as countrymen again. Sure, from the perspective of African Americans and as an African American, I have a lot of misgivings about how national reconciliation during that period was handled. If the northerners fought the war to save the union, they never had to acknowledge the underlying moral cause of the war—slavery. So it's not about freeing African Americans. And many northerners fought the war to save the union, not to free the slaves. Southerners, many of them argue they weren't fighting to preserve the institution of slavery, they were protecting their way of life down here, that big government doesn't have a right to come down here and tell us what to do, a very different principle. And so at the end of the war, the northerners can forgive the southerners because, well, we've settled it on a battlefield. Except the central issue for which the war is fought, the issue of slavery from a northern perspective and the issue of slavery from the southern perspective, the people for whom the war is being fought over are never brought into the reconciliation: When are we going to get the right to vote? When are we going to get housing? When are we going to get equality? When are we going to help the nation live up to the true meaning of its creed? And that process would begin immediately after the Civil War during reconstruction—I wish the House of Representatives would let me line up the rest of my charts—through reconstruction and then through Jim Crow and the struggle by the NAACP which the House of Representatives passed legislation commemorating the 100 years of their existence because many of the promises of reconstruction had never come to fruition for all Americans and women were still struggling for equality in our country beyond the war. But it was Abraham Lincoln who ordained the human rights movements that would allow us to come to Washington, Mr. Speaker, and begin to argue our case that this nation must live up to the truest and the highest means by which it was founded.

And so there sits Abraham Lincoln, and just a few steps down from Abraham Lincoln would stand Martin Luther King in August of 1963.

□ 2045

''Today we stand in the shadow of a man who, 100 years ago, set the slaves free,'' that 100 years later, Martin Luther King, Jr., would say, 100 years later, that is 1963, we would still find ourselves trapped in segregation with Governors using words like ''interposition'' and ''nullification,'' that if Congress passes a law to extend people's civil rights or if the Supreme Court would render a decision that might expand people's human rights in 1963, it is hard to imagine that we still had Governors using words like ''interposition'' and ''nullification'' meaning that their State had the right to ignore a decision of Congress or a decision of the Supreme Court of the United States. Because in 1963, some of our leadership was showing more adherence to their State than they were to that Union, to that Flag, to that one country for which those men in a battlefield in Gettysburg had already paid the price for us not to have to revisit again. We already paid the price that we are going to be one Nation, not multiple nations, not 50 different States, all separate and all unequal.

Oh, the problems for President Obama are even more complex today. Because our system is still separate and unequal. Yes, we have a Federal system. And yes, we have respect for our State system. Some States are in surplus. Some are in deficit spending. Most are in deficit spending. And in deficit spending, it is very difficult to provide a high quality education for every single child in every single county. Even before the economy was in the condition that it was in, we had problems. And the problems now are only more exacerbated by the fact, any adherence to dogma that doesn't allow the Federal Government and the States to work cooperatively to bring relief to the American people should be seen as problematic by any side of the aisle. Why are we adhering to old dogma about what the States can do and about what the Federal Government isn't supposed to do? The American people at this hour are asking of us to do something for them. But the fact that President Barack Obama can even say that our problems today are small by comparison to the problems that Mr. Lincoln confronted is a statement about the magnitude of the problems that Abraham Lincoln, our 16th President, confronted.

And so, Mr. Speaker, even as we come to the floor and I stand here as the 91st African American to ever have the privilege of serving in a Congress where more than 12,000 people have served, and I'm just the 91st, I owe my service in the Congress to the unsung heroes, to the men and women, the sheroes and the heroes, who fought to advance the idea that all men are created equal, to Medgar Evers and Schwerner, Goodman and Chaney, two Jews and a black, to Viola Liuzzo, to those martyrs, to those champions of equality and equal rights. But all of us owe a tremendous debt of gratitude to the 16th President who allowed our generation and those succeeding generations to fight for what is right, to have the right to agree to agree and agree to disagree in the context of our magnificent Republic. And so, Mr. President, Mr. Speaker, on the 200th anniversary of the greatest American who ever lived, and on behalf of the American people, we say thank you. And we say happy birthday.

I yield back the balance of my time.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 49 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2225

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PERLMUTTER) at 10 o'clock and 25 minutes p.m.

CONFERENCE REPORT ON H.R. 1, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Mr. OBEY submitted the following conference report and statement on 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 the fiscal year ending September 30, 2009, and for other purposes:

CONFERENCE REPORT (H. REPT. 111–16)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to 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 the fiscal year ending September 30, 2009, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

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:

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—APPROPRIATIONS PROVISIONS

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

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

DEPARTMENT OF AGRICULTURE

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

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

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $22,500,000, to remain available until September 30, 2013, for oversight and audit of programs, grants, and activities funded by this Act and administered by the Department of Agriculture.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

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

FARM SERVICE AGENCY

SALARIES AND EXPENSES

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

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

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

WATERSHED REHABILITATION PROGRAM

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

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

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

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

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

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

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

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

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

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

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants (including for technical assistance), $2,500,000,000: Provided, That the cost of direct and guaranteed loans shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That, notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States: Provided further, That at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture: Provided further, That priority for awarding such funds shall be given to project applications for broadband systems that will deliver end users a choice of more than one service provider: Provided further, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have access to broadband service: Provided further, That priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers: Provided further, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved, all project elements will be fully funded: Provided further, That priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided: Provided further, That priority for awarding such funds shall be given to activities that can commence promptly following approval: Provided further, That no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Technology Opportunities Program: Provided further, That the Secretary shall submit a report on planned spending and actual obligations describing the use of these funds not later than 90 days after the date of enactment of this Act, and quarterly thereafter until all funds are obligated, to the Committees on Appropriations of the House of Representatives and the Senate.

FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS

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

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

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

COMMODITY ASSISTANCE PROGRAM

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

GENERAL PROVISIONS—THIS TITLE

SEC. 101. 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 allotments, minimum allotments or consolidated block grants for Puerto Rico and American Samoa below the level in effect for fiscal year 2009 as a result of paragraph (1).

(b) REQUIREMENTS FOR THE SECRETARY.—In carrying out this section, the Secretary shall—

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

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

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

(4) disregard the additional amount of benefits that a household receives as a result of this section in determining the amount of overissuances under section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022); and

(5) set the tolerance level for excluding small errors for the purposes of section 16(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at $50 through September 30, 2009.

(c) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section and administering the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the Secretary shall make available $145,000,000 in fiscal year 2009 and $150,000,000 in fiscal year 2010, of which $4,500,000 is for necessary expenses of the Food and Nutrition Service for management and oversight of the program and for monitoring the integrity and evaluating the effects of the payments made under this section.

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

(3) ALLOCATION OF FUNDS.—Except as provided for management and oversight, funds described in paragraph (1) shall be made available as grants to State agencies for each fiscal year as follows:

(A) 75 percent of the amounts available for each fiscal year shall be allocated to States based on the share of each State of households that participate in the supplemental nutrition assistance program as reported to the Department of Agriculture for the most recent 12-month period for which data are available, adjusted by the Secretary (as of the date of enactment) for participation in disaster programs under section 5(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)); and

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

(d) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—For the costs relating to facility improvements and equipment upgrades associated with the Food Distribution Program on Indian Reservations, as established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary shall make available $5,000,000: Provided, That administrative cost-sharing requirements are not applicable to funds provided in accordance with this provision.

(e) TREATMENT OF JOBLESS WORKERS.—

(1) REMAINDER OF FISCAL YEAR 2009 THROUGH FISCAL YEAR 2010.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act and for each subsequent month through September 30, 2010, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(o)(2) of the Food and Nutrition Act of 2008 unless an individual does not comply with the requirements of a program offered by the State agency that meets the standards of subparagraphs (B) or (C) of that paragraph.

