procedures under subparagraph (A), the head of the covered agency shall issue an unclassified report to its Inspector General and to authorized Members of Congress (with a classified annex, if necessary), detailing the circumstances of the agency's re-initiated procedures and describing the manner in which those procedures are based exclusively on national security concerns and are unrelated to the actions constituting the original reprisal. The head of the covered agency shall also provide periodic updates to the Inspector General and authorized Members of Congress detailing any significant actions taken as a result of those procedures, and shall respond promptly to inquiries from authorized Members of Congress regarding the status of those procedures.

''(3) If the head of the covered agency has not made a determination under paragraph (1) within 180 days of the filing of the complaint (or he has issued an order denying relief, in whole or in part, whether within that 180-day period or thereafter, then, within 90 days after such order is issued), the employee or former employee may bring an action at law or equity for de novo review to seek any corrective action described in paragraph (1) in the appropriate United States district court (as defined by section 1221(k)(2)), which shall have jurisdiction over such action without regard to the amount in controversy. An appeal from a final decision of a district court in an action under this paragraph may, at the election of the appellant, be taken to the Court of Appeals for the Federal Circuit (which shall have jurisdiction of such appeal), in lieu of the United States court of appeals for the circuit embracing the district in which the action was brought.

''(4) An employee or former employee adversely affected or aggrieved by an order issued under paragraph (1), or who seeks review of any corrective action determined under paragraph (1), may obtain judicial review of such order or determination in the United States Court of Appeals for the Federal Circuit or any United States court of appeals having jurisdiction over appeals from any United States district court which, under section 1221(k)(2), would be an appropriate United States district court. No petition seeking such review may be filed more than 60 days after issuance of the order or the determination to implement corrective action by the head of the agency. Review shall conform to chapter 7.

''(5)(A) If, in any action for damages or relief under paragraph (3) or (4), an Executive agency moves to withhold information from discovery based on a claim that disclosure would be inimical to national security by asserting the privilege commonly referred to as the 'state secrets privilege', and if the assertion of such privilege prevents the employee or former employee from establishing

an element in support of the employee's or former employee's claim, the court shall resolve the disputed issue of fact or law in favor of the employee or former employee, provided that an Inspector General investigation under subsection (b) has resulted in substantial confirmation of that element, or those elements, of the employee's or former employee's claim.

''(B) In any case in which an Executive agency asserts the privilege commonly referred to as the 'state secrets privilege', whether or not an Inspector General has conducted an investigation under subsection (b), the head of that agency shall, at the same time it asserts the privilege, issue a report to authorized Members of Congress, accompanied by a classified annex if necessary, describing the reasons for the assertion, explaining why the court hearing the matter does not have the ability to maintain the protection of classified information related to the assertion, detailing the steps the agency has taken to arrive at a mutually agreeable settlement with the employee or former employee, setting forth the date on which the classified information at issue will be declassified, and providing all relevant information about the underlying substantive matter.

''(d) APPLICABILITY TO NON-COVERED AGENCIES.—An employee or former employee in an Executive agency (or element or unit thereof) that is not a covered agency shall, for purposes of any disclosure of covered information (as described in subsection (a)(2)) which consists in whole or in part of classified or sensitive information, be entitled to the same protections, rights, and remedies under this section as if that Executive agency (or element or unit thereof) were a covered agency.

''(e) CONSTRUCTION.—Nothing in this section may be construed—

''(1) to authorize the discharge of, demotion of, or discrimination against an employee or former employee for a disclosure other than a disclosure protected by subsection (a) or (d) of this section or to modify or derogate from a right or remedy otherwise available to an employee or former employee; or

''(2) to preempt, modify, limit, or derogate any rights or remedies available to an employee or former employee under any other provision of law, rule, or regulation (including the Lloyd-La Follette Act).

No court or administrative agency may require the exhaustion of any right or remedy under this section as a condition for pursuing any other right or remedy otherwise available to an employee or former employee under any other provision of law, rule, or regulation (as referred to in paragraph (2)).

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'covered information', as used with respect to an employee or former employee, means any information (including classified or sensitive information) which the employee or former employee reasonably believes evidences—

''(A) any violation of any law, rule, or regulation; or

''(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

''(2) the term 'covered agency' means—

''(A) the Federal Bureau of Investigation, the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, and the National Reconnaissance Office; and

''(B) any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii)(II) to have as its principal function the conduct of foreign intelligence or counterintelligence activities;

''(3) the term 'authorized Member of Congress' means—

''(A) with respect to covered information about sources and methods of the Central Intelligence Agency, the Director of National Intelligence, and the National Intelligence Program (as defined in section 3(6) of the National Security Act of 1947), a member of the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, or any other committees of the House of Representatives or Senate to which this type of information is customarily provided;

''(B) with respect to special access programs specified in section 119 of title 10, an appropriate member of the Congressional defense committees (as defined in such section); and

''(C) with respect to other covered information, a member of the House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, or any other committees of the House of Representatives or the Senate that have oversight over the program which the covered information concerns; and

''(4) the term 'authorized official of an Executive agency' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall, with respect to any employee or former employee in an agency, include the head, the general counsel, and the ombudsman of such agency.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by inserting after the item relating to section 2303 the following:

''2303a. National security whistleblower rights.''.

SEC. 1271. ENHANCEMENT OF CONTRACTOR EMPLOYEE WHISTLEBLOWER PROTECTIONS.

(a) CIVILIAN AGENCY CONTRACTS.—Section 315(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265(c)) is amended—

(1) in paragraph (1), by striking ''If the head'' and all that follows through ''actions:'' and inserting the following: ''Not later than 180 days after submission of a complaint under subsection (b), the head of the executive agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:''; and

(2) by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph (3):

''(3) If the head of an executive agency has not issued an order within 180 days after the submission of a complaint under subsection (b) and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted his administrative remedies with respect to the complaint, and the complainant may bring an action at law or equity for de novo review 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, and which action shall, at the request of either party to such action, be tried by the court with a jury.''.

(b) ARMED SERVICES CONTRACTS.—Section 2409(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''If the head'' and all that follows through ''actions:'' and inserting the following: ''Not later than 180 days after submission of a complaint under subsection (b), the head of the agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:''; and

(2) by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph (3):

''(3) If the head of an agency has not issued an order within 180 days after the submission of a complaint under subsection (b) and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted his administrative remedies with respect to the complaint, and the complainant may bring an action at law or equity for de novo review 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, and which action shall, at the request of either party to such action, be tried by the court with a jury.''.

SEC. 1272. PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(1) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(2) by inserting after section 2303a (as inserted by section 1270) the following:

''§ 2304. Prohibited personnel practices affecting the Transportation Security Administration

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

''(1) the provisions of section 2302(b)(1), (8), and (9);

''(2) any provision of law implementing section 2302(b)(1), (8), or (9) by providing any right or remedy available to an employee or applicant for employment in the civil service; and

''(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.

''(c) EFFECTIVE DATE.—This section shall take effect as of the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and by inserting the following:

''2304. Prohibited personnel practices affecting the Transportation Security Administration.

''2305. Responsibility of the Government Accountability Office.

''2306. Coordination with certain other provisions of law.''.

SEC. 1273. CLARIFICATION OF WHISTLEBLOWER RIGHTS RELATING TO SCIENTIFIC AND OTHER RESEARCH.

(a) IN GENERAL.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(f) As used in section 2302(b)(8), the term 'abuse of authority' includes—

''(1) any action that compromises the validity or accuracy of federally funded research or analysis;

''(2) the dissemination of false or misleading scientific, medical, or technical information;

''(3) any action that restricts or prevents an employee or any person performing federally funded research or analysis from publishing in peer-reviewed journals or other scientific publications or making oral presentations at professional society meetings or other meetings of their peers; and

''(4) any action that discriminates for or against any employee or applicant for employment on the basis of religion, as defined by section 1273(b) of the Whistleblower Protection Enhancement Act of 2009.''.

(b) DEFINITION.—As used in section 2302(f)(3) of title 5, United States Code (as amended by subsection (a)), the term ''on the basis of religion'' means—

(1) prohibiting personal religious expression by Federal employees to the greatest extent possible, consistent with requirements of law and interests in workplace efficiency;

(2) requiring religious participation or nonparticipation as a condition of employment, or permitting religious harassment;

(3) failing to accommodate employees' exercise of their religion;

(4) failing to treat all employees with the same respect and consideration, regardless of their religion (or lack thereof);

(5) restricting personal religious expression by employees in the Federal workplace except where the employee's interest in the expression is outweighed by the government's interest in the efficient provision of public services or where the expression intrudes upon the legitimate rights of other employees or creates the appearance, to a reasonable observer, of an official endorsement of religion;

(6) regulating employees' personal religious expression on the basis of its content or viewpoint, or suppressing employees' private religious speech in the workplace while leaving unregulated other private employee speech that has a comparable effect on the efficiency of the workplace, including ideological speech on politics and other topics;

(7) failing to exercise their authority in an evenhanded and restrained manner, and with regard for the fact that Americans are used to expressions of disagreement on controversial subjects, including religious ones;

(8) failing to permit an employee to engage in private religious expression in personal work areas not regularly open to the public to the same extent that they may engage in nonreligious private expression, subject to reasonable content- and viewpoint-neutral standards and restrictions;

(9) failing to permit an employee to engage in religious expression with fellow employees, to the same extent that they may engage in comparable nonreligious private expression, subject to reasonable and content-neutral standards and restrictions;

(10) failing to permit an employee to engage in religious expression directed at fellow employees, and may even attempt to persuade fellow employees of the correctness of their religious views, to the same extent as those employees may engage in comparable speech not involving religion;

(11) inhibiting an employee from urging a colleague to participate or not to participate in religious activities to the same extent that, consistent with concerns of workplace efficiency, they may urge their colleagues to engage in or refrain from other personal endeavors, except that the employee must refrain from such expression when a fellow employee asks that it stop or otherwise demonstrates that it is unwelcome;

(12) failing to prohibit expression that is part of a larger pattern of verbal attacks on fellow employees (or a specific employee) not sharing the faith of the speaker;

(13) preventing an employee from—

(A) wearing personal religious jewelry absent special circumstances (such as safety concerns) that might require a ban on all similar nonreligious jewelry; or

(B) displaying religious art and literature in their personal work areas to the same extent that they may display other art and literature, so long as the viewing public would reasonably understand the religious expression to be that of the employee acting in her personal capacity, and not that of the government itself;

(14) prohibiting an employee from using their private time to discuss religion with willing coworkers in public spaces to the same extent as they may discuss other subjects, so long as the public would reasonably understand the religious expression to be that of the employees acting in their personal capacities;

(15) discriminating against an employee on the basis of their religion, religious beliefs, or views concerning their religion by promoting, refusing to promote, hiring, refusing to hire, or otherwise favoring or disfavoring, an employee or potential employee because of his or her religion, religious beliefs, or views concerning religion, or by explicitly or implicitly, insisting that the employee participate in religious activities as a condition of continued employment, promotion, salary increases, preferred job assignments, or any other incidents of employment or insisting that an employee refrain from participating in religious activities outside the workplace except pursuant to otherwise legal, neutral restrictions that apply to employees' off-duty conduct and expression in general (such as restrictions on political activities prohibited by the Hatch Act);

(16) prohibiting a supervisor's religious expression where it is not coercive and is understood to be his or her personal view, in the same way and to the same extent as other constitutionally valued speech;

(17) permitting a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers, as determined by its frequency or repetitiveness, and severity;

(18) failing to accommodate an employee's exercise of their religion unless such accommodation would impose an undue hardship on the conduct of the agency's operations, based on real rather than speculative or hypothetical cost and without disfavoring other, nonreligious accommodations; and

(19) in those cases where an agency's work rule imposes a substantial burden on a particular employee's exercise of religion, failing to grant the employee an exemption from that rule, absent a compelling interest in denying the exemption and where there is no less restrictive means of furthering that interest.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to create any new right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 1274. EFFECTIVE DATE.

This part shall take effect 30 days after the date of the enactment of this Act, except as provided in the amendment made by section 1272(a)(2).

The CHAIR. Pursuant to House Resolution 92, the gentleman from Pennsylvania (Mr. PLATTS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. PLATTS. Mr. Chairman, the amendment that I'm offering with my colleague from Maryland (Mr. VAN HOLLEN) would insert the text of the Whistleblower Protection Enhancement Act—H.R. 985 in the last session—into the underlying legislation.

H.R. 985 passed by a bipartisan vote of 331–94 in 2007. This amendment strengthens the inadequate protections currently afforded to Federal employees who report illegalities, gross mismanagement and waste, and specific dangers to the public health and safety.

As proposed, the underlying bill includes whistleblower protections for the employees of recipients of Federal funds approved through this bill, including State and local employees and government contractors. Federal employees responsible for overseeing the hundreds of billions of dollars in spending in this bill, however, will remain inadequately protected unless this amendment is adopted.

In 1989, as a result of findings that the civil service protections of the time were inadequate, Congress and the first Bush administration enacted into law the original Whistleblower Protection Act (WPA). In response to decisions by the Merit Systems Protection Board and the Federal Circuit Court weakening the WPA, Congress adopted additional whistleblower protections in 1994.

Unfortunately, we are once again back to where we started. Since the 1994 amendments were adopted, more than 200 whistleblower cases have come before the Federal Circuit Court; however, only three whistleblowers have prevailed.

The Federal Circuit Court has weakened whistleblower protections by requiring that for a Federal employee to reasonably believe there is evidence of waste, fraud or abuse, he or she must overcome with ''irrefragable proof'' the presumption that the agency was acting in good faith. This is an unheard of legal standard defined in the dictionary as ''impossible to refute.''

With the enactment of this amendment, the court and administrative decisions that undermine whistleblower protections would be overturned. This amendment replaces the irrefragable proof standard with a reasonable belief standard, grants employees the right to a jury trial in Federal court if the head of an agency does not take action within 180 days, and ends the Federal Circuit Court's monopoly jurisdiction.

Given the amount of money involved in the underlying legislation, Federal whistleblower protections will be that much more important to ensure effective oversight and accountability. As such, I urge adoption of this amendment.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Chairman, I would like to commend Mr. PLATTS, Mr. WAXMAN, Mr. TOWNS, Mr. TIERNEY, Mr. BRALEY and Mr. PRICE for their work on this important issue.

This economic recovery package contains about $550 billion in public funds to support important national priorities. We need to make sure these funds are effectively spent and that they're not lost through any waste, fraud or abuse.

The underlying bill provides protection for whistleblowers at the State and local level. What this amendment does is to make sure that our Federal employees also have whistleblower protections so if they see waste, fraud or abuse, they can report it without fear of retaliation or harm.

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And as Mr. PLATTS has said, what we're doing is simply putting the Whistleblower Protection Act that passed this body by a vote of 331–94 into this bill to make sure that these public funds are safeguarded and that we ensure accountability in the process. I think all of us would agree, regardless of our position on whether or not we should be putting any particular amount into public investment, we want that money safeguarded and protected against waste, fraud, and abuse. That's what this amendment is about.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Texas is recognized for 5 minutes in opposition.

Mr. REYES. Mr. Chairman, although I am not opposed to this amendment, I am concerned. I rise to speak about those concerns.

Mr. Chairman, today I rise to address briefly the Platts amendment. This amendment will make the changes to the law and procedures for whistleblowers, including national security whistleblowers. As chairman of the Intelligence Committee, this is a subject of great interest to me, and I thank both Mr. PLATTS and Mr. VAN HOLLEN for working to address my concerns.

I do believe that the procedure and process for national security whistleblowers deserve a fresh look. I voted for this bill when it came to the floor last Congress.

My concern, Mr. Chairman, is that there's a process to be followed here. This is an important issue, and I don't want it to get lost in the shuffle in the context of this critical stimulus bill. Rather than attach the amendment to a fast-moving appropriations bill where it essentially becomes a footnote, it should instead be subject to regular order, which will allow it to be refined and perfected.

As someone who spent his career as a Federal employee, I believe in strong whistleblower protections. I just think that this is a vital issue that needs to be done right. I don't want to rush to a solution.

The gentleman from Maryland (Mr. VAN HOLLEN), one of the sponsors of the amendment, has agreed that we will take care to address some of these specific concerns related to classified information and national security whistleblowers in conference. I want to thank him for that commitment, and I look forward to working with both Mr. VAN HOLLEN and Mr. PLATTS on this very important issue.

At this time, Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my distinguished chairman of the Intelligence Committee.

I am opposed to the amendment in its current form. I'm encouraged that Representatives VAN HOLLEN and PLATTS have indicated that they are willing to work with those of us on the Intelligence Committee to address some of the concerns that we have.

Why would we be concerned? I am strongly in favor of whistleblower reform, and I think that we need to open up the process for whistleblowers in the intelligence community so that we in the Intelligence Committee sometimes can have a better understanding of what's going on in the intelligence community. But this amendment makes some grievous errors.

First, it has nothing to do with economic stimulus. As the chairman stated, this should have gone through regular order, but that's not where we are today. I understand that a cottage industry seems to have developed in pundits and speculation on intelligence programs, but it's hard to see how this has anything to do with stimulating the economy.

The amendment makes significant and potentially problematic changes to the existing intelligence community whistleblower statute. Most notably, it would effectively allow individual employees to judge what classified programs they can and cannot discuss with Members outside the Intelligence Committees. This not only defeats the purpose of having an Intelligence Committee, it also significantly increases the risk that other committees of the House will receive and potentially act on bad information that they will be unable to fully and fairly evaluate. The House Intelligence Committee is the only committee in the House that deals with sources and methods, and it should stay that way.

I am encouraged that we are going to be able to work with the sponsors of this amendment through the process and make the necessary changes so that when it comes back from a conference committee that it will have addressed our concerns and it will reform the whistleblower statute effectively.

Mr. PLATTS. Mr. Chairman, I appreciate the chairman and ranking member's and Intelligence Committee's concerns. I look forward to working with them.

Mr. Chairman, I yield 30 seconds to the distinguished Member from Iowa (Mr. BRALEY).

Mr. BRALEY of Iowa. Mr. Chairman, I am very delighted, as the floor manager for the Whistleblower Protection Enhancement bill of 2007, to be here to speak in strong support of the Van Hollen-Platts amendment. There is no greater deterrent to waste, fraud, and abuse in the Federal Government than by providing strong remedies to Federal whistleblower, and this amendment does just that.

I'm also very pleased that the amendments I introduced in committee that were incorporated into the overall bill are going to be a strong part of the overall deterrent impact, and I urge my colleagues in the House to vote for this measure and give the Federal Government more teeth in enforcing the bill.

Mr. REYES. Mr. Chairman, I reserve the balance of my time.

Mr. PLATTS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of the amendment by my colleagues from Maryland and Pennsylvania. I voted for similar legislation in 2007 because I support the gentlemen's goal of adding these whistleblower protections for government workers.

However, as drafted, the amendment appears to be at odds with some Transportation Security Agency screener employment requirements and might have the unintended effects of reducing TSA's capacity to react to possible threats. So while I support this amendment, I do so with the understanding that we may need to perfect it in conference to ensure there are no unintended consequences.

Mr. PLATTS. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR (Mr. BRALEY of Iowa). The gentleman has 30 seconds remaining.

Mr. PLATTS. Mr. Chairman, I yield the remaining 30 seconds to the gentlewoman from Maine (Ms. PINGREE).

Ms. PINGREE of Maine. Mr. Chairman, I just want to add my support to this measure and thank the Members of this body who have worked so hard to bring this here previously and have also seen the wisdom of adding this into the stimulus package.

We have all been asked so many times how we're going to make sure this money is well spent, how we're going to make sure that our constituents get the value for which is in this. And I think this is the best protection that we have making sure that those people who have the information are there to tell us that.

I want to tell one quick story.

In 2004, Bunnatine Greenhouse, the highest-ranking civilian contracting officer at the Army Corps of Engineers, exposed a pattern of favoritism.

The Acting CHAIR. The time of the gentlewoman has expired.

Ms. PINGREE of Maine. I can't finish my story, but I want you to know that

she is one of the many workers that will be protected under this law, and I look forward to everyone's support.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. REYES. Mr. Chairman, again I rise to thank both sponsors of this amendment, Mr. VAN HOLLEN and Mr. PLATTS, for agreeing to work with us.

Mr. Chairman, I yield the balance of my time to Mr. VAN HOLLEN.

Mr. VAN HOLLEN. I thank Mr. REYES, the chairman of the Intelligence Committee, and the ranking member, Mr. HOEKSTRA. I again want to remind the House this is a bill that has been voted on here before. It passed with a bipartisan majority of 331–94. Nevertheless, Mr. PLATTS and I have agreed to address the concerns that have been raised by the Intelligence Committee. We will do that in consultation with the Senate and conference committee to make sure that we're all on the same page in agreement with respect to this national security component.

Mr. TOWNS. Mr. Chair, I rise in strong support of the bipartisan Platts/Van Hollen amendment. This amendment is identical to H.R. 985, the Whistleblower Protection Act of 2007, which passed the House with an overwhelming vote of 331 to 94, and which was reported by the Oversight and Government Reform Committee by a vote of 28 to 0.

The reason this measure enjoyed such strong, bipartisan support in the last Congress is that it was carefully crafted with input from both sides of the aisle. It is truly the result of bipartisan consultation and agreement on this issue. And I want to thank Representatives PLATTS and VAN HOLLEN for their hard work on this measure.

The amendment addresses several court decisions which have ignored the intent of Congress and created loopholes which undermine the current whistleblower statute's effectiveness and unreasonably limit the nature of disclosures protected under current law.

In addition, the amendment makes clear that national security workers, employees of the Transportation Security Administration, employees of government contractors, and workers who attempt to protect the integrity of federal science are all entitled to protection from retaliation for blowing the whistle.

Protecting whistleblowers is not a Democratic or Republican issue. It is an issue of importance to all Americans, because they are one of our most potent weapons against waste, fraud, and abuse. Ensuring that those who blow the whistle are protected from retaliation benefits all Americans.

I urge members to support this amendment.

Mr. BRALEY of Iowa. Mr. Chair, as the Floor Manager of the Whistleblower Protection Enhancement Act of 2007 last Congress, I rise today in strong support of the Platts/Van Hollen amendment to H.R. 1, the American Recovery and Reinvestment Act. This amendment, which would insert the text of H.R. 985, the Whistleblower Protection Enhancement Act from the 110th Congress, will strengthen protections for Federal employees who speak out against waste, fraud, and abuse. I'm glad that the amendment includes provisions I added last Congress to ensure that whistleblowers are protected by remedies that deter retaliation against them, and I believe the amendment is a critical addition to the strong oversight and accountability provisions already included in the underlying economic stimulus bill.

H.R. 985 passed the House with strong, bipartisan support in early 2007. While a similar bill also passed the Senate, unfortunately these enhanced whistleblower protections were not enacted into law. The inclusion of the Whistleblower Protection Enhancement Act in H.R. 1 gives us a chance to swiftly enact strong and urgently needed federal whistleblower protections. It will also help ensure that the taxpayer dollars allocated by this important economic stimulus bill are spent wisely and responsibly.

Whistleblowers have long been instrumental in alerting the public and the Congress to wrongdoing in Federal agencies. In many cases, the brave actions of whistleblowers have led to positive changes that have resulted in more responsible, safe, and ethical practices. In some instances, the actions of whistleblowers have even saved lives. Unfortunately, despite the importance of whistleblowers in ensuring government accountability and integrity, court decisions by the U.S. Court of Appeals for the Federal Circuit have undermined whistleblower protections and have unreasonably limited the scope of disclosures protected under current law.

Hearings held in the Committee on Oversight and Government Reform last Congress highlighted the need for expanded protections for workers who shed light on wrongdoing by government agencies and departments. Several hearings held by the Committee helped uncover waste and fraud in government contracting, both here in the United States, and in Iraq—waste and fraud which led to the loss of billions of taxpayer dollars, and jeopardized the safety of Americans here at home, and those serving abroad. At another hearing we learned that some officials in the Bush Administration sought to manipulate Federal climate science, compromising the health and safety of American families and the future of the planet, solely for political gain. Perhaps the starkest reminder of the need to protect those who refuse to remain silent in the face of government wrongdoing came at the Committee's March 2007 hearing at Walter Reed Army Medical Center, at which we learned about the terrible living conditions and bureaucratic hurdles that soldiers endured there. At the hearing, it became clear that nobody dared to complain about the squalid living conditions and inadequate care at what was supposed to be the best military medical facility in the world because of a fear of retribution. Because of this fear, it took an expose by a newspaper in order for action to be taken on these severe and systemic problems, and many of our nation's heroes had to suffer there for far too long.