(2) FISCAL YEAR 2011 AND THEREAFTER.—Beginning on October 1, 2010, for the purposes of section 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(o)), a State agency shall disregard any period during which an individual received benefits under the supplemental nutrition assistance program prior to October 1, 2010.

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

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

''(7) 2008 TRANSITION ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(ii) as determined by the Secretary—

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

''(bb) do not qualify for a written agreement because 1 or more farming practices, which the Secretary has determined are good farming practices, of the eligible producers on the farm

differ significantly from the farming practices used by producers of the same crop in other regions of the United States; and

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

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

''(7) 2008 TRANSITION ASSISTANCE.—

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

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

''(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

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

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

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

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

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

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

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

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

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

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

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

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

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

''(ii) as determined by the Secretary—

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

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

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

(c) FARM OPERATING LOANS.—

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

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

(d) 2008 AQUACULTURE ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

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

(i) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

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

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

(2) GRANT PROGRAM.—

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

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

(C) PROVISION OF GRANTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the use of such funds for such purpose shall not be considered to be a fund transfer or allotment for purposes of applying the limitation on the total amount of allotments and fund transfers contained in such section.

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

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

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

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $150,000,000:

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

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

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

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

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

DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

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

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

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

CONSTRUCTION OF RESEARCH FACILITIES

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

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

PROCUREMENT, ACQUISITION AND CONSTRUCTION

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

OFFICE OF INSPECTOR GENERAL

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

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

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

STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

For an additional amount for ''Violence Against Women Prevention and Prosecution Programs'', $225,000,000 for grants to combat violence against women, as authorized by part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.): Provided, That, $50,000,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by section 40299 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

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

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

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

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

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

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

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

COMMUNITY ORIENTED POLICING SERVICES

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

SALARIES AND EXPENSES

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

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE

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

AERONAUTICS

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

EXPLORATION

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

CROSS AGENCY SUPPORT

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

OFFICE OF INSPECTOR GENERAL

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

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

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

EDUCATION AND HUMAN RESOURCES

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

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

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

OFFICE OF INSPECTOR GENERAL

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

GENERAL PROVISION—THIS TITLE

SEC. 201. Sections 1701(g) and 1704(c) of the Omnibus Crime Control and Safe Streets Act of

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

TITLE III—DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

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

OPERATION AND MAINTENANCE, NAVY

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

OPERATION AND MAINTENANCE, MARINE CORPS

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

OPERATION AND MAINTENANCE, AIR FORCE

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

OPERATION AND MAINTENANCE, ARMY RESERVE

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

OPERATION AND MAINTENANCE, NAVY RESERVE

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

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

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

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

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

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

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

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

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

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

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

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

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

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

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

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

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

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

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

OFFICE OF THE INSPECTOR GENERAL

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

TITLE IV—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

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

CONSTRUCTION

For an additional amount for ''Construction'', $2,000,000,000: Provided, That not less than $200,000,000 of the funds provided shall be for water-related environmental infrastructure assistance: Provided further, That section 102 of Public Law 109–103 (33 U.S.C. 2221) shall not apply to funds provided in this title: Provided further, That notwithstanding any other provision of law, funds provided in this paragraph shall not be cost shared with the Inland Waterways Trust Fund as authorized in Public Law 99–662: Provided further, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: Provided further, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: Provided further, That funds appropriated under this heading may be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330); or section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), notwithstanding the program cost limitations set forth in those sections: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for ''Mississippi River and Tributaries'', $375,000,000: Provided, That funds provided under this heading in this title shall only be used for programs, projects or activities that heretofore or hereafter receive funds provided in Acts making appropriations available for Energy and Water Development: Provided further, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that

account and that will not require new budget authority to complete: Provided further, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2280), shall not apply during fiscal year 2009 to any project that received funds provided in this title: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead engineering, and design on those projects and on subsequent claims, if any: Provided further, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

OPERATION AND MAINTENANCE

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

REGULATORY PROGRAM

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

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For an additional amount for ''Formerly Utilized Sites Remedial Action Program'', $100,000,000: Provided, That funds provided under this heading in this title shall be used for programs, projects or activities or elements of programs, projects or activities that can be completed within the funds made available in that account and that will not require new budget authority to complete: Provided further, That for projects that are being completed with funds appropriated in this Act that would otherwise be expired for obligation, expired funds appropriated in this Act may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any: Provided further, That the Secretary of the Army shall submit a quarterly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation, obligation and expenditures of these funds, beginning not later than 45 days after enactment of this Act: Provided further, That the Secretary shall have unlimited reprogramming authority for these funds provided under this heading.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

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

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

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

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For an additional amount for ''Electricity Delivery and Energy Reliability,'' $4,500,000,000: Provided, That funds shall be available for expenses necessary for electricity delivery and energy reliability activities to modernize the electric grid, to include demand responsive equipment, enhance security and reliability of the energy infrastructure, energy storage research, development, demonstration and deployment, and facilitate recovery from disruptions to the energy supply, and for implementation of programs authorized under title XIII of the Energy Independence and Security Act of 2007 (42 U.S.C. 17381 et seq.): Provided further, That $100,000,000 shall be available for worker training activities: Provided further, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: Provided further, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: Provided further, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: Provided further, That for the purpose of facilitating the development of regional transmission plans, the Office of Electricity Delivery and Energy Reliability within the Department of Energy is provided $80,000,000 within the available funds to conduct a resource assessment and an analysis of future demand and transmission requirements after consultation with the Federal Energy Regulatory Commission: Provided further, That the Office of Electricity Delivery and Energy Reliability in coordination with the Federal Energy Regulatory Commission will provide technical assistance to the North American Electric Reliability Corporation, the regional reliability entities, the States, and other transmission owners and operators for the formation of interconnection-based transmission plans for the Eastern and Western Interconnections and ERCOT: Provided further, That such assistance may include modeling, support to regions and States for the development of coordinated State electricity policies,

programs, laws, and regulations: Provided further, That $10,000,000 is provided to implement section 1305 of Public Law 110–140: Provided further, That the Secretary of Energy may use or transfer amounts provided under this heading to carry out new authority for transmission improvements, if such authority is enacted in any subsequent Act, consistent with existing fiscal management practices and procedures.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

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

NON-DEFENSE ENVIRONMENTAL CLEANUP

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

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

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

SCIENCE

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

ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

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

TITLE 17—INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

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

OFFICE OF THE INSPECTOR GENERAL

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

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

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

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

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

GENERAL PROVISIONS—THIS TITLE

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

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

''TITLE III—BORROWING AUTHORITY

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

''(a) DEFINITIONS.—In this section:

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

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

''(b) AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

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

''(A) each other such project; and

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

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

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

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

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

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

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

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

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

''(d) CERTIFICATION.—

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

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

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

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

''(2) FORGIVENESS OF BALANCES.—

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

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

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

''(e) PUBLIC PROCESSES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) recommendations for achieving adequate transmission capacity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) by the State; or

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

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

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

(b) STATE MATCH.—The State cost share requirement under the item relating to ''Department of Energy; Energy Conservation'' in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861) shall not apply to assistance provided under this section.

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

TITLE V—FINANCIAL SERVICES AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

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

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

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

INTERNAL REVENUE SERVICE

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

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

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

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

ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET PROCUREMENT

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

OFFICE OF INSPECTOR GENERAL

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

RECOVERY ACT ACCOUNTABILITY AND TRANSPARENCY BOARD

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

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount, to remain available until September 30, 2010, $69,000,000, of which $24,000,000 is for marketing, management, and technical assistance under section 7(m) of the

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

OFFICE OF INSPECTOR GENERAL

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

SURETY BOND GUARANTEES REVOLVING FUND

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

BUSINESS LOANS PROGRAM ACCOUNT

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

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

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

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

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

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

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

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

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

(2) REIMBURSEMENT FOR WAIVED FEES.—

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

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

(c) APPLICATION OF FEE ELIMINATIONS.—

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

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

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

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

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

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

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

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

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

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

(c) QUALIFIED BORROWERS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) ESTABLISHMENT OF AUTHORITY.—

(1) ORGANIZATION.—

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

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

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

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

(2) GUARANTEE PROCESS.—

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

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

(3) RESPONSIBILITIES.—

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

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

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

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

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

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

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

(d) LIMITATIONS.—

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

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

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

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

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

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

(2) The aggregate amount of guarantees outstanding.