The inclusion of the Whistleblower Protection Enhancement Act in H.R. 1 will make important changes to existing law to strengthen protections for government workers who speak out against illegal, wasteful, and dangerous practices. This bill protects all federal whistleblowers by clarifying that any disclosure pertaining to waste, fraud, or abuse, "without restriction as to time, place, form, motive, context, or prior disclosure," and including both formal and informal communication, is protected. The bill also gives whistleblowers access to timely action on their claims, allowing them access to federal district courts if the Merit Systems Protection Board does not take action on their claims within 180 days. In addition, the bill clarifies that national security workers, employees of government contractors, and those who blow the whistle on actions that compromise the integrity of federal science, are all entitled to whistleblower protection.

I'm also very pleased that this amendment includes language which I added to the Whistleblower Protection Enhancement Act in the 110th Congress to deter retaliation against federal whistleblowers. The provisions I added in the Oversight Committee mark-up of the bill will ensure that federal employees are protected by a right to a jury trial in whistleblower cases, and that federal employees are able to recover compensatory damages, including attorney's fees, interest, reasonable expert witness fees, and costs. These provisions are essential to ensuring that whistleblowers who face retaliation receive the fair hearings and justice that they deserve.

The passage of these important whistleblower protections is very timely and appropriate, as we prepare to make a historic investment in the American economy and American workers. I'm proud to be voting for the American Recovery and Reinvestment Act today to jumpstart the economy, create millions of jobs, and make critical investments in renewable energy, healthcare, education and technology, and infrastructure. An important component of this legislation is an unprecedented level of transparency, oversight, and accountability, including the creation of a Recovery Act Accountability and Transparency Board, increased resources for the Government Accountability Office and Inspectors General, and protections for state and local whistleblowers. The addition of the Whistleblower Protection Enhancement Act through the Platts/Van Hollen amendment will augment these important oversight and accountability provisions, and will help ensure the effectiveness and integrity of the stimulus bill. This amendment will not only protect federal whistleblowers, but will also protect American taxpayers.

In closing, I strongly urge my colleagues to vote in support of the Platts/Van Hollen amendment to the American Recovery and Reinvestment Act today. This amendment will ensure the wise use of taxpayer funds, the integrity of federal agencies and programs, and essential protections for federal whistleblowers now and far into the future.

Mr. THOMPSON of Mississippi. Mr. Chair, I rise today in support of the Amendment offered by Mr. PLATTS and Mr. VAN HOLLEN, which clarifies and expands whistleblower protections to federal employees and contractors.

In particular, I would like to speak in support of the provision to grant the Transportation Security Officers (TSOs) of the Transportation Security Administration the whistleblower protections they so rightly deserve. Mr. Chairman, our TSOs are not second class citizens and should not be treated as such.

In the 110th Congress, The Committee on Homeland Security worked to give a broad range of rights to TSOs in section 408 of H.R. 1. Whistleblower protections were a key part of this effort. Yet, when it came time to vote on our Conference Report, these protections were stripped from the final product. I am

therefore pleased to stand here today, in full support of this important and long overdue measure.

In 2001, when the Transportation Safety Administration (TSA) was created, Congress provided the TSA Administrator the power to set TSO compensation, leave, and other basic employment rights. While this initial vesting authority helped establish TSA, it continues to breed confusion and low marks for management. The time for personnel experiments is now over. TSOs deserve to be treated like every other employee—fairly and equitably.

This amendment takes an important first step to restore the basic rights of the TSO workforce by providing them with the same whistle-blowing rights as other federal workers.

If you do not set up a system where employees are protected, there is a disincentive to report offenses and the system remains inefficient and hinders transportation security. In the end, the American public may end up paying the price in terms of its security.

Finally, I would be remiss if I did not remind my colleagues that granting whistleblower rights to TSOs is not the end of our efforts; it must be the beginning of a sustained push for the rights of TSOs, so they are on par with their colleagues. We still have more work to do for the TSO workforce, such as fully providing them with collective-bargaining rights.

Providing basic employment protections and rights is critical to instill confidence in the workforce. These rights go a long way for the morale and the health of the workforce. In fact, earlier this week, an article was published that cited low marks for TSA management by the workforce on recognition and rewards for performance and promotion practices. I am submitting the article for inclusion in the RECORD. We are obligated to provide the most basic labor protections to our front line workers who perform an important job and work to keep us all safe; rights that are afforded to thousands of workers.

As the Chairman of the Homeland Security Committee, I look forward to working with my colleagues to provide not only these important protections but full rights for this valuable and worthy workforce.

Again, I commend my colleagues today on this important amendment and encourage its passage and inclusion into H.R. 1.

[From Government Executive.com, Jan. 26, 2009]

TSA EMPLOYEES GIVE MANAGEMENT LOW MARKS

(By Alyssa Rosenberg)

Transportation Security Administration employees gave agency management low marks for recognizing and rewarding performance and encouraging creativity and fairness in the workplace, according to a 2008 internal survey TSA conducted and the American Federation of Government Employees recently released.

From April 29 to June 27 of last year, 16,116 agency employees responded to the survey. Of that total, 21 percent of respondents said the process for rewarding and recognizing employees was fair, with 29 percent reporting that pay raises depend on job performance. Twenty-one percent of employees surveyed said the promotions process was fair and transparent, and 25 percent said differences in performance were recognized in a meaningful way.

The results, compiled by TSA's Office of Human Capital, were an improvement from previous years. In 2006, the first year the question was asked, 18 percent said the rewards and recognition process was fair, and in 2004, only 8 percent of TSA employees said pay depended on performance. In 2006, 17 percent of employees surveyed said the promotions process was fair, and 20 percent believed differences in job performance were recognized.

''We're looking to see the trends continue up,'' said Elizabeth Buchanan, TSA's deputy assistant administrator for human capital. ''I'm not sure there's some absolute value we'd like to get to.'' A disclaimer noted that survey results were for official use only. Government Executive obtained the survey documents from AFGE, which, along with the National Treasury Employees Union, is organizing TSA workers to obtain collective bargaining rights.

TSA is not the only agency that has received mediocre scores on some of these questions. In the 2008 Federal Human Capital Survey, 28.5 percent of respondents governmentwide said they agreed or strongly agreed that pay raises depend on how well employees perform their jobs, a half of a point lower than TSA's score in the internal survey.

Buchanan said the 2008 survey did not reflect all the changes that have been made to TSA's pay-for-performance system, and she believes the next survey will provide more meaningful data on pay perceptions.

The 2008 respondents were more satisfied with benefits than with pay, with 36 percent saying they thought their salaries were fair and competitive with similar jobs in other fields, while 62 percent said their benefits ''have a strong impact'' on their decisions to stay at the agency. Bill Lyons, a national organizer for AFGE involved with the union's efforts to organize TSA workers, said employee perceptions of arbitrary enforcement of pay and work rules were due partly to lax oversight by TSA of airport federal security directors.

''One officer said to me, 'Bill, I walk into the airport every day and it's like I'm walking into Pandora's box. I don't know what's going to be there,' '' Lyons said. ''The federal security directors, I believe they each think their airport is their own little empire, and [their attitude is] 'I can do whatever I want to do, whatever the directive is coming out of D.C.' ''

Half the survey's respondents said their supervisor or team leader gave them useful suggestions for improving job performance, but only 38 percent said those supervisors modeled fair, inclusive and transparent behaviors themselves.

Buchanan said she hoped some new programs would improve perceptions of management and consistent enforcement of agency directives. About 60 percent of the TSA workforce has participated in two training programs called COACH and ENGAGE, which aim to improve employees' confidence and increase the strength of communication between security officers and their supervisors.

She also noted that a new peer review program, which has been launched in the nation's largest airports, already has addressed 32 cases in which employees felt they were being treated unfairly by management. As part of the program, panels of three peer employees and two supervisors hear complaints. If they conclude that an employee has been treated unfairly, they can overturn a federal security director's decision. Buchanan said TSA planned to roll out the program at all airports, but was still figuring out the time frame.

Those initiatives are designed to address a gap in perception between how TSA employees feel about their work, and how they think the agency views them. Ninety-four percent of survey respondents said their work is important, but only 22 percent said they feel personally empowered on the job and 48 percent believed TSA values their work.

Despite those frustrations, 66 percent of respondents reported that they were proud to work for TSA, and 64 percent registered overall job satisfaction. Seventy-eight percent of respondents said they were likely to stay at TSA for another year, and only 6 percent said they were likely to retire by the middle of 2009.

''A lot of people took this job out of wanting to dedicate themselves to the mission of protecting and serving the flying public,'' Lyons said. ''They look at it as a way of serving their country.''

Mr. REYES. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. PLATTS).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. TEAGUE

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 111–9.

Mr. TEAGUE. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. TEAGUE:

At the end of section 1226 (page 25, after line 21), insert the following:

(8) The website shall provide, by location, links to and information on how to access job opportunities created at or by entities receiving funding under this Act, including, if possible, links to or information about local employment agencies; state, local and other public agencies receiving funding; and private firms contracted to perform work funded by this Act

The Acting CHAIR. Pursuant to House Resolution 92, the gentleman from New Mexico (Mr. TEAGUE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. TEAGUE. Mr. Chairman, this stimulus bill is about one thing first and foremost: creating jobs. My amendment is about connecting out-of-work Americans to those jobs.

Just 2 days ago, on Monday, major companies across America laid off 70,000 workers. The United States economy has dropped nearly 2.6 million jobs since the recession began in December of 2007, raising the unemployment rate to 7.2 percent last month. Experts worry that the economy could now be losing as many as 600,000 jobs a month.

Now, if you're reading about this recession in the newspaper, it's numbers on a page. But for each and every one of those job losses, there's an economic crisis at a kitchen table somewhere in America, including quite a few kitchen tables in Southern New Mexico.

So what we are doing is working with President Obama to put forward an economic recovery package to spur the economy and create jobs. With $30 billion for highways and bridges, we are creating 850,000 jobs. With $10 billion

for rail and mass transit, we are creating 200,000 jobs. And with $16 billion for clean water and flood control, we're creating 375,000 jobs.

On top of that are the jobs created by investments in our schools and renewable energy and more jobs from the stimulus provided by the tax cut to 95 percent of Americans.

To add to all of this, I'm offering a commonsense amendment to help connect people to the new jobs we are creating. H.R. 1 requires the creation of a Web site, Recovery.gov, to ensure greater accountability and transparency in the government's economic recovery program.

Well, that's a good idea. We need to keep a firm eye on all this money to make sure it is well spent. But if we're going to have this Web site, it has also got to do something to help the people that this bill is all about: the folks trying to find a job.

My amendment would simply require Recovery.gov to provide information about the jobs created by this bill that would be useful to job seekers.

What my amendment basically says is this: If you're out of work or if you're looking for a job, if you're trying to provide for your family, we want to help. If you're willing to work, we want to do all we can to help you get a job.

I want to thank the chairwoman of the Rules Committee, Louise Slaughter, for making this amendment in order. And I also want to thank the chairman of the Appropriations Committee, Mr. OBEY, for his assistance. This is my first amendment as a Member of Congress, and it was an honor to work with you both.

Mr. Chairman, I reserve the balance of my time.

Mr. WESTMORELAND. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from Georgia is recognized.

Mr. WESTMORELAND. Mr. Chairman, I appreciate the gentleman from New Mexico and I think his sincere effort to try to do what would promote these jobs, and I believe that he had the best intent. But as you will find in this body, sometimes the best intent actually hinders what you're trying to do.

I would just like to ask the gentleman if he has given any concern as to how much bureaucracy and red tape this is going to put on the ability of these Americans that these jobs are creating to go to work.

As Chairman OBERSTAR stated when he made comments earlier today, these are shovel-ready jobs ready to go. He's going to have oversight in 30 days to bring these people to where they can employ.

I would like to ask the gentleman from New Mexico, and I will yield to him the time, if he has given any study into how long it would take to put this stuff on the Web that might hinder the ability of these people to go to work immediately.

Mr. TEAGUE. Mr. Chairman, this amendment has not been scored by the Congressional Budget Office, but what we're doing is just putting some extra information on the Web site, information that's useful to Americans trying to get a job and go to work. Certainly whatever cost would be incurred would be small compared to the expense of establishing the Web site in the first place. It will be a minimum amount.

Mr. WESTMORELAND. Reclaiming my time, Mr. Chairman, what he has actually asked to do is that the companies that are receiving this put information on the Web site also.