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

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

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

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

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

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

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

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

''(7) PERMISSIBLE DEBT REFINANCING.—

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

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

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

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

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

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

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

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

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

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

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

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

''(2) MAXIMUM LEVERAGE.—

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

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

''(ii) $150,000,000.

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

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

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

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

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

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

(3) By striking paragraph (4).

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

''(a) PERCENTAGE LIMITATION ON PRIVATE CAPITAL.—If any small business investment company has obtained financing from the Administrator and such financing remains outstanding, the aggregate amount of securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not, without the approval of the Administrator, exceed 10 percent of the sum of—

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

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

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

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

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

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

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

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

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

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

(1) carry a 100 percent guaranty; and

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

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

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

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

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

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

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

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

SEC. 507. GAO REPORT.

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

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

SEC. 508. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 4119a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended—

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

(2) by striking ''$2,000,000'' and inserting ''$5,00,000''; and

(3) by adding at the end the following:

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

(b) DENIAL OF LIABILITY.—

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

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

''(c) Reimbursement of surety; conditions

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

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

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

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

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

(2) by adding at the end the following:

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

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

''(9) Notwithstanding any other provision of law or any rule, regulation, or order of the Administration, for purposes of sections 410, 411, and 412 the term 'small business concern' means a business concern that meets the size standard for the primary industry in which such business concern, and the affiliates of such business concern, is engaged, as determined by the Administrator in accordance with the North American Industry Classification System.''.

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

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

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

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

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

SEC. 509. ESTABLISHMENT OF SBA SECONDARY MARKET LENDING AUTHORITY

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

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

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

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

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

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

(i) EMERGENCY RULEMAKING AUTHORITY.—The Administrator shall promulgate regulations under this section within 30 days after the date of enactment of 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.

TITLE VI—DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

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

OFFICE OF INSPECTOR GENERAL

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

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $160,000,000, of which $100,000,000 shall be for the procurement and deployment of non-intrusive inspection systems; and of which $60,000,000 shall be for procurement and deployment of tactical communications equipment and radios: Provided, That no later than 45 days

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

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

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

CONSTRUCTION

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

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

AUTOMATION MODERNIZATION

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

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

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

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

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

ALTERATION OF BRIDGES

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

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

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

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

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

FIREFIGHTER ASSISTANCE GRANTS

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

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

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

EMERGENCY FOOD AND SHELTER

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

GENERAL PROVISIONS—THIS TITLE

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

SEC. 602. The Administrator of the Federal Emergency Management Agency may not prohibit or restrict the use of funds designated under the hazard mitigation grant program for damage caused by Hurricanes Katrina and Rita if the homeowner who is an applicant for assistance under such program commenced work otherwise eligible for hazard mitigation grant program assistance under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) without approval in writing from the Administrator.

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

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

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

(1) An article or item of—

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

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

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

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

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

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

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

(1) Procurements by vessels in foreign waters.

(2) Emergency procurements.

(f) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code.

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

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

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

(j) TRAINING DURING FISCAL YEAR 2009.—

(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that each member of the acquisition workforce in the Department of Homeland Security who participates personally and substantially in the acquisition of textiles

on a regular basis receives training during fiscal year 2009 on the requirements of this section and the regulations implementing this section.

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

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

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

TITLE VII—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

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

CONSTRUCTION

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

WILDLAND FIRE MANAGEMENT

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

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

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

CONSTRUCTION

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

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

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

HISTORIC PRESERVATION FUND

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

CONSTRUCTION

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

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

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

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

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

CONSTRUCTION

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

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

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

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

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

ENVIROMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

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

HAZARDOUS SUBSTANCE SUPERFUND

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

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

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

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

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

(1) $4,000,000,000 shall be for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act and $2,000,000,000 shall be for capitalization grants under section 1452 of the Safe Drinking Water Act: Provided, That the Administrator may retain up to 1 percent of the funds appropriated herein for management and oversight purposes: Provided further, That funds appropriated herein shall not be subject to the matching or cost share requirements of sections 602(b)(2), 602(b)(3) or 202 of the Federal Water Pollution Control Act nor the matching requirements of section 1452(e) of the Safe Drinking Water Act: Provided further, That the Administrator shall reallocate funds appropriated herein for the Clean and Drinking Water State Revolving Funds (Revolving Funds) where projects are not under contract or construction within 12 months of the date of enactment of this Act: Provided further, That notwithstanding the priority rankings they would otherwise receive under each program, priority for funds appropriated herein shall be given to projects on a State priority list that are ready to proceed to construction within 12 months of the date of enactment of this Act: Provided further, That notwithstanding the requirements of section 603(d) of the Federal Water Pollution Control Act or section 1452(f) of the Safe Drinking Water Act, for the funds appropriated herein, each State shall use not less than 50 percent of the amount of its capitalization grants to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these: Provided further, That, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds appropriated herein for the Revolving Funds shall be for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities: Provided further, That notwithstanding the limitation on amounts specified in section 518(c) of the Federal Water Pollution Control Act, up to 1.5 percent of the funds appropriated herein for the Clean Water State Revolving Funds may be reserved by the Administrator for tribal grants under section 518(c) of such Act: Provided further, That up to 4 percent of the funds appropriated herein for tribal set-asides under the Revolving Funds may be transferred to the Indian Health Service to support management and oversight of tribal projects: Provided further, That none of the funds appropriated herein shall be available for the purchase of land or easements as authorized by section 603(c) of the Federal Water Pollution Control Act or for activities authorized by section 1452(k) of the Safe Drinking Water Act: Provided further, That notwithstanding section 603(d)(2) of the Federal Water Pollution Control Act and section 1452(f)(2) of the Safe Drinking Water Act, funds may be used to buy, refinance or restructure the debt obligations of eligible recipients only where such debt was incurred on or after October 1, 2008;

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

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

ADMINISTRATIVE PROVISION, ENVIRONMENTAL PROTECTION AGENCY

(INCLUDING TRANSFERS OF FUNDS)

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

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for ''Capital Improvement and Maintenance'', $650,000,000, for

priority road, bridge and trail maintenance and decommissioning, including related watershed restoration and ecosystem enhancement projects; facilities improvement, maintenance and renovation; remediation of abandoned mine sites; and support costs necessary to carry out this work.

WILDLAND FIRE MANAGEMENT

For an additional amount for ''Wildland Fire Management'', $500,000,000, of which $250,000,000 is for hazardous fuels reduction, forest health protection, rehabilitation and hazard mitigation activities on Federal lands and of which $250,000,000 is for State and private forestry activities including hazardous fuels reduction, forest health and ecosystem improvement activities on State and private lands using all authorities available to the Forest Service: Provided, That up to $50,000,000 of the total funding may be used to make wood-to-energy grants to promote increased utilization of biomass from Federal, State and private lands: Provided further, That funds provided for activities on State and private lands shall not be subject to matching or cost share requirements.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

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

INDIAN HEALTH FACILITIES

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

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

FACILITIES CAPITAL

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

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For an additional amount for ''Grants and Administration'', $50,000,000, to be distributed in direct grants to fund arts projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support during the current economic downturn: Provided, That 40 percent of such funds shall be distributed to State arts agencies and regional arts organizations in a manner similar to the agency's current practice and 60 percent of such funds shall be for competitively selected arts projects and activities according to sections 2 and 5(c) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951, 954(c)): Provided further, That matching requirements under section 5(e) of such Act shall be waived.

GENERAL PROVISIONS—THIS TITLE

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

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

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

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

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

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

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

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

(2) $1,200,000,000 for grants to the States for youth activities, including summer employment for youth: Provided, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: Provided further, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: Provided further, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': Provided further, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds;

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

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

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

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

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

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

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

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for ''State Unemployment Insurance and Employment Service Operations'' for grants to States in accordance with section 6 of the Wagner-Peyser Act, $400,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, and which shall be available for obligation on the date of enactment of this Act: Provided, That such funds shall remain available to the States through September 30, 2010: Provided further, That $250,000,000 of such funds shall be used by States for reemployment services for unemployment insurance claimants (including the integrated Employment Service and Unemployment Insurance information technology required to identify and serve the needs of such claimants): Provided further, That the Secretary of Labor shall establish planning and reporting procedures necessary to provide oversight of funds used for reemployment services.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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

OFFICE OF JOB CORPS

For an additional amount for ''Office of Job Corps'', $250,000,000, for construction, rehabilitation and acquisition of Job Corps Centers, which shall be available upon the date of enactment of this Act and remain available for obligation through June 30, 2010: Provided, That

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

OFFICE OF INSPECTOR GENERAL

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

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

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

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

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

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

NATIONAL INSTITUTES OF HEALTH

NATIONAL CENTER FOR RESEARCH RESOURCES

For an additional amount for ''National Center for Research Resources'', $1,300,000,000, of which $1,000,000,000 shall be for grants or contracts under section 481A of the Public Health Service Act to construct, renovate or repair existing non-Federal research facilities: Provided, That sections 481A(c)(1)(B)(ii), paragraphs (1), (3), and (4) of section 481A(e), and section 481B of such Act shall not apply to the use of such funds: Provided further, That the references to ''20 years'' in subsections (c)(1)(B)(i) and (f) of section 481A of such Act are deemed to be references to ''10 years'' for purposes of using such funds: Provided further, That the National Center for Research Resources may also use $300,000,000 to provide, under the authority of section 301 and title IV of such Act, shared instrumentation and other capital research equipment to recipients of grants and contracts under section 481A of such Act and other appropriate entities: Provided further, That the Director of the Center shall provide to the Committees on Appropriations of the House of Representatives and the Senate an annual report indicating the number of institutions receiving awards of a grant or contract under section 481A of such Act, the proposed use of the funding, the average award size, a list of grant or contract recipients, and the amount of each award.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

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

BUILDINGS AND FACILITIES

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

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

(INCLUDING TRANSFER OF FUNDS)

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

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

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

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

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

CHILDREN AND FAMILIES SERVICES PROGRAMS

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

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

(2) $1,100,000,000 for expansion of Early Head Start programs, as described in section 645A of the Head Start Act: Provided, That of the funds provided in this paragraph, up to 10 percent shall be available for the provision of training and technical assistance to such programs consistent with section 645A(g)(2) of such Act, and up to 3 percent shall be available for monitoring the operation of such programs consistent with section 641A of such Act.

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

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

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

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

OFFICE OF THE SECRETARY

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

(INCLUDING TRANSFER OF FUNDS)

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

OFFICE OF INSPECTOR GENERAL

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

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

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

PREVENTION AND WELLNESS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for a ''Prevention and Wellness Fund'' to be administered through the Department of Health and Human Services, Office of the Secretary, $1,000,000,000: Provided, That of the amount provided in this paragraph, $300,000,000 shall be transferred to the Centers for Disease Control and Prevention (''CDC'') as an additional amount to carry out the immunization program (''section 317 immunization program'') authorized by section 317(a), (j), and (k)(1) of the Public Health Service Act (''PHS Act''): Provided further, That of the amount provided in this paragraph, $650,000,000 shall be to carry out evidence-based clinical and community-based prevention and wellness strategies authorized by the PHS Act, as determined by the Secretary, that deliver specific, measurable health outcomes that address chronic disease rates: Provided further, That funds appropriated in the preceding proviso may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate: Provided further, That of the amount appropriated in this paragraph, $50,000,000 shall be provided to States for an additional amount to carry out activities to implement healthcare-associated infections reduction strategies: Provided further, That not more than 0.5 percent of funds made available in this paragraph may be used for management and oversight expenses in the office or division of the Department of Health and Human Services administering the funds: Provided further, That the Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out with funds provided under this heading in order to determine the quality and effectiveness of the programs: Provided further, That the Secretary shall, not later than 1 year after the date of enactment of this Act, submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report summarizing the annual evaluations of programs from the preceding proviso: Provided further, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate an operating plan for the Prevention and Wellness Fund prior to making any Federal obligations of funds provided in this paragraph (excluding funds to carry out the section 317 immunization program), but not later than 90 days after the date of enactment of this Act, that indicates the prevention priorities to be addressed; provides measurable goals for each prevention priority; details the allocation of resources within the Department of Health and Human Services; and identifies which programs or activities are supported, including descriptions of any new programs or activities: Provided further, That the Secretary shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

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

IMPACT AID

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

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for ''School Improvement Programs'' to carry out subpart 1,

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

INNOVATION AND IMPROVEMENT

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

SPECIAL EDUCATION

For an additional amount for ''Special Education'' for carrying out parts B and C of the Individuals with Disabilities Education Act (''IDEA''), $12,200,000,000, of which $11,300,000,000 shall be available for section 611 of the IDEA: Provided, That if every State, as defined by section 602(31) of the IDEA, reaches its maximum allocation under section 611(d)(3)(B)(iii) of the IDEA, and there are remaining funds, such funds shall be proportionally allocated to each State subject to the maximum amounts contained in section 611(a)(2) of the IDEA: Provided further, That by July 1, 2009, the Secretary of Education shall reserve the amount needed for grants under section 643(e) of the IDEA, with any remaining funds to be allocated in accordance with section 643(c) of the IDEA: Provided further, That the total amount for each of sections 611(b)(2) and 643(b)(1) of the IDEA, under this and all other Acts, for fiscal year 2009, whenever enacted, shall be equal to the amounts respectively available for these activities under these sections during fiscal year 2008 increased by the amount of inflation as specified in section 619(d)(2)(B) of the IDEA: Provided further, That $400,000,000 shall be available for section 619 of the IDEA and $500,000,000 shall be available for part C of the IDEA.

REHABILITATION SERVICES AND DISABILITY RESEARCH

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

STUDENT FINANCIAL ASSISTANCE

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

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

STUDENT AID ADMINISTRATION

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

HIGHER EDUCATION

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

INSTITUTE OF EDUCATION SCIENCES

For an additional amount for ''Institute of Education Sciences'' to carry out section 208 of the Educational Technical Assistance Act, $250,000,000, which may be used for Statewide data systems that include postsecondary and workforce information, of which up to $5,000,000 may be used for State data coordinators and for awards to public or private organizations or agencies to improve data coordination.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