This bill was intended to put people to work immediately. And right now, and the gentleman from New Mexico, who, I'm assuming, is going to vote for this bill, understands that we are spending approximately $225,000 or $250,000 for each job that this bill creates that will pay $50,000. And I just would like to ask him one further question.

Do you feel like it's right to put more burden on the small businesses that are going to be taking this money to try to get it to where they can stimulate the economy and create these jobs rather than doing the bureaucratic paperwork that this amendment would require them to do?

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Mr. TEAGUE. Yes. Mr. Chairman, my amendment is just about creating jobs.

Mr. WESTMORELAND. Well, one last question, do you have any idea as to how many jobs this would create, your amendment would create?

Mr. TEAGUE. Yes. This particular amendment is about connecting people looking for a job to the jobs, and I think it's a necessary part.

Mr. WESTMORELAND. Well, I thank the gentleman for that.

Reclaiming my time, I think this would really be a hindrance in doing what has been stated so far today in getting these jobs and get them immediately. We need help immediately.

Now, I have some problems with whether this is really going to create jobs or not, but, just in case it did, just in case the stimulus package was going to do, because I have heard the same thing from Chairman OBEY about the importance of doing this right now, it's the same argument we heard for the $700 billion in the bailout program that is not unfrozen credit right now and has done nothing but made sure the fat cats in New York have balanced their balance sheets.

So with that, you know, I just want to take this opportunity to say that while I think the intentions were good on this amendment, I think it's going to do more harm than good. And there are so many times that I have seen up here that people offered amendments, we passed bills without looking at the final end use of it, not talking to the end users, and I don't think that any businesses that are going to be established to try to create some of these jobs would want to try to spend as much time as it would take to go about trying to make sure this amendment was put into law.

I yield back the balance of my time.

Mr. TEAGUE. If we are having a Web site, let's make it work for all Americans looking for a job.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Mexico (Mr. TEAGUE).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. CAMP

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part B of House Report 111–9.

Mr. CAMP. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. CAMP:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Recovery Act of 2009''.

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

Sec. 1. Short title, etc.

TITLE I—TAX PROVISIONS

Sec. 100. References.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

Sec. 101. 10 percent rate bracket for individuals reduced to 5 percent for 2009 and 2010.

Sec. 102. 15 percent rate bracket for individuals reduced to 10 percent for 2009 and 2010.

Subtitle B—Alternative Minimum Tax Relief For Individuals

Sec. 111. Extension of alternative minimum tax relief for nonrefundable personal credits.

Sec. 112. Increase in alternative minimum tax exemption amounts for 2009 and 2010.

Subtitle C—First-Time Homebuyer Credit

Sec. 121. Extension and modification of first-time homebuyer credit.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

Sec. 131. Special allowance for certain property acquired during 2009.

Sec. 132. Temporary increase in limitations on expensing of certain depreciable business assets.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

Sec. 136. 5-year carryback of operating losses.

Sec. 137. Exception for TARP recipients.

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

Sec. 141. Deduction for qualified small business income.

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

Sec. 146. Repeal of withholding tax on government contractors.

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

Sec. 151. Above-the-line deduction for qualified health insurance costs of individuals.

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income
Sec. 161. Temporary exclusion of unemployment compensation from gross income.
Subtitle G—No Impact on Social Security Trust Funds
Sec. 171. No impact on social security trust funds.
TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS
Sec. 200. Short title.
Sec. 201. Extension of emergency unemployment compensation program.
Sec. 202. Additional eligibility requirements for emergency unemployment compensation.
Sec. 203. Special transfers.
TITLE III—NO TAX INCREASES TO PAY FOR SPENDING
Sec. 301. No Tax Increases to Pay for Spending.

TITLE I—TAX PROVISIONS

SEC. 100. REFERENCES.

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.

Subtitle A—Reduction in Individual Tax Rates For 2009 and 2010

SEC. 101. 10 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 5 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(A) is amended by inserting ''(5 percent in the case of any taxable year beginning in 2009 or 2010)'' after ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 102. 15 PERCENT RATE BRACKET FOR INDIVIDUALS REDUCED TO 10 PERCENT FOR 2009 AND 2010.

(a) IN GENERAL.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) REDUCTION IN 15 PERCENT RATE FOR 2009 AND 2010.—In the case of any taxable year beginning in 2009 or 2010, '10 percent' shall be substituted for '15 percent' in the tables under subsections (a), (b), (c), (d), and (e). The preceding sentence shall be applied after application of paragraph (1).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B—Alternative Minimum Tax Relief For Individuals

SEC. 111. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended—

(1) by striking ''or 2008'' and inserting ''2008, 2009, or 2010'', and

(2) by striking ''**2008**'' in the heading thereof and inserting ''**2010**''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 112. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNTS FOR 2009 AND 2010.

(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 ''($55,000 in the case of taxable years beginning in 2009 or 2010)'', and

(2) by striking ''($46,200 in the case of taxable years beginning in 2008)'' in subparagraph (B) and inserting ''($38,750 in the case of taxable years beginning in 2009 or 2010)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle C—First-Time Homebuyer Credit

SEC. 121. EXTENSION AND MODIFICATION OF FIRST-TIME HOMEBUYER CREDIT.

(a) EXTENSION OF CREDIT.—Subsection (i) of section 36 (as redesignated by subsection (d)) is amended by striking ''July 1, 2009'' and inserting ''January 1, 2010''.

(b) REPEAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 is amended by striking ''an individual who is a first-time homebuyer of a principal residence'' and inserting ''an individual who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Section 36(b)(1)(A) is amended by inserting ''with respect to any taxpayer for any taxable year'' after ''subsection (a)''.

(B) Section 36(c) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(C) The heading of section 36 (and the item relating to such section in the table of sections for subpart C of part IV of subchapter A of chapter 1) are amended by striking ''**first-time homebuyer**'' and inserting ''**homebuyer**''.

(c) REPEAL OF RECAPTURE RULES.—

(1) IN GENERAL.—Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:

''(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—

''(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) DOWNPAYMENT REQUIREMENT.—Section 36 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) DOWNPAYMENT REQUIREMENT.—No credit shall be allowed under subsection (a) to any taxpayer with respect to the purchase of any residence unless such taxpayer makes a downpayment of not less 5 percent of the purchase price of such residence. For purposes of the preceding sentence, an amount shall not be treated as a downpayment if such amount is repayable by the taxpayer to any other person.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to residences purchased after December 31, 2008.

(2) DOWNPAYMENT REQUIREMENT.—The amendment made by subsection (d) shall apply to residences purchased after the date of the enactment of this Act.

Subtitle D—Tax Incentives For Business

PART 1—TEMPORARY INVESTMENT INCENTIVES

SEC. 131. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking ''January 1, 2010'' and inserting ''January 1, 2011'', and

(2) by striking ''January 1, 2009'' each place it appears and inserting ''January 1, 2010''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking ''JANUARY 1, 2009'' and inserting ''JANUARY 1, 2010''.

(2) 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''.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking ''and'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (v), and

(C) by inserting after clause (i) the following new clauses:

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof,

''(iii) 'January 1, 2009' shall be substituted for 'January 1, 2010' each place it appears,

''(iv) 'January 1, 2010' shall be substituted for 'January 1, 2011' in subparagraph (A)(iv) thereof, and''.

(4) Subparagraph (B) of section 168(l)(5) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

(2) TECHNICAL AMENDMENT.—Section 168(k)(4)(D)(ii) of the Internal Revenue Code of 1986, as added by subsection (b)(3)(C), shall apply to taxable years ending after March 31, 2008.

SEC. 132. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (7) of section 179(b) is amended—

(1) by striking ''2008'' and inserting ''2008, or 2009'', and

(2) by striking ''2008'' in the heading thereof and inserting ''2008, AND 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 2—5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 136. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) IN GENERAL.—Subparagraph (H) of section 172(b)(1) is amended to read as follows:

''(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES.—

''(i) IN GENERAL.—In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2008 or 2009 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.

''(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(b) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or''.

(c) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

''(4) CARRYBACK FOR 2008 AND 2009 LOSSES.—

''(A) IN GENERAL.—In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting '5' or '4' for '3'.

''(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS.—For purposes of this paragraph, the term 'applicable 2008 or 2009 loss from operations' means—

''(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

''(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

''(C) ELECTION.—Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

''(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.''.

(d) CONFORMING AMENDMENT.—Section 172 is amended by striking subsection (k).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES.—The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE.—In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(b)(1)(H) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 137. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to—

(1) any taxpayer if—

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART 3—DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME

SEC. 141. DEDUCTION FOR QUALIFIED SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of a qualified small business for a taxable year beginning in 2009 or 2010, 20 percent of the lesser of—

''(i) the qualified small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) QUALIFIED SMALL BUSINESS; QUALIFIED SMALL BUSINESS INCOME.—

''(1) QUALIFIED SMALL BUSINESS.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business' means any taxpayer for any taxable year if the annual average number of employees employed by such taxpayer during such taxable year was 500 or fewer.

''(B) AGGREGATION RULE.—For purposes of subparagraph (A), any person treated as a single employer under subsection (a) or (b) of section 52 (applied without regard to section 1563(b)) or subsection (m) or (o) of section 414 shall be treated as 1 taxpayer for purposes of this subsection.

''(C) SPECIAL RULE.—If a taxpayer is treated as a qualified small business for any taxable year, the taxpayer shall not fail to be treated as a qualified small business for any subsequent taxable year solely because the number of employees employed by such taxpayer during such subsequent taxable year exceeds 500. The preceding sentence shall cease to apply to such taxpayer in the first taxable year in which there is an ownership change (as defined by section 382(g) in respect of a corporation, or by applying principles analogous to such ownership change in the case of a taxpayer that is a partnership) with respect to the stock (or partnership interests) of the taxpayer.

''(2) QUALIFIED SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'qualified small business income' means the excess of—

''(i) the income of the qualified small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of a qualified small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART 4—REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 146. REPEAL OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Section 3402 is amended by striking subsection (t).

Subtitle E—Deduction For Qualified Health Insurance Costs of Individuals

SEC. 151. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED HEALTH INSURANCE COSTS OF INDIVIDUALS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. COSTS OF QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the amount paid during the taxable year for coverage for the taxpayer, his spouse, and dependents under qualified health insurance.

''(b) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means insurance which constitutes medical care; except that such term shall not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(c) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by a taxpayer

for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a). Any amount taken into account in determining the credit allowed under section 35 shall not be taken into account for purposes of this section.

''(2) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this section shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.''.

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting before the last sentence the following new paragraph:

''(22) COSTS OF QUALIFIED HEALTH INSURANCE.—The deduction allowed by section 224.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by redesignating the item relating to section 224 as an item relating to section 225 and inserting before such item the following new item:

''Sec. 224. Costs of qualified health insurance.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle F—Temporary Exclusion of Unemployment Compensation From Gross Income

SEC. 161. TEMPORARY EXCLUSION OF UNEMPLOYMENT COMPENSATION FROM GROSS INCOME.

(a) IN GENERAL.—Section 85 is amended by adding at the end the following new subsection:

''(c) EXCLUSION OF AMOUNTS RECEIVED IN 2008 AND 2009.—Subsection (a) shall not apply to any unemployment compensation received in 2008 or 2009.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 2007.

Subtitle G—No Impact on Social Security Trust Funds

SEC. 171. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) ESTIMATE BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i).

(b) TRANSFER OF FUNDS.—If, under subsection (a), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 or 1817 of the Social Security Act (42 U.S.C. 401, 1395i), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

TITLE II—ASSISTANCE FOR UNEMPLOYED WORKERS

SEC. 200. SHORT TITLE.

This title may be cited as the ''Assistance for Unemployed Workers Act''.

SEC. 201. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015), is amended—

(1) by striking ''March 31, 2009'' each place it appears and inserting ''December 31, 2009'';

(2) in the heading for subsection (b)(2), by striking ''MARCH 31, 2009'' and inserting ''DECEMBER 31, 2009''; and

(3) in subsection (b)(3), by striking ''August 27, 2009'' and inserting ''May 31, 2010''.

(b) FINANCING PROVISIONS.—Section 4004 of such Act is amended by adding at the end the following:

''(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

''(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 201(a) of the Assistance for Unemployed Workers 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. 202. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''Additional Eligibility Requirements

''(g)(1) IN GENERAL.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act for any week—

''(A) in the case of any individual described in paragraph (2), that such individual—

''(i) have a secondary school diploma or its recognized equivalent; or

''(ii) be making satisfactory progress in a program that leads to a secondary school diploma or its recognized equivalent; and

''(B) in the case of any individual described in paragraph (3), that such individual participate in reemployment services or in similar services (or, if such services were ongoing as of when such individual most recently exhausted regular compensation before seeking emergency unemployment compensation, that such individual continue to participate in such services), unless the State agency charged with the administration of the State law determines that—

''(i) such individual has completed such services as of a date subsequent to the commencement of emergency unemployment compensation; or

''(ii) there is justifiable cause for such individual's failure to participate in such services.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1)(A) APPLIES.—The requirements of paragraph (1)(A) shall apply in the case of any individual who was under age 30 at the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation.

''(3) INDIVIDUALS TO WHOM PARAGRAPH (1)(B) APPLIES.—The requirements of paragraph (1)(B) shall apply in the case of any individual who, as of the time of filing an initial claim for the regular compensation that such individual most recently exhausted before seeking emergency unemployment compensation, was identified under the State profiling system (described in section 303(j) of the Social Security Act) as being a claimant who—

''(A) was likely to exhaust regular compensation; and

''(B) would need job search assistance services to make a successful transition to new employment.

''(4) EFFECTIVE DATE.—This subsection shall apply in the case of any individual filing an initial application for emergency unemployment compensation after the end of the 3-month period beginning on the date of the enactment of this subsection.''.

SEC. 203. SPECIAL TRANSFERS.

(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 Transfer in Fiscal Year 2009 for Benefits

''(f)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the Federal unemployment account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $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).

''(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 cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

''Special Transfer in Fiscal Year 2009 for Administration

''(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

''(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying $500,000,000 by the same ratio as determined under subsection (f)(2) 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 improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

''(B) 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).

TITLE III—NO TAX INCREASES TO PAY FOR SPENDING

SEC. 301. NO TAX INCREASES TO PAY FOR SPENDING.

(a) FINDINGS.—The Congress finds that—

(1) according to the economic forecast released by the non-partisan Congressional Budget Office on January 7, 2009, unemployment in the United States is expected to be above the level estimated for calendar year 2008 until the year 2015, and

(2) raising taxes on families and employers during times of high unemployment delays economic recovery and the creation of new jobs.

(b) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) outlays from the Treasury of the United States that occur as a result of any provision of this Act shall not be offset through the enactment of new legislation that results in increases in revenues to the Treasury of the United States, but, if such outlays are offset, such offsets shall be through the enactment of legislation that results in a reduction in other outlays, and

(2) the effective rate of tax imposed on individuals or businesses shall not be increased, whether by operation of a provision of existing law or the enactment of new legislation, during any year in which unemployment is projected to exceed the level of unemployment for calendar year 2008.

The Acting CHAIR. Pursuant to House Resolution 92, the gentleman from Michigan (Mr. CAMP) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CAMP. I yield myself 4 minutes.

Just briefly, I want to outline a summary of the Camp-Cantor substitute to H.R. 1. This legislation would provide and reduce the income taxes of every American who pays income taxes and also provide for a maximum family benefit of about $3,400 a year. This bill also contains a health insurance premium deduction which helps bring fairness to the tax treatment of health insurance by providing a new deduction for those who do not receive tax-preferred employer-sponsored coverage, regardless of whether they itemize or take the standard deduction.

We also provide help for America's small businesses and employers by creating a 20 percent deduction for small business income. Now this is a group that employs nearly half of all private-sector employees in America and created nearly 80 percent of the new jobs in the United States in recent years.

We also have bonus depreciation and small business expensing, providing employers, both large and small, enhanced incentives to make the critical investments they need to grow our economy and create jobs. We expand the net operating loss carry-back to 5 years rather than 2. We also repeal the 3 percent withholding requirement for government contracts.

And to stabilize home values, we help reduce housing inventory by extending the $7,500 home buyer tax credit through December 2009. We do require that there be a 5 percent down payment so we don't get into the problems that we are facing again, and also eliminate the complicated recapture rules that currently require home buyers to pay the government back if they claim the credit.

We also provide unemployment assistance. We exempt unemployment benefits from Federal income tax for 2008 and 2009, and we extend unemployment benefits, as the base bill does, through December 2009 with a phaseout through mid 2010.

We also require that younger long-term unemployed are required to pursue a GED or other training, which would certainly help as they move into more training and into the job market. I would also say that, and during debate last night, I mentioned the recent CBO studies that show that tax cuts actually impact the economy more quickly than government spending.

CBO is the Congressional Budget Office, it's nonpartisan, and they help analyze and score the various legislative proposals that we have in the Congress. Not only have CBO and economists from every political stripe confirmed that tax cuts impact the economy more quickly than big government spending, we even have an analysis by President Obama's nominated senior economic adviser that shows that tax cuts provide more immediate growth and job creation in the economy than does spending.

So tax cuts provide a bigger bang for the buck. When the methods and economic models developed by the President's top economic adviser are applied to the Republican plan, it shows the Republican plan could create as many as 6.2 million jobs over the next 2 years. That's more than double the plan, the base bill that we have before us.

Now, let's be clear about where these estimates come from. They come from the President's senior economic adviser. The President's nominee to chair the Council of Economic Advisers, Dr. Christina Romer, and her peer reviewed research. This isn't just her statement, this is a statement that's been reviewed by peers and economic analysts from around the country. So even in applying Dr. Romer's most conservative estimate, her analysis, along with that of Jared Bernstein, Vice President BIDEN's senior economic adviser, shows the Republican plan results in about 6.2 million jobs over 2 years. The cost of our bill is $478 million, so nearly twice the job creation for half the cost.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I would yield myself an additional 30 seconds.

I just want to repeat, the analysis and estimates I am giving you are taken directly from public analysis of the President's senior economic advisers. Republicans didn't develop these ourselves. We are applying their methodology and their analysis to our legislation.

So with the results of the peer-reviewed research, we find that our plan would create 6.2 million jobs. Our bill will create more at a substantially lower cost.

I reserve the balance of my time.

Mr. RANGEL. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from New York is recognized for 30 minutes.

Mr. RANGEL. Mr. Chairman, I yield myself 5 minutes and ask unanimous consent that the remainder of the time be allowed to be controlled by RICHARD NEAL, a distinguished member of the Ways and Means Committee.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Chairman, not only does the other side reject this plea of our newly elected President, but for whatever political reasons insist on sticking their thumb in the eyes of millions of Americans, 11 million of them unemployed. Ninety-five percent of all of our taxpayers are being asked to have this tax cut be rejected, people who work every day, people who dream, people who aspire, are now going to be told that some people in the House of Representatives voted against the President's bill and the bill that's before us on this historic day.

I don't know what occasion it was, but the late Jack Kennedy once made a remark that sometimes, just sometimes your party asks too much of you. And for Members of the other side that are being asked in this substitute to vote against exciting infrastructures that would take us into a modern technology to be competitive, that would deny poor folks money for energy, for air conditioning and heat, food stamps, health information technology, why they would ask you to vote against this I will never but never know.

And then as a substitute for this, not only do we remove the tax benefits from the low and the middle class, but to find some category of doctors, lawyers, consultants and lobbyists and just say, across the board, they have decided not to give you the 20 percent tax cut, because you know it's not going to happen, but just to suggest it so you might get famous in the future.

It just seems to me that there should be some compassion for working families that have children. There should be some understanding that people who work each and every day, and still come out under the poverty line or close to it, are entitled to the earned income tax credit so that they can meet their basic needs of rent, paying their mortgage, food, clothing. Every community, not Democrats, but Democrats and Republicans are feeling the impact of these fiscal crises that we are going through.

Banks don't cry, fiscal institutions don't cry, but people in the neighborhood cry when they lose their job, lose their dignity and they will have to tell their kids that they are pulling them out of college, all the provisions that

we put in, and especially those that provide incentives for teachers and kids and school construction.

How could you do it? What were you thinking, and just how are you going to explain it when you get back home?

I really think that this goes beyond politics because I don't think the people back home should be made to pay for political decisions that are being made here, but there is a particular part in this bill that the House and Senate wanted in there, and that was a $6 billion tax benefit for crises that exist in our cities and in our rural areas, which allows local governments, based on census tracts, not based on your party line, not whether you are a Democrat or a Republican, but just based on unemployment, based on how many people are poor, how many people are feeling the pain of this crisis.

Oh, I know Wall Street in my district is inconvenient and the banking CEOs have been inconvenient, but the people that are suffering are American people, are middle class people. That's the dream that we have in this country, not to be rich and certainly not to be homeless.

But we even had a provision for the work-opportunity training program. It came from one of your Members that said, what about the veterans, they came out feeling that they were going to be accepted as the heroes that we all believe they are, and yet have extended unemployment. What do you say when you go home and tell them that that too has been stripped from the bill, as have kids that have special problems?

It's painful to believe that this is being discussed in a political way, because I would like to believe that it's America that's in trouble, not a party that's in trouble. And people are going to evaluate what's in this paper. I congratulate the Republicans for their honesty.

This thing is talking about cutting away tax benefits for our working poor people. And so it seems to me that people to learn more about this might contact their Representatives, Democrat or Republican, and I am confident at the end of the day that Congress will do the right thing, not by their party but by their country.

Mr. CAMP. I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding, and I listened carefully to the distinguished chairman of the Ways and Means Committee. We agree there are people who are suffering.

But, Mr. Chairman, the people who are going to suffer the most are children and grandchildren who are about to inherit $1.2 trillion of additional debt burden for a piece of legislation that has not received one, not one congressional hearing and will have little to no economic stimulus.

Now, Mr. Chairman, something else I agree on with my friends on the other side of the aisle, this Nation needs a stimulus bill, but we need an economic stimulus bill, not a big government stimulus bill. That's why, Mr. Chairman, I am proud to rise in support of the Republican alternative that will help preserve jobs, that will help grow job opportunities in small businesses all across America. I am proud to support an alternative that will expand the paycheck of working Americans so that they can pay for their mortgages, so that they can send their kids to college, so that they can pay their health care premiums.

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I am proud to support an alternative that helps the unemployed at this time of need, that will help reduce the housing glut from the market and, perhaps, even more importantly, Mr. Chairman, doesn't send the bill to our children and our grandchildren.

What our Democrat colleagues send us is a bill that, even if you were a Keynesian, doesn't help stimulate economic growth. Only 3 or 4 percent of this is about traditional infrastructure. Instead, we have $50 million for the National Endowment for the Arts, $1 billion for Amtrak, an extra $1 billion to follow up the Census. Over half of this bill is on traditional big government.

We know what Rahm Emanuel, the former chairman of the DNC has said: never waste a crisis. They are not wasting it. They are building big government.

Mr. NEAL of Massachusetts. I yield myself such time as I may consume.

Before I yield to Mr. LEVIN, I want to challenge something that the gentleman from Texas has said. I want everybody to remember what it was like on January 19, 2001, when I hear the Republicans complaining about debt and deficits. We were looking at a $5.7 trillion surplus. The debt had come down and the deficits had been eliminated.

Now their argument is—frankly, a stale one, but they cling to it—that tax cuts pay for themselves as we look at now a debt of almost $10 trillion. And I hear these protestations of what this legislation will do after they were in control of two branches of government, two Chambers of the House, and the Presidency, and they rolled up these extraordinary deficits and debts.

Reminder. The war in Iraq, which is going to cost almost $2 trillion before it comes to conclusion. And they pontificate on this House floor about the debt?

With that, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. I am really saddened to hear the Republican substitute. We have new challenges, and now we hear again the same old song; tax breaks, tax reductions. But the way they tailor it, a family with $30,000 would get what, less than 10 percent of a family that is making three times that? Unbalanced tax cuts.

Mr. CAMP, if I might, you and I have known each other for a long time. We are going to go back to Michigan. I think perhaps you won't go until the weekend. And here's what you're going to have to defend by trying to defeat our package. A reduction in health and education benefits for the State of Michigan of $2.2 billion, when our colleges are in trouble in terms of enrollment and our schools are in trouble in terms of providing a good education and school construction.

You're going to have to go back to Michigan and say to at least 25,000 families that health care provided under the Democratic approach—and I hope it's a bipartisan approach—would be eliminated. And you're going to have to go back, and I use you, Mr. CAMP, and it's true throughout this country.