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

RELATED AGENCIES

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operating Expenses'' to carry out the Domestic Volunteer Service Act of 1973 (''1973 Act'') and the National and Community Service Act of 1990 (''1990 Act''), $160,000,000: Provided, That $89,000,000 of the funds made available in this paragraph shall be used to make additional awards to existing AmeriCorps grantees and may be used to provide adjustments to awards under subtitle C of title I of the 1990 Act made prior to September 30, 2010 for which the Chief Executive Officer of the Corporation for National and Community Service (''CEO'') determines that a waiver of the Federal share limitation is warranted under section 2521.70 of title 45 of the Code of Federal Regulations: Provided further, That of the amount made available in this paragraph, not less than $6,000,000 shall be transferred to ''Salaries and Expenses'' for necessary expenses relating to information technology upgrades, of which up to $800,000 may be used to administer the funds provided in this paragraph: Provided further, That of the amount provided in this paragraph, not less than $65,000,000 shall be for programs under title I, part A of the 1973 Act: Provided further, That funds provided in the previous proviso shall not be made available in connection with cost-share agreements authorized under section 192A(g)(10) of the 1990 Act: Provided further, That of the funds available under this heading, up to 20 percent of funds allocated to grants authorized under section 124(b) of title I, subtitle C of the 1990 Act may be used to administer, reimburse, or support any national service program under section 129(d)(2) of the 1990 Act: Provided further, That, except as provided herein and in addition to requirements identified herein, funds provided in this paragraph shall be subject to the terms and conditions under which funds were appropriated in fiscal year 2008: Provided further, That the CEO shall provide the Committees on Appropriations of the House of Representatives and the Senate a fiscal year 2009 operating plan for the funds appropriated in this paragraph prior to making any Federal obligations of such funds in fiscal year 2009, but not later than 90 days after the date of enactment of this Act, and a fiscal year 2010 operating plan for such funds prior to making any Federal obligations of such funds in fiscal year 2010, but not later than November 1, 2009, that detail the allocation of resources and the increased number of members supported by the AmeriCorps programs: Provided further, That the CEO shall provide to the Committees on Appropriations of the House of Representatives and the Senate a report on the actual obligations, expenditures, and unobligated balances for each activity funded under this heading not later than November 1, 2009, and every 6 months thereafter as long as funding provided under this heading is available for obligation or expenditure.

OFFICE OF INSPECTOR GENERAL

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

NATIONAL SERVICE TRUST

(INCLUDING TRANSFER OF FUNDS)

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

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING TRANSFER OF FUNDS)

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

(1) $500,000,000 shall remain available until expended for necessary expenses of the replacement of the National Computer Center and the information technology costs associated with such Center: Provided, That the Commissioner of Social Security shall notify the Committees on Appropriations of the House of Representatives and the Senate not later than 10 days prior to each public notice soliciting bids related to site selection and construction and prior to the lease

or purchase of such site: Provided further, That the construction plan and site selection for such center shall be subject to review and approval by the Office of Management and Budget: Provided further, That such center shall continue to be a government-operated facility; and

(2) $500,000,000 for processing disability and retirement workloads, including information technology acquisitions and research in support of such activities: Provided, That up to $40,000,000 may be used by the Commissioner of Social Security for health information technology research and activities to facilitate the adoption of electronic medical records in disability claims, including the transfer of funds to ''Supplemental Security Income Program'' to carry out activities under section 1110 of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

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

GENERAL PROVISIONS—THIS TITLE

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

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

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

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

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

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

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

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

''(b) REPORT.—No earlier than March 15, 2010, and not later than April 15, 2010, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

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

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

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

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

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

SEC. 804. FEDERAL COORDINATING COUNCIL FOR COMPARATIVE EFFECTIVENESS RESEARCH. (a) ESTABLISHMENT.—There is hereby established a Federal Coordinating Council for Comparative Effectiveness Research (in this section referred to as the ''Council'').

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

(c) DUTIES.—The Council shall—

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

(2) advise the President and Congress on—

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

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

(d) MEMBERSHIP.—

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

(2) MEMBERS.—

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

(i) The Agency for Healthcare Research and Quality.

(ii) The Centers for Medicare and Medicaid Services.

(iii) The National Institutes of Health.

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

(v) The Food and Drug Administration.

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

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

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

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

(e) REPORTS.—

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

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

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

(g) RULES OF CONSTRUCTION.—

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

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

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

(b) CONSTRUCTION PAYMENTS.—

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

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

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

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

(B) may award modernization grants in accordance with section 8007(b) of the Elementary

and Secondary Education Act of 1965 (20 U.S.C. 7707(b)) to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

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

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

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

(B) has—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE IX—LEGISLATIVE BRANCH

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

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

GENERAL PROVISIONS—THIS TITLE

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

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

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

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

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

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

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

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

TITLE X—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

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

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

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

MILITARY CONSTRUCTION, AIR FORCE

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

MILITARY CONSTRUCTION, DEFENSE-WIDE

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

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

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

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

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

FAMILY HOUSING CONSTRUCTION, ARMY

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

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

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

FAMILY HOUSING CONSTRUCTION, AIR FORCE

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

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

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

HOMEOWNERS ASSISTANCE FUND

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

ADMINISTRATIVE PROVISION

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

(1) in subsection (a)—

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

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

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

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

''(A) the Secretary determines—'';

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

(E) by adding at the end the following:

''(B) the Secretary determines—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) in subsection (c)—

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

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

''(A) IN GENERAL.—Such persons'';

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

''(i) to receive'';

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

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

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

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

''(ii) to receive'';

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(B) DETERMINATION OF BENEFITS.—The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property

if the Secretary determines that such payment will benefit the person and is in the best interest of the United States.

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

(4) by striking subsection (g);

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

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

(7) in subsection (n)—

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

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

(8) in subsection (o)—

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

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

(C) by striking paragraph (4); and

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

''(p) DEFINITIONS.—In this section:

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

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

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

''(A) is in Medical Holdover status;

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

''(C) is in Medical Hold status;

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

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

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

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

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

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

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

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

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL FACILITIES

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

NATIONAL CEMETERY ADMINISTRATION

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

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

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

INFORMATION TECHNOLOGY SYSTEMS

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

OFFICE OF INSPECTOR GENERAL

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

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

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

ADMINISTRATIVE PROVISION

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

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

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

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

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

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

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

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

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

(b) COMPENSATION FUND.—

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

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

(c) PAYMENTS.—

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

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

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

(1) served—

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) RELEASE.—

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

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

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

(j) ADMINISTRATION.—

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

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

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

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

TITLE XI—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

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

CAPITAL INVESTMENT FUND

(INCLUDING TRANSFER OF FUNDS)

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

OFFICE OF INSPECTOR GENERAL

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

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

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

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

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE TRANSPORTATION SYSTEM

For an additional amount for capital investments in surface transportation infrastructure, $1,500,000,000, to remain available through September 30, 2011: Provided, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region: Provided further, That projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement: Provided further, That of the amount made available under this paragraph, the Secretary may use an amount not to exceed $200,000,000 for the purpose of paying the subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this paragraph: Provided further, That in distributing funds provided under this heading, the Secretary shall take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities: Provided further, That a grant funded under this heading shall be not less than $20,000,000 and not greater than $300,000,000: Provided further, That the Secretary may waive the minimum grant size cited in the preceding proviso for the purpose of funding significant projects in smaller cities, regions, or States: Provided further, That not more than 20 percent of the funds made available under this paragraph may be awarded to projects in a single State: Provided further, That the Federal share of the costs for which an expenditure is made under this heading may be up to 100 percent: Provided further, That the Secretary shall give priority to projects that require a contribution of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment of this Act: Provided further, That the Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 90 days after enactment of this Act: Provided further, That the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after the publication of such criteria, and announce all projects selected to be funded from such funds not later than 1 year after enactment of this Act: Provided further, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: Provided further, That the Secretary may retain up to $1,500,000 of the funds provided under this heading, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this heading.