ANNOUNCEMENT BY THE ACTING CHAIR

Mr. CAMP. Mr. Chair, I would ask that the remarks be addressed to the Chair.

The Acting CHAIR. Members should address their remarks to the Chair.

Mr. LEVIN. I will do that. Because what I was saying about Michigan would be true throughout this country. Infrastructure in Michigan, we are providing over $1 billion. This is for Michigan.

The Acting CHAIR. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I yield the gentleman 30 seconds.

Mr. LEVIN. Your bill would eliminate that, when we need to build roads, fix bridges. And we talk about the auto industry and the need for a new industry with electric vehicles. And your proposal on the Republican side would eliminate $2 billion for battery development.

It's really a sad day for you to come here with the same old tune.

The Acting CHAIR. The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I yield 15 seconds to the gentleman from Michigan.

Mr. LEVIN. The families today are in fear. I want to make this point. They are afraid, not only of losing their jobs, but education for their kids, and health care.

Our proposal addresses these fears. Yours ignores them. I urge its defeat.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. The Chair would remind Members not to direct their remarks to each other in the second person, but rather to address the Chair.

Mr. CAMP. I thank the Chair for that admonition. I would yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chair, I will keep my remarks within 2 minutes.

Mr. Chair, we can do better than that. We need to do better than that. Our country is losing tens of thousands of jobs every single week. We thought we were going to have bipartisanship here. That is what we were promised. None of that has occurred here.

Mr. Chair, the most favorable measurement, the most favorable way to look at this package, 12 percent of this package is aimed at keeping jobs, at creating jobs. Twelve percent of this package goes toward creating or keeping jobs. All the rest of it is spending. Just plain, old spending. Spending, most of which occurs 2, 3, 4, 5 years from now, not during this recession.

It's not enough for us to come here and criticize. So we have come here with our own ideas. We have come here to propose an alternative. And when you look at the way our bill works, the measuring stick used by President Obama's own economic advisor says that our bill that we have here creates twice as many jobs—6.2 million—for half the costs.

So we have not only said this is a bad bill that we are considering, but here's a better way. Twice as many jobs, half the cost for taxpayers, 6.2 million jobs. This is a bill that should pass—the Republican substitute.

Unfortunately, since there was no bipartisanship, no inclusion, we could have made a better bill that would pass into law, but it's not. So here we are with our alternatives. Using the President's own measuring stick on how you create, this creates more at less price, less cost to the taxpayers.

But, unfortunately, because one party rules government and because one party is ruling it completely on their own, we will have missed this opportunity to create more jobs, save taxpayers' money, and not waste all of this spending.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

The Bush tax cuts don't expire until 2010. There will be sufficient opportunity for us to discuss many of the issues raised by the gentleman from Wisconsin. We will have plenty of time to discuss those.

Mr. RYAN of Wisconsin. Would the gentleman care to yield?

MR. NEAL of Massachusetts. With that, I'd like to recognize the gentleman from Wisconsin (Mr. KIND) for 2 minutes.

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. I thank my good friend for yielding me this time. In a second, I want to address the issue about the expiration of the Bush tax cuts.

First, it's just not accurate to claim that we have been operating under a very closed process. I know the leadership on the Democratic side and certainly the chairmen of the Appropriations Committee and the Ways and Mean Committee were open to suggestions for good ideas to be included in this economic recovery and investment act.

In an unprecedented fashion, the newly-elected President, President Obama, visited Capitol Hill to meet directly with both Senate and House Republicans to hear their thoughts about the recovery package.

Mr. CAMP. Would the gentleman yield?

Mr. KIND. I have very limited time. Maybe you can get some time on your own.

That is why I am proud to be able to stand and support this economic recovery package and commend the chairmen of the Appropriations and Ways and Means Committee for the package they put together because I believe it is bold, I believe it's going to be fast-acting, I believe it's going to create jobs, but I also believe it's going to end, which is an important feature of what we are trying to do, contrary to what they are trying to do with their substitute, so that we don't continue to incur unfunded liabilities out into the future. In fact, I reluctantly oppose the substitute because it undermines the help and support that so many struggling working families need in this country right now.

For instance, their substitute would eliminate the Making Work Pay tax credit that will provide tax relief to 95 percent of Americans in this country. In fact, it effectively eliminates 23 million low-income families from any tax relief whatsoever.

It also eliminates tax relief for families with over 16 million children by doing away with the expansion of the child tax credit that we have included in our bill. It would also eliminate the American Opportunity tax credit that will provide tax relief for more than 4 million students.

But, in a very clever way, they indefinitely extend the Bush tax cuts, which are universally recognized today as benefiting the most wealthy by saying that we cannot do any tax reform in this country—

The CHAIR (Mr. TIERNEY). The time of the gentleman has expired.

Mr. NEAL of Massachusetts. I'd like to recognize the gentleman for an additional 30 seconds.

Mr. KIND. They say that we cannot do any meaningful tax reform in this country so long as the unemployment rate does not dip below the 2008 numbers, which would be anywhere from 4.8 percent to a little over 5 percent. And everyone knows that that will be years from now, under the best circumstances, before that unemployment rate drops below that number.

So, in a clever way they are adding to this unfunded obligation for an indefinite numbers of years out, increasing the debt burden that our Nation currently has, and jeopardizing our children's future by extending those tax cuts indefinitely.

I encourage my collages to oppose this substitute of support H.R. 1.

Mr. CAMP. Mr. Chairman, I yield myself 15 seconds. I would just say that we offered 19 amendments in the committee. None of them were accepted. I think we did get a GAO study accepted. But none of our substantive amendments were.

And I would just say to my good friend from Michigan, who asked how I could go home, I would ask him how he can go home and provide half the jobs at twice the cost.

With that, I yield 1 minute to the distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Thank you. Mr. Chairman, this is a good Republican alternative. It preserves some of the best features of the underlying bill, like extending increased small business expensing and bonus appreciation, and repealing the onerous 3 percent withholding requirement for government contractors. In addition, it eliminates hundreds of billions of dollars in wasteful spending and adds fast-acting tax relief to help our economy now.

It improves on the underlying bill by extending assistance to laid-off small business employees by allowing all individuals to deduct the cost of their health insurance premiums. And, unlike the underlying bill, it cuts taxes for all taxpayers and protects middle-class families from a huge tax increase under the alternative minimum tax.

Mr. Chairman, this is real economic stimulus. I urge an ''aye'' vote.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 2 minutes to a member of the Ways and Means Committee, the gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding. Recovery, reinvestment. That was what President Obama promised the American public when he went throughout the country and talked about how he would change this country and take it into a new direction.

After years of deficits and lack of accountability, President Obama told the country that he promised an open government, transparent process, and responsible policymaking so that the American people would know that we were taking America back to soundness.

Jobs, jobs, jobs. That is what President Obama has talked about, that is what he promised. And that is what this legislation that is on the floor, the bill that stands before you, tries to do, is focus on creating jobs directly by helping States that are saying they are going to cut their budgets instead of create jobs, by helping American businesses that are saying we are about to fire employees, and instead provide them with tax cuts to let them keep jobs and create new ones, and also by telling the American public we will fulfill President Obama's promise of a direct tax cut to 95 percent of America's working families.

On the other hand, we have a substitute amendment that we are presented here today that would go back to what we had under Bush policies.

□ 1600

It is much of what we saw before, tax policies that are skewed to those who are wealthier, to let it then trickle down to those who work very hard.

Why else would you have most of the benefits going to the top fifth Americans who are those who are hurt the least by this economic downturn? Why would this bill cut, eliminate, the entire amount of the Making Work Pay tax credit that President Obama proposed would go to 95 percent of working Americans? Why would this Republican substitute eliminate any tax relief whatsoever for 23 million families in America who happen to be our more modest income earning Americans? They work, nonetheless, but they would be cut out.

We need to move forward with investment and recovery. I urge Members to vote against the Republican substitute.

Mr. CAMP. Mr. Chairman, at this time I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Chairman, I thank the gentleman for yielding.

I think we have a ''stop the presses'' moment. I think there is new news that has come upon this Congress that we can celebrate, take this bill out of the record and hit the reset button, because the good news is that President Obama's own economic team or those that are poised to become that economic team have said there is good news for a new idea. And the new idea is this substitute that is offered by Mr. CAMP and Mr. CANTOR that says for half the cost it can have twice the impact. That is powerful. And if we are truly in a spirit of bipartisanship, if we are truly, as the President says, in a moment where authorship doesn't matter, then we need to stop the presses.

Mr. Chairman, we can create 6.2 million jobs in 2 years based on this substitute. And where I come from, that is good every day all the time.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to recognize at this time the gentleman from New Jersey, a valuable member of the Ways and Means Committee, Mr. PASCRELL, for 2 minutes.

Mr. PASCRELL. Mr. Chairman, in Italian we say ''tutti possible,'' anything is possible on this floor.

We passed in 2008, eliminated the AMT tax, but we paid for it. You missed something. You left out a paragraph: We paid for it. And we are going to handle it again.

For the last 8 years, we have passed a number of tax cuts for big business and the wealthiest 1 percent of the Americans. We were warned in the summer of 2001, not 2003, 2006; 2001, we were warned what was going to happen. We could not pay for those tax cuts in 2001, 2003, and 2005, and today we are being lectured about deficit. Not only look at the results of November; look at the American people, where they stand today on this tax cut, Democrats, Republicans, Independents across the board.

This substitute eliminates the Making Work Pay tax credit, it eliminates the child tax credit, it eliminates the American Opportunity tax credit for more than 4 million students. It eliminates approximately $40 billion in tax benefits to assist State and local governments in financing their infrastructure needs. They can't do it because they don't have the money to do it. This is not make work; this is important work for the American people.

This substitute continues the practice of providing tax cuts for the wealthiest Americans, and it ain't going to happen anymore. There is a new day and a new culture even on this floor. Even though everything and anything is possible here, that ain't possible.

Mr. CAMP. At this time I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. I thank the gentleman for yielding. I rise in support of the Republican alternative to H.R. 1.

Mr. Chairman, our Nation is in recession and millions of American families are hurting. Many have lost their jobs. Many now worry that they will be next. And it is absolutely right that this Congress is taking decisive action in the early days of 2009. But the bill the House Democrats have brought to the floor is not about stimulating the economy. The only thing this Democrat bill will stimulate is more government and more debt. Under the guise of stimulus, House Democrats have brought a partisan bill to the floor. It is merely a wish list of longstanding liberal Democrat priorities that have little to do with putting our economy back on its feet.

Millions of Americans are asking today, what does $50 million to the National Endowment for the Arts have to do with creating jobs? What is $400 million for climate change research going to do to put people back to work in Indiana? And what is $335 million for sexually transmitted disease education going to do to get this country working again?

Most House Republicans will oppose this bill tonight for one reason: It won't work. More big government spending on liberal programs won't cure what ails the American economy. House Republicans have a better solution: Fast-acting tax relief for working families, small businesses, and family farms.

According to analysis and economic models used by President Obama's top economic advisers when applied to our plan, we come with one conclusion: Twice the jobs, half the cost with the Republican alternative.

Now, Democrats also said that we are going to pass temporary and targeted stimulus legislation. But as I close, let me remind the American people and anyone gathered here, Mr. Chairman, what we keep hearing. From the Speaker of the House that I greatly respect to other colleagues that have come to the floor, we have heard that this bill is about ''taking America in a new direction.'' Well, I say with great respect, Mr. Chairman, I thought this was about creating jobs.

This long litany, $136 billion in program spending, is simply about trying to reorder the budget priorities according to the whims of a Democrat majority. What we ought to be doing is coming together across this middle aisle, across the partisan divide, as our new President has challenged us to do, bring the best ideas, the best minds, the best solutions. This Republican alternative is the best solution. I urge its support.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to recognize the distinguished gentleman from Oregon, a member of the Ways and Means Committee, who really does know something about infrastructure and environmental undertakings, Mr. BLUMENAUER, for 2 minutes.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy and his leadership in this area.

I listened to my friend from Indiana wondering what could possibly have economic impact investing in the arts or climate change. Well, I don't know what is going on in Indiana, but if you talk to the arts groups in Oregon or in Massachusetts or in New York or Illinois, they will tell you that investments there will produce economic activity in areas that are strained and underserved. Investment in climate change and energy research creates jobs, and business is crying out for it, large and small.

But I am pleased that they have come forward with their alternative. Listen closely to what the Republicans say: ''If we assume what some economic model applies to the way we would like our legislation to work, it would be twice the jobs for half the cost.'' These are the same people that told us the Bush tax cuts were going to lead to nirvana. These are the people that said that the Clinton economic programs would lead to disaster; they were dead wrong about the economy in the Clinton era. Look at the results of their models when they have been put into place: Exploding deficits, problems with the economy.

I am glad, however, that they have offered this alternative, because it puts in clear relief what their priorities are: Reduce tax relief for 95 percent of the American public and give more to the few who need it the least. Take money away from 4 million students who would have this tax relief. My favorite of their proposals is to actually continue to game the alternative minimum tax to purposely push more people into it with tax gimmicks rather than work with us in fundamental tax reform that doesn't subject more people to the ATM and give us this yearly charade.

I look forward to the leadership of Chairman NEAL in Select Revenue, where we will fix the AMT. I strongly

urge the rejection of the misguided Republican priorities, taking away the infrastructure investments that would make so much difference for our communities and undercut our American families.

Mr. CAMP. I yield myself 15 seconds.

We hold harmless in our legislation on the AMT, and we reduce taxes on 100 million American families, every American family that pays taxes.

With that, I would yield 1 minute to the distinguished minority leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Let me thank my colleague from Michigan for yielding and congratulate him and our Republican whip, ERIC CANTOR, for the proposal that they have on the floor.

I think that the plan that we have on the floor, our alternative, is rooted in the principle that fast-acting tax relief will create more jobs in America than a lot of slow-moving government programs. The bill that we have on the floor, the underlying bill, has as an example 32 brand new government programs that spend $136 billion.

Now, we all know how long it takes to get a new program up, the bureaucracy that has to be hired, before we could ever get that money out into the economy. We also know there is a lot of other spending in this bill that while it may be well-meaning, it may be well-intentioned, we know it is not going to create jobs. And sending 300 plus million dollars to the Center for Disease Control to do whatever is not going to create new jobs in America. We are going to build bigger bureaucracies.

Or, we could talk about the $650 million that is going to be spent with digital TV coupons. Now this looks like a slush fund to me because about 94 percent of the old TVs that need these boxes to receive signals have already been purchased; so only about 6 percent of the TVs in America actually need these boxes. So that would be about $30 million, $40 million, maybe $50 million. What is the other $600 million going to be used for?

The point is, is that the underlying bill, while it certainly has some good provisions, has a lot of wasteful spending, a lot of slow-moving government spending in it.

When I gave Ms. PELOSI the gavel on the opening day as Speaker of the House, I told her the Republicans would not come to the floor and just be the party of ''no''; that we would try to be the party of better ideas. And last week when we had the SCHIP bill on the floor, we brought a proposal out here which we thought was a better idea. Today, in this debate, we think that we have a better idea.

President Obama has made clear that he believes that the goal here should be to preserve jobs in America and to create new jobs in America. And I think that the proposal that we have that puts more money back in the hands of American families and small businesses, that helps homeowners and people who want to buy a home, that takes away the tax liability for those who are unemployed and getting unemployment insurance, that this bill in fact will be better for the American people, that better meets the goal that the President himself has outlined.

And we want to work with the President. We have made clear to him that he has reached out, and we are reaching out to him, because at the end of the day, the American people need a plan that works. We all know our economy is in a difficult strait. We all know that people are losing their jobs, tens of thousands of them, every week. And so we have to act and we have to help our ailing economy. The question is, how do we do it best? And we believe this fast-acting tax relief is the way to get it done.

Then we find out today that our proposal will create 6.2 million jobs over the next 2 years, about twice as many as the underlying bill and at about half the cost.

Remember, at the end of the day this bill that we are going to pass is not being paid for by taxpayers today; it is going to be paid for by our kids, our grandkids, and their kids. We have to be cognizant of the debt that we are putting on them. And so I would urge my colleagues to support the Republican substitute, support a bill that will create 6.2 million jobs, twice as many as the underlying bill at about half the cost.

Mr. NEAL of Massachusetts. Mr. Chairman, I would remind all that for 6 years we tried the prescription that was offered by the minority leader and his party, the slowest economic growth that America has had since World War II.

With that, I would like to recognize the gentleman from North Dakota, a member of the Ways and Means Committee, Mr. POMEROY, for 2 minutes.

Mr. POMEROY. We have all looked at the continued practices of some on Wall Street with utter amazement. After crashing their companies, taking their part in tanking our economy, the excesses that we have continued to see have appalled us all.

I guess if there is a legislative equivalent of not getting the message, like those that continue those utterly disgraced practices on Wall Street, it would be a proposal that would continue an economic policy of trying to shift the tax cuts disproportionately to the wealthiest, stiff the working poor, and hope somehow that the largesse trickles down and the economy comes back.

□ 1615

We should have learned our lesson. This has been the fiscal policy of the Republican Party in the House for the last decade. And what harm, what harm we have seen. Oh, it has not been harmful for everybody because if you were at the top, the top of this income pyramid, you did very, very well. But average taxpayers saw their earnings decline and stagnate, leading to greater levels of debt and the hardship we see today.

So I am fairly astounded that we see a substitute that goes back to the tired old Republican formula of letting the top have everything and the others get shortchanged. Under their proposal, the top 20 percent of households, and only the top 20 percent get the full tax cuts, and they are not proportionally spread at all. Married couple, two children, incomes over $100,000, they get almost $3,500 under the Republican substitute, 17 times the $200 tax cut the couple making $30,000 would receive. Vote for fair tax relief; reject this substitute.

Mr. CAMP. I yield 3 minutes to the distinguished gentleman from Michigan (Mr. MCCOTTER).

Mr. MCCOTTER. We in Michigan in my community are listening to this debate very closely. We are listening very closely because one of the things that we are painfully aware of is how our Nation does not want to see double digit unemployment, does not want to see families lose their homes, their jobs and their nest eggs. We are listening very closely because in Michigan we are living your nightmare now: 10.6 percent unemployment, foreclosures skyrocketing, people's nest eggs eroding. And in Michigan, they were heartened by President Obama's request to work with the Republican minority. It was a request he did not have to make. Legislation can pass this Chamber without a single Republican vote. And yet in raising the tone, the tenor, the decorum in Washington, he reached out to House Republicans, and we responded by putting forward our solutions.

Do we expect the President or even the Democratic majority to accept all of them? No, that would be unfair on our part. But what would be equally unfair is for them not to be fairly considered at all by the Democratic majority.

We believe that there is merit in our proposal as it provides twice the jobs at half the cost. It could be incorporated into a responsible bill within President Obama's framework that he laid out for a temporary stimulus package.

The three elements were a sane, humane strengthening of the social safety net, tax relief for working families and small businesses, and accelerated, responsible infrastructure that would have a permanent benefit to the economy as we worked on the deeper, underlying problems.

What we have before us today, unfortunately, is a missed opportunity. It is an opportunity I hope we will get to rectify should the legislation come back because at the present time this legislation is not an immediate economic growth stimulus. It is, in fact, a wasteful government spending bill. We can do better together. I trust we will because as the families in my community understand, Congress cannot continue governing like gamblers in the

hole spending other people's money. We will have to make difficult decisions, but we will have to do them together.

Mr. NEAL of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. HIGGINS), a new member of the Ways and Means Committee.

Mr. HIGGINS. Mr. Chairman, the Republican substitute would eliminate $550 billion in targeted investments, including tens of billions of dollars for road and bridge construction for economically distressed areas throughout the Nation and for cities like Buffalo, Lackawanna, Dunkirk and Jamestown, New York.

This past Monday, American companies announced more than 70,000 job cuts, including 20,000 cuts at Caterpillar. Caterpillar makes heavy equipment for road and bridge construction in America and throughout the world. The American Recovery and Reinvestment Act will jump start the economy and stave off a deeper and longer recession with road and bridge construction that will create hundreds of thousands of jobs immediately and help American companies like Caterpillar create a demand for the machinery that will be required to build new bridges and roads and energy-efficient buildings for the 21st century.

With these investments and a tax cut for 95 percent of America's working families, I urge support of the American Recovery and Reinvestment bill for 2009.

Mr. CAMP. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Chairman, I thank my friend for yielding and want to say it has been a great privilege to work with him and Mr. CANTOR and others as part of this very important stimulus working group.

I would like to share an analysis of a plan that is virtually identical to the one that is before us right now. This is the analysis: ''Large-scale construction projects of any type require years of planning and preparation. Even those that are on the shelf generally cannot be undertaken quickly enough to provide timely stimulus to the economy.

''Some of the candidates for public works, such as grant-funded initiatives to develop alternative energy sources, are totally impractical for countercyclical policy, regardless of whatever other merits they may have.''

Mr. Chairman, those are the words of our good friend, the former director of the Congressional Budget Office, the new director of President Obama's Office of Management and Budget, Peter Orszag.

We have heard many, many people in this administration and who have served in past administrations, give an analysis that spending is not the answer. We need to get this economy growing.

When I heard my friend from North Dakota (Mr. POMEROY) say that the well-to-do are going to be the beneficiaries and everyone else is shortchanged, I am reminded of a particular item that we have in this job creation growth alternative that is designed to ensure that people can keep their homes and have a vested interest in it. We have a $7,500 credit that is designed to encourage people not to treat their homes as rental units where we have seen in the past zero percent down and virtually no interest rate.

What we need to do is we need to have an incentive for those down payments to be made. Support this alternative.

Mr. NEAL of Massachusetts. As a member of a very small alumni association here called former mayors, let me assure the gentleman from California that mayors will know how to get this money out the door as the President has prescribed.

I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, this debate should not be about Democrat or Republican, liberal or conservative, Blue Dogs, yellow dogs, or deficit hawks. Our economy is failing. Millions of jobs have been lost. We need to act now. H.R. 1 is only a first step, but it is an important first step.

What about the stimulus. What we are doing here is like using battery cables to jump start a car with a dead battery. We are not buying a new battery or buying a new car, we are simply jump starting the battery of a dead economy. We are still going to have to buy a new battery; and eventually, we are going to have to buy a new fuel-efficient car.

Right now if we want to move forward, we better get out those jumper cables and put them on the battery.

Vote for the stimulus, H.R. 1.

Mr. CAMP. I yield 1½ minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chair, $350 billion last week and now with what we are going to add this week, it is about $1.2 trillion. The reason that is significant, that is basically the amount that every individual taxpayer paying together in 2008 paid into the U.S. Treasury.

We could give every taxpayer, individual taxpayer in America, all of their money back for last year. You want to see the economy explode, try that. That would be extraordinary.

Now we did too much deficit spending in the last 6 years when we were in the majority, and now the Democratic majority is doing the same thing. You can spend a country out of existence. Iceland just did it. The Soviet Union fell because they spent too much money trying to catch up with us. And we can do the same thing.

We owe more than this to our children and our grandchildren. In fact, when we elected a President who promised change, I really hoped we were going to have change and get away from the deficit spending of the last 8 years. But instead of getting change, what we are getting with the original bill here is much, much, much, much more of the same. We need to quit spending ourselves out of existence.

Mr. NEAL of Massachusetts. Mr. Chairman, at this time I would like to recognize the chairman of the Appropriations Committee, Mr. OBEY, for 4 minutes.

Mr. OBEY. Mr. Chairman, this amendment in many ways is similar to the Neugebauer amendment, and I would say the same things about it that I said about that amendment.

This essentially throws millions of jobs out the window. All of the jobs for school teachers, for speech therapists and school nurses and the like that would be saved by the State stabilization fund to protect education, all of those jobs out the window by this amendment.

All of the jobs that would come from remodeling and repairing and refurbishing old, worn-out schools under the new modernization program, out the window with those jobs.

All of the infrastructure funding for highway construction, out the window. We heard the Republicans lecture us for 2 days about the importance of that. Now they want to throw it overboard.

All of the jobs that would come from increasing our clean water revolving fund project list and the sewer and water programs around the country, all of those jobs, out the window.

All of the jobs that would come from modernizing our energy grid, out the window.

All of the jobs that come from investing in new science and technology, out the window.

And then all of the help that goes to people through programs like food stamps, out the window.

Mr. Chairman, I want to predict what is going to happen on that side of the aisle on this vote. I predict that just as happened in committee when we got no minority party support for the bill that we produced in committee, when this bill comes to a vote today, virtually all of our Republican friends will vote ''no.'' The bill will then go to the Senate, and after they gauge whether or not that bill can be killed or not, then if the bill comes back from the conference committee and it is obvious that the bill cannot be killed, at that point you will see a significant number of our friends from the Republican side switch and vote ''aye.''