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL FUNDING FOR FACILITIES AND EQUIPMENT

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

GRANTS-IN-AID FOR AIRPORTS

For an additional amount for ''Grants-In-Aid for Airports'', to enable the Secretary of Transportation to make grants for discretionary projects as authorized by subchapter 1 of chapter 471 and subchapter 1 of chapter 475 of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports of such title, $1,100,000,000, to remain available through September 30, 2010: Provided, That such funds shall not be subject to apportionment formulas, special apportionment categories, or minimum percentages under chapter 471: Provided further, That the Secretary shall distribute funds provided under this heading as discretionary grants to airports, with priority given to those projects that demonstrate to his

satisfaction their ability to be completed within 2 years of enactment of this Act, and serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: Provided further, That the Secretary shall award grants totaling not less than 50 percent of the funds made available under this heading within 120 days of enactment of this Act, and award grants for the remaining amounts not later than 1 year after enactment of this Act: Provided further, That the Federal share payable of the costs for which a grant is made under this heading shall be 100 percent: Provided further, That the amount made available under this heading shall not be subject to any limitation on obligations for the Grants-in-Aid for Airports program set forth in any Act: Provided further, That the Administrator of the Federal Aviation Administration may retain up to 0.2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under subsection 601(a)(8) of such title, $27,500,000,000, to remain available through September 30, 2010: Provided, That, after making the set-asides required under this heading, 50 percent of the funds made available under this heading shall be apportioned to States using the formula set forth in section 104(b)(3) of title 23, United States Code, and the remaining funds shall be apportioned to States in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161: Provided further, That funds made available under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: Provided further, That in selecting projects to be carried out with funds apportioned under this heading, priority shall be given to projects that are projected for completion within a 3-year time frame, and are located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161): Provided further, That 120 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that State (excluding funds suballocated within the State) less the amount of funding obligated (excluding funds suballocated within the State), and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110–161: Provided further, That 1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds, and the Secretary shall redistribute such amounts to States that have had no funds withdrawn under this proviso (excluding funds suballocated within the State) in the manner described in section 120(c) of division K of Public Law 110–161: Provided further, That at the request of a State, the Secretary of Transportation may provide an extension of such 1-year period only to the extent that he feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances: Provided further, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: Provided further, That 3 percent of the funds apportioned to a State under this heading shall be set aside for the purposes described in subsection 133(d)(2) of title 23, United States Code (without regard to the comparison to fiscal year 2005): Provided further, That 30 percent of the funds apportioned to a State under this heading shall be suballocated within the State in the manner and for the purposes described in the first sentence of subsection 133(d)(3)(A), in subsection 133(d)(3)(B), and in subsection 133(d)(3)(D): Provided further, That such suballocation shall be conducted in every State Provided further, That funds suballocated within a State to urbanized areas and other areas shall not be subject to the redistribution of amounts required 120 days following the date of apportionment of funds provided under this heading: Provided further, That of the funds provided under this heading, $105,000,000 shall be for the Puerto Rico highway program authorized under section 165 of title 23, United States Code, and $45,000,000 shall be for the territorial highway program authorized under section 215 of title 23, United States Code: Provided further, That of the funds provided under this heading, $60,000,000 shall be for capital expenditures eligible under section 147 of title 23, United States Code (without regard to subsection(d)): Provided further, That the Secretary of Transportation shall distribute such $60,000,000 as competitive discretionary grants to States, with priority given to those projects that demonstrate to his satisfaction their ability to be completed within 2 years of enactment of this Act: Provided further, That of the funds provided under this heading, $550,000,000 shall be for investments in transportation at Indian reservations and Federal lands: Provided further, That of the funds identified in the preceding proviso, $310,000,000 shall be for the Indian Reservation Roads program, $170,000,000 shall be for the Park Roads and Parkways program, $60,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program: Provided further, That for investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act: Provided further, That 1 year following the enactment of this Act, to ensure the prompt use of the $550,000,000 provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated: Provided further, That up to 4 percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses: Provided further, That section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds provided under this heading: Provided further, That of the funds made available under this heading, $20,000,000 shall be for highway surface transportation and technology training under section 140(b) of title 23, United States Code, and $20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: Provided further, That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for investments in transportation at Indian reservations and Federal lands, and for the territorial highway program, which shall be administered in accordance with chapter 2 of title 23, United States Code, and except for funds made available for disadvantaged business enterprises bonding assistance, which shall be administered in accordance with chapter 3 of title 49, United States Code: Provided further, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall be, at the option of the recipient, up to 100 percent of the total cost thereof: Provided further, That funds made available by this Act shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code: Provided further, That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2009 and 2010 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act: Provided further, That the amount made available under this heading shall not be subject to any limitation on obligations for Federal-aid highways or highwaty safety construction programs set forth in any Act: Provided further, That section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this heading: Provided further, That the Administrator of the Federal Highway Administration may retain up to $40,000,000 of the funds provided under this heading to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act and such funds shall be available through September 30, 2012.

FEDERAL RAILROAD ADMINISTRATION

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

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

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the National Railroad Passenger Corporation (Amtrak) to enable the Secretary of Transportation to make capital grants to Amtrak as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432),

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

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

For an additional amount for transit capital assistance grants authorized under section 5302(a)(1) of title 49, United States Code, $6,900,000,000, to remain available through September 30, 2010: Provided, That the Secretary of Transportation shall provide 80 percent of the funds appropriated under this heading for grants under section 5307 of title 49, United States Code, and apportion such funds in accordance with section 5336 of such title (other than subsections (i)(1) and (j)): Provided further, That the Secretary shall apportion 10 percent of the funds appropriated under this heading in accordance with section 5340 of such title: Provided further, That the Secretary shall provide 10 percent of the funds appropriated under this heading for grants under section 5311 of title 49, United States Code, and apportion such funds in accordance with such section: Provided further, That funds apportioned under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: Provided further, That 180 days following the date of such apportionment, the Secretary shall withdraw from each urbanized area or State an amount equal to 50 percent of the funds apportioned to such urbanized areas or States less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: Provided further, That 1 year following the date of such apportionment, the Secretary shall withdraw from each urbanized area or State any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: Provided further, That at the request of an urbanized area or State, the Secretary of Transportation may provide an extension of such 1-year period if he feels satisfied that the urbanized area or State has encountered an unworkable bidding environment or other extenuating circumstances: Provided further, That before granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: Provided further, That of the funds provided for section 5311 of title 49, United States Code, 2.5 percent shall be made available for section 5311(c)(1): Provided further, That of the funding provided under this heading, $100,000,000 shall be distributed as discretionary grants to public transit agencies for capital investments that will assist in reducing the energy consumption or greenhouse gas emissions of their public transportation systems: Provided further, That for such grants on energy-related investments, priority shall be given to projects based on the total energy savings that are projected to result from the investment, and projected energy savings as a percentage of the total energy usage of the public transit agency: Provided further, That applicable chapter 53 requirements shall apply to funding provided under this heading, except that the Federal share of the costs for which any grant is made under this heading shall be, at the option of the recipient, up to 100 percent: Provided further, That the amount made available under this heading shall not be subject to any limitation on obligations for transit programs set forth in any Act: Provided further, That section 1101(b) of Public Law 109–59 shall apply to funds appropriated under this heading: Provided further, That the funds appropriated under this heading shall not be comming led with any prior year funds: Provided further, That notwithstanding any other provision of law, three-quarters of 1 percent of the funds provided for grants under section 5307 and section 5340, and one-half of 1 percent of the funds provided for grants under section 5311, shall be available for administrative expenses and program management oversight, and such funds shall be available through September 30, 2012.

FIXED GUIDEWAY INFRASTRUCTURE INVESTMENT

For an amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, $750,000,000, to remain available through September 30, 2010: Provided, That the Secretary of Transportation shall apportion funds under this heading pursuant to the formula set forth in section 5337 of title 49, United States Code: Provided further, That the funds appropriated under this heading shall not be commingled with any prior year funds: Provided further, That funds made available under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: Provided further, That 180 days following the date of such apportionment, the Secretary shall withdraw from each urbanized area an amount equal to 50 percent of the funds apportioned to such urbanized area amounts to other urbanized areas that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: Provided further, That 1 year following the date of such apportionment, the Secretary shall withdraw from each urbanized area any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this provision utilizing whatever method he or she deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly: Provided further, That at the request of an urbanized area, the Secretary of Transportation may provide an extension of such 1-year period if he or she feels satisfied that the urbanized area has encountered an unworkable bidding environment or other extenuating circumstances: Provided further, That hbefore granting such an extension, the Secretary shall send a letter to the House and Senate Committees on Appropriations that provides a thorough justification for the extension: Provided further, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: Provided further, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: Provided further, That notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012.

CAPITAL INVESTMENT GRANTS

For an additional amount for ''Capital Investment Grants'', as authorized under section 5338(c)(4) of title 49, United States Code, and allocated under section 5309(m)(2)(A) of such title, to enable the Secretary of Transportation to make discretionary grants as authorized by section 5309(d) and (e) of such title, $750,000,000, to remain available through September 30, 2010: Provided, That such amount shall be allocated without regard to the limitation under section 5309(m)(2)(A)(i): Provided further, That in selecting projects to be funded, priority shall be given to projects that are currently in construction or are able to obligate funds within 150 days of enactment of this Act: Provided further, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: Provided further, That funds appropriated under this heading shall not be commingled with any prior year funds: Provided further, That applicable chapter 53 requirements shall apply, except that notwithstanding any other provision of law, up to 1 percent of the funds provided under this heading shall be available for administrative expenses and program management oversight, and shall remain available through September 30, 2012.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

To make grants to qualified shipyards as authorized under section 3508 of Public Law 110–417 or section 54101 of title 46, United States Code, $100,000,000, to remain available through September 30, 2010: Provided, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their distribution: Provided further, That the Maritime Administrator may retain and transfer to ''Maritime Administration, Operations and Training'' up to 2 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $20,000,000, to remain available through September 30, 2013: Provided, That the funding made available under this heading shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Transportation: Provided further, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements to the Government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department.

GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

SEC. 1201. (a) MAINTENANCE OF EFFORT.—Not later than 30 days after the date of enactment of this Act, for each amount that is distributed to a State or agency thereof from an appropriation in this Act for a covered program, the Governor of the State shall certify to the Secretary of Transportation that the State will maintain its effort with regard to State funding for the types of projects that are funded by the appropriation. As part of this certification, the Governor

shall submit to the Secretary of Transportation a statement identifying the amount of funds the State planned to expend from State sources as of the date of enactment of this Act during the period beginning on the date of enactment of this Act through September 30, 2010, for the types of projects that are funded by the appropriation.

(b) FAILURE TO MAINTAIN EFFORT.—

If a State is unable to maintain the level of effort certified pursuant to subsection (a), the State will be prohibited by the Secretary of Transportation from receiving additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for fiscal year 2011.

(c) PERIODIC REPORTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each grant recipient shall submit to the covered agency from which they received funding periodic reports on the use of the funds appropriated in this Act for covered programs. Such reports shall be collected and compiled by the covered agency and transmitted to Congress. Covered agencies may develop such reports on behalf of grant recipients to ensure the accuracy and consistency of such reports.

(2) CONTENTS OF REPORTS.—For amounts received under each covered program by a grant recipient under this Act, the grant recipient shall include in the periodic reports information tracking-

(A) the amount of Federal funds appropriated, allocated, obligated, and outlayed under the appropriation;

(B) the number of projects that have been put out to bid under the appropriation and the amount of Federal funds associated with such projects;

(C) the number of projects for which contracts have been awarded under the appropriation and the amount of Federal funds associated with such contracts;

(D) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts;

(E) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts;

(F) the number of direct, on-project jobs created or sustained by the Federal funds provided for projects under the appropriation and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of job-years created and the total increase in employment since the date of enactment of this Act; and

(G) for each covered program report information tracking the actual aggregate expenditures by each grant recipient from State sources for projects eligible for funding under the program during the period beginning on the date of enactment of this Act through September 30, 2010, as compared to the level of such expenditures that were planned to occur during such period as of the date of enactment of this Act.

(3) TIMING OF REPORTS.—Each grant recipient shall submit the first of the periodic reports required under this subsection not later than 90 days after the date of enactment of this Act and shall submit updated reports not later than 180 days, 1 year, 2 years, and 3 years after such date of enactment.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED AGENCY.—The term ''covered agency'' means the Office of the Secretary of Transportation, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Federal Transit Administration and the Maritime Administration of the Department of Transportation.

(2) COVERED PROGRAM.—The term ''covered program'' means funds appropriated in this Act for ''Supplemental Discretionary Grants for a National Surface Transportation System'' to the Office of the Secretary of Transportation, for ''Supplemental Funding for Facilities and Equipment'' and ''Grants-in-Aid for Airports'' to the Federal Aviation Administration; for ''Highway Infrastructure Investment'' to the Federal Highway Administration; for ''Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service'' and ''Capital Grants to the National Railroad Passenger Corporation'' to the Federal Railroad Administration; for ''Transit Capital Assistance'', ''Fixed Guideway Infrastructure Investment'', and ''Capital Investment Grants'' to the Federal Transit Administration; and ''Supplemental Grants for Assistance to Small Shipyards'' to the Maritime Administration.

(3) GRANT RECIPIENT.—The term ''grant recipient'' means a State or other recipient of assistance provided under a covered program in this Act. Such term does not include a Federal department or agency.

(e) Notwithstanding any other provision of law, sections 3501–3521 of title 44, United States Code, shall not apply to the provisions of this section.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

PUBLIC HOUSING CAPITAL FUND

For an additional amount for the ''Public Housing Capital Fund'' to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) (the ''Act''), $4,000,000,000, to remain available until September 30, 2011: Provided, That the Secretary of Housing and Urban Development shall distribute $3,000,000,000 of this amount by the same formula used for amounts made available in fiscal year 2008, except that the Secretary may determine not to allocate funding to public housing agencies currently designated as troubled or to public housing agencies that elect not to accept such funding: Provided further, That the Secretary shall obligate funds allocated by formula within 30 days of enactment of this Act: Provided further, That the Secretary shall make available $1,000,000,000 by competition for priority investments, including investments that leverage private sector funding or financing for renovations and energy conservation retrofit investments: Provided further, That the Secretary shall obligate competitive funding by September 30, 2009: Provided further, That public housing authorities shall give priority to capital projects that can award contracts based on bids within 120 days from the date the funds are made available to the public housing authorities: Provided further, That public housing agencies shall give priority consideration to the rehabilitation of vacant rental units: Provided further, That public housing agencies shall prioritize capital projects that are already underway or included in the 5-year capital fund plans required by the Act (42 U.S.C. 1437c–1(a)): Provided further, That notwithstanding any other provision of law, (1) funding provided under this heading may not be used for operating or rental assistance activities, and (2) any restriction of funding to replacement housing uses shall be inapplicable: Provided further, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this heading shall serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee: Provided further, That notwithstanding section 9(j), public housing agencies shall obligate 100 percent of the funds within 1 year of the date on which funds become available to the agency for obligation, shall expend at least 60 percent of funds within 2 years of the date on which funds become available to the agency for obligation, and shall expend 100 percent of the funds within 3 years of such date: Provided further, That if a public housing agency fails to comply with the 1-year obligation requirement, the Secretary shall recapture all remaining unobligated funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: Provided further, That if a public housing agency fails to comply with either the 2-year or the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the public housing agency and reallocate such funds to agencies that are in compliance with those requirements: Provided further, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: Provided further, That, in addition to waivers authorized under the previous proviso, the Secretary may direct that requirements relating to the procurement of goods and services arising under state and local laws and regulations shall not apply to amounts made available under this heading: Provided further, That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: Provided further, That funds set aside in the previous proviso shall remain available until September 30, 2012: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'' and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Fund''.