It is an old playbook, Mr. Chairman. That is exactly what they did to FDR on Social Security when they tried to kill it in its crib. And then when they couldn't beat it, they finally joined the parade. That is the same thing that they did to LBJ on Medicare. When they tried to kill and after they couldn't kill it, in the end they went along so that people wouldn't know that they tried to kill it in the first place.

I would hope that sooner or later we could cut through that gamesmanship. I would hope that we would recognize,

as Martin Luther King said a long time ago which our President reminded us of in his inaugural, I would hope that we would remember the urgency of now. Every week that we temporize, 100,000 or more Americans lose their jobs. That doesn't just hurt those working Americans, it hurts their families. It hurts the economy, it hurts the neighborhood. It hurts everybody in this society. And it hurts the global economy as well. Sooner or later we have to recognize this is not Herbert Hoover time. The time for action is now.

Mr. CAMP. Mr. Chairman, I yield 4 minutes to the distinguished minority whip, a leader on developing the substitute, the gentleman from Virginia (Mr. CANTOR).

□ 1630

Mr. CANTOR. I thank the ranking member, the gentleman from Michigan.

As the economy sinks further into recession, all of us understand that this House needs to take concrete action to lift us and help lift America's families out of this crisis. We Republicans support this alternative because we believe it is a true stimulus bill. It does not take us headlong into soaring debt and lead to future tax increases. This alternative is based on the premise that if we're going to pass a stimulus bill, it has to be focused like a razor's edge on the protection, preservation and creation of jobs.

Mr. Chairman, we cannot support the majority's alternative, although we do understand that this is a work in progress, although we do understand, and we've spoken with the President, who says he has no pride of authorship. He wants us to continue to be part of the process. He wants this to be a stimulus bill.

Mr. Chairman, this bill is not that. With the amount of spending in this bill, we could dedicate it solely to job creation. Much of what the other side has continued to say and continues to promote perhaps may be laudable goals and good programs. But when you have $136 billion of additional new programs in this bill, you have got to ask, how stimulative are these new programs? What about the small businesses, the entrepreneurs and the self-employed that are out there who don't want more government programs? They just need a break. They need to know their government will not keep borrowing money and laying debt onto our children to the tune of trillions of dollars a year. They want meaningful incentives so they can get back off the sidelines, put capital to work and create jobs.

Mr. Chairman, the Congressional Budget Office has already opined several times on the lack of stimulus in the majority's bill. In fact, some estimates say only 12 cents on the dollar could arguably be stimulative. Mr. Chairman, there are additional voices who have spoken out, Democrats and Republicans, Christine Romer, the incoming head of the Council of Economic Advisers for the Obama White House, says in her analysis, if it is applied, as we have applied it, as some of the folks who have used her analysis in her formula on to your bill, that our alternative creates twice as many jobs at half the cost. And that is what we ought to be about in this House is trying to figure out how we can do things that work at less cost to the taxpayer.

I also say, Mr. Chairman, Alice Rivlin, the economic expert from the Clinton administration, she also opined and said, You know what—the majority's bill has terrific amounts of spending in it. And they may be laudable. But they're long-term investment programs. So she says we need to separate out these long-term investment programs from what is stimulative.

We have regular order in this Congress so that the American people can participate, we can be deliberative and we can get it right on the long-term programs. Right now, Mr. Chairman, we ought to be about protecting the jobs that are out there and creating new ones, again, focused like a laser.

The Republican plan does this without all the spending and waste. And we can create the jobs at half the cost.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to reserve the balance of my time until the gentleman from Michigan is prepared to close.

Mr. CAMP. At this time, I yield 1½ minutes to the distinguished gentleman from Florida.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, we clearly need to pass a stimulus package, a plan that will help our economy. Unfortunately, this plan spends lots of money but very little to incentivize the economy. It does very little to incentivize small businesses, small businesses which are the job creators in our country. Frankly, less than 10 percent of the money in this spending bill goes to infrastructure projects. And we hear a lot of talk about the infrastructure projects. I agree with that. But less than 10 percent of the bill goes to infrastructure projects. Most of them, unfortunately, Mr. Chairman, go to create a larger Federal bureaucracy with little accountability and nearly no oversight. Does that sound familiar?

This House last week was here passing legislation that the Senate already said they weren't going to do to try to cover up and fix up the embarrassment of the TARP legislation, of that bailout legislation, that had no accountability and no oversight. This bill is more of the same. This is Son of TARP, except it's even bigger, with little money and accountability, with little oversight, with less than 10 percent for infrastructure and with very little to help the job creators, the small businesses in our great country.

We need better accountability. We need more oversight. We need more for infrastructure. We need more to help the small businesses and less to just send it to create a larger Federal bureaucracy with no oversight. Again, as embarrassed as some people were about TARP, this is Son of TARP. We are going to read the scandals.

Don't pass this legislation.

Mr. CAMP. At this time I yield 1 minute to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Thank you, Mr. CAMP.

I think that the Democrats have lost perspective, Mr. Chairman. I want to put things in perspective. With the bailout bill, the Wall Street bailout bill added to this stimulus bill, we're spending over $1.5 trillion. The interstate highway system only cost $425 billion. The race to the Moon cost $237 billion. We're spending $1.5 trillion. President Obama did promise economic recovery. Unfortunately, congressional Democrats are going to destroy his vision of stimulus.

This act is not bold. It is not quick acting. It is the old policy of borrowing and spending. And we're thinking that more borrowing and more spending is going to get us out of this crisis that we're in now. Mr. CAMP's amendment is the last best chance for economic stimulus for the next 2 years of a Democrat-controlled government. This Democrat bill is not a stimulus. It is just another wasted bailout.

Mr. NEAL of Massachusetts. Mr. Chairman, I would like to yield myself the balance of my time.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. NEAL of Massachusetts. Thank you, Mr. Chairman.

I stand in opposition to the Camp amendment that is being offered at the moment.

While you might hear that the Republican amendment today includes a 2-year patch for the AMT, let me tell you that this patch results in zero taxpayers being helped. I repeat, zero taxpayers being helped.

I think the Republican minority would agree that I have earned a Ph.D. on AMT during my time in the House. I asked the Joint Committee on Taxation—for the viewing audience, they are not Republicans. They are not Democrats. They're professionals. I asked them to analyze the Republican amendment and tell me how many taxpayers would pay AMT under current law without any patch and under my friend Mr. CAMP's amendment. Oddly enough, there will be 26 million families paying AMT this year with or without the Camp amendment and 28 million families paying AMT next year with or without the Camp amendment. That is because this patch falls far short of what would be needed to protect the middle class from the takeback effect of the AMT.

Now this budgetary trick was used in 2001 to mask the true cost of the Bush tax cuts. Without the AMT patch, middle-income taxpayers lost two-thirds of their promised Bush tax cuts to AMT, again, Joint Committee on Taxation. And the same thing will happen under

Mr. CAMP's amendment. If Mr. CAMP's amendment is enacted, middle-income families, including 49,000 in my friend's, Mr. CAMP's, district will not see the lower 5 percent rate or the 10 percent rate that he promises. Twenty-six million families will pay higher taxes this year under the Camp proposal because of alternative minimum tax.

We will enact a patch this year so that those 26 million families will be protected from higher taxes. I guaranty you that. In fact, the Senate has already added it to their stimulus bill. But let's not fool ourselves today by voting for an AMT fig leaf and even steeper rate cuts which will leave the middle-income worker holding the bag.

I urge opposition to the Republican amendment.

I yield back the balance of my time.

Mr. CAMP. I yield myself the balance of my time.

The CHAIR. The gentleman from Michigan is recognized for 3 minutes.

Mr. CAMP. Mr. Chairman, I would commend Mr. NEAL for his work on the AMT. I just wish you had included it in your underlying bill. But let me just say, look, the CBO, the Congressional Budget Office, is nonpartisan. It has said that, and economists alike have said that tax cuts impact the economy more quickly than government spending. And what we need to do is act quickly and effectively.

We even have an analysis by the senior adviser to the new President who says that tax cuts will actually have more immediate growth, more job creation and a bigger bang for the buck than we'll see with government spending. And when we use the same methods and economic models that they have used to analyze our legislation, we get twice as many jobs for half the cost because of the great generative power of tax relief. It is something that certainly both President Kennedy and President Reagan recognized to create economic growth.

Let's be clear about what tax relief actually does. The U.S. economy had significant job growth after the tax cuts in the early part of this decade. Between 2003 and 2008, the economy added almost 8 million jobs. As this chart shows, it's according to the Department of Labor Bureau of Labor Statistics, the U.S. economy added these jobs even after dealing with the impact of 9/11, two wars, rising energy prices and government spending.

Now everyone knows that over the last year, the U.S. economy has lost a significant number of jobs, but it took an unprecedented crisis in the housing and financial markets and a world economic slowdown to really knock the economy and the jobs that the economy creates off its feet.

So our estimate of the number of jobs that could be created by these tax relief measures, as we readily acknowledge, cannot fully account for all of the potential impacts on the economy, just as the President's senior advisers note in their analysis the same thing. But we do know the U.S. economy was in recession when Congress enacted the 2001 and 2003 tax relief measures. The U.S. economy responded by growing rapidly and adding almost 8 million jobs. And the families and the prosperity that was created from those 8 million jobs followed.

So the tax relief, the approach we have taken in our bill to emphasize more tax relief minimizes the wasteful government spending that we see in the Democrat, or the present majority's approach, and really shows that it's a proven formula for stimulating the economy, creating jobs and lifting this economy out of a recession.

Mr. STARK. Mr. Chair, I rise in opposition to this wrong-headed substitute amendment offered by my Republican colleagues.

The Camp/Cantor amendment eliminates two key health care provisions in the American Recovery and Reinvestment Act. First, it deletes the entire investment in health information technology. Second, it eliminates the provisions designed to temporarily provide health insurance for workers who've lost their jobs in this economic crisis.

For years, I've heard my Republican colleagues laud the need to invest in health information technology. Yet, when a bill comes before them that finally meets that goal, what do they do? They delete it.

According to the nonpartisan Congressional Budget Office, H.R. 1 will dramatically increase physician use of health IT from 5 percent today to 90 percent. It will also increase hospital adoption rates from about 10 percent today to 70 percent.

CBO further tells us that the steps this bill takes to increase adoption will reduce what both the public and private sectors pay for health care by lowering administrative overhead costs, reducing the number of unnecessary tests and procedures, and decreasing many avoidable medical errors.

Specifically, CBO says the federal government will save $12 billion across government health programs and consumers will save billions more via lower premiums for private insurance.

With regard to health care coverage, I've also listened to my Republican colleagues for decades as they insist that any effort toward expanding health coverage build on what works in the private sector. COBRA continuation coverage does just that.

COBRA coverage enables people who have lost their jobs to maintain their private health insurance coverage through their former employer for a limited period of time—at their own cost—until they get a new job with health benefits.

All we do in H.R. 1 is provide a temporary 65 percent subsidy for up to 12 months for workers who have been involuntarily terminated in this recession. Many of these people are surviving on unemployment compensation—the monthly value of which is often less than the standard monthly family COBRA premium of more than $1000.

The Joint Committee on Taxation estimates that some 7 million Americans will be able to maintain their health coverage if this provision is enacted.

What does the Republican substitute do to this provision? It deletes it.

Clearly, my Republican colleagues are turning their back on this historic opportunity to modernize America's health IT system and reduce overall health spending. They are also telling America's workers that their health care needs are their own problem—even though this recession is a direct result of the lax oversight they and President Bush proceeded over for the past decade.

I urge my colleagues to vote "no" on this mean spirited substitute amendment.

Mr. CAMP. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. CAMP).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. CAMP. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

The CHAIR. The Committee will rise informally.

The Speaker pro tempore (Ms. LEE of California) assumed the chair.

SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to an enrolled bill of the Senate of the following title:

S. 181. To amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The Committee resumed its sitting.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 111–9 on which further proceedings were postponed, in the following order:

Amendment No. 5 by Mr. NEUGEBAUER of Texas.

Amendment No. 7 by Mr. FLAKE of Arizona.

Amendment No. 11 by Mr. CAMP of Michigan.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

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AMENDMENT NO. 5 OFFERED BY MR. NEUGEBAUER

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER) on which further proceedings were