NATIVE AMERICAN HOUSING BLOCK GRANTS

For an additional amount for ''Native American Housing Block Grants'', as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (''NAHASDA'') (25 U.S.C. 4111 et seq.), $510,000,000 to remain available until September 30, 2011: Provided, That $255,000,000 of the amount provided under this heading shall be distributed according to the same funding formula used in fiscal year 2008: Provided further, That the Secretary shall obligate funds allocated by formula within 30 days of enactment of this Act: Provided further, That the amounts distributed through the formula shall be used for new construction, acquisition, rehabilitation including energy efficiency and conservation, and infrastructure development: Provided further, That in selecting projects to be funded, recipients shall give priority to projects for which contracts can be awarded within 180 days from the date that funds are available to the recipients: Provided further, that the Secretary may obligate $255,000,000 of the amount provided under this heading for competitive grants to eligible entities that apply for funds authorized under NAHASDA: Provided further, That the Secretary shall obligate competitive funding by September 30, 2009: Provided further, That in awarding competitive funds, the Secretary shall

give priority to projects that will spur construction and rehabilitation and will create employment opportunities for low-income and unemployed persons: Provided further, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date funds are made available to a recipient, expend at least 50 percent of such funds within 2 years of the date on which funds become available to such recipients for obligation and expend 100 percent of such funds within 3 years of such date: Provided further, That if a recipient fails to comply with the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds through the funding formula to recipients that are in compliance with these requirements: Provided further, That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds originally awarded to the recipient: Provided further, That notwithstanding any other provision of law, the Secretary may set aside up to 2 percent of funds made available under this paragraph for a housing entity eligible to receive funding under title VIII of NAHASDA (25 U.S.C. 4221 et seq.): Provided further, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: Provided further, That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: Provided further, That funds set aside in the previous proviso shall remain available until September 30, 2012: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Personnel Compensation and Benefits, Office of Public and Indian Housing'' and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Fund''.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for ''Community Development Fund'' $1,000,000,000, to remain available until September 30, 2010 to carry out the community development block grant program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.): Provided, That the amount appropriated in this paragraph shall be distributed pursuant to 42 U.S.C. 5306 to grantees that received funding in fiscal year 2008: Provided further, That in administering the funds appropriated in this paragraph, the Secretary of Housing and Urban Development shall establish requirements to expedite the use of the funds: Provided further, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipients: Provided further, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is necessary to expedite or facilitate the timely use of such funds and would not be inconsistent with the overall purpose of the statute.

For the provision of emergency assistance for the redevelopment of abandoned and foreclosed homes, as authorized under division B, title III of the Housing and Economic Recovery Act of 2008 (''the Act'') (Public Law 110–289) (42 U.S.C. 5301 note), $2,000,000,000, to remain available until September 30, 2010: Provided, That grantees shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the grantee for obligation, and 100 percent of such funds within 3 years of such date: Provided further, That unless otherwise noted herein, the provisions of the Act govern the use of the additional funds made available under this heading: Provided further, That notwithstanding the provisions of sections 2301(b) and (c)(1) and section 2302 of the Act, funding under this paragraph shall be allocated by competitions for which eligible entities shall be States, units of general local government, and nonprofit entities or consortia of nonprofit entities, which may submit proposals in partnership with for profit entities: Provided further, That in selecting grantees, the Secretary of Housing and Urban Development shall ensure that the grantees are in areas with the greatest number and percentage of foreclosures and can expend funding within the period allowed under this heading: Provided further, That additional award criteria for such competitions shall include demonstrated grantee capacity to execute projects, leveraging potential, concentration of investment to achieve neighborhood stabilization, and any additional factors determined by the Secretary of Housing and Urban Development: Provided further, That the Secretary may establish a minimum grant size: Provided further, That the Secretary shall publish criteria on which to base competition for any grants awarded under this heading not later than 75 days after the enactment of this Act and applications shall be due to HUD not later than 150 days after the enactment of this Act: Provided further, That the Secretary shall obligate all funding within 1 year of enactment of this Act: Provided further, That section 2301(d)(4) of the Act is repealed: Provided further, That section 2301(c)(3)(C) of the Act is amended to read ''establish and operate land banks for homes and residential properties that have been foreclosed upon'': Provided further, That funding used for section 2301(c)(3)(E) of the Act shall be available only for the redevelopment of demolished or vacant properties as housing: Provided further, That no amounts made available from a grant under this heading may be used to demolish any public housing (as such term is defined in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a)): Provided further, That a grantee may not use more than 10 percent of its grant under this heading for demolition activities under section 2301(c)(3)(C) and (D) unless the Secretary determines that such use represents an appropriate response to local market conditions: Provided further, That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment under division B, title III of the Housing and Economic Recovery Act of 2008, may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a participant: Provided further, That in addition to the eligible uses in section 2301, the Secretary may also use up to 10 percent of the funds provided under this heading for grantees for the provision of capacity building of and support for local communities receiving funding under section 2301 of the Act or under this heading: Provided further, That in administering funds appropriated or otherwise made available under this section, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of funds except for requirements related to fair housing, nondiscrimination, labor standards and the environment, upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: Provided further, That in the case of any acquisition of a foreclosed upon dwelling or residential real property acquired after the date of enactment with any amounts made available under this heading or under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), the initial successor in interest in such property pursuant to the foreclosure shall assume such interest subject to: (1) the provision by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date of such notice of foreclosure: (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this paragraph shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants: Provided further, That, for purposes of this paragraph, a lease or tenancy shall be considered bona fide only if: (1) the mortgagor under the contract is not the tenant; (2) the lease or tenancy was the result of an arms-length transaction; and (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property: Provided further, That the recipient of any grant or loan from amounts made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) may not refuse to lease a dwelling unit in housing assisted with such loan or grant to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) because of the status of the prospective tenant as such a holder: Provided further, That in the case of any qualified foreclosed housing for which funds made available under this heading or, after the date of enactment, under division B, title III of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) are used and in which a recipient of assistance under section 8(o) of the U.S. Housing Act of 1937 resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit: Provided further, That vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use: Provided further, That if a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosures, due to (1) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C.1437f) or (2)

an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(i) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (ii) for the family's reasonable moving costs, including security deposit costs: Provided further, That this paragraph shall not preempt any Federal, State or local law that provides more protections for tenants: Provided further, That of the funds made available under this heading, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: Provided further, That funds set aside in the previous proviso shall remain available until September 30, 2012: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Personnel Compensation and Benefits, Community Planning and Development'' and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and management'', for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Funds''.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for capital investments in low-income housing tax credit projects, $2,250,000,000, to remain available until September 30, 2011: Provided, That such funds shall be made available to State housing credit agencies, as defined in section 42(h) of the Internal Revenue Code of 1986, and shall be apportioned among the States based on the percentage of HOME funds apportioned to each State and the participating jurisdictions therein for Fiscal Year 2008: Provided further, That the housing credit agencies in each State shall distribute these funds competitively under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under section 42(h) of the Internal Revenue Code of 1986: Provided further, That housing credit agencies in each State shall commit not less than 75 percent of such funds within one year of the date of enactment of this Act, and shall demonstrate that the project owners shall have expended 75 percent of the funds made available under this heading within two years of the date of enactment of this Act, and shall have expended 100 percent of the funds within 3 years of the date of enactment of this Act: Provided further, That failure by an owner to expend funds within the parameters required within the previous proviso shall result in a redistribution of these funds by a housing credit agency to a more deserving project in such State, except any funds not expended after 3 years from enactment shall be redistributed by the Secretary to other States that have fully utilized the funds made available to them: Provided further, That projects awarded low income housing tax credits under section 42(h) of the IRC of 1986 in fiscal years 2007, 2008, or 2009 shall be eligible for funding under this heading: Provided further, That housing credit agencies shall give priority to projects that are expected to be completed within 3 years of enactment: Provided further, That any assistance provided to an eligible low income housing tax credit project under this heading shall be made in the same manner and be subject to the same limitations (including rent, income, and use restrictions, in lieu of corresponding limitations under the HOME program) as required by the state housing credit agency with respect to an award of low income housing credits under section 42 of the IRC of 1986: Provided further, That the housing credit agency shall perform asset management functions, or shall contract for the performance of such services, in either case, at the owner's expense, to ensure compliance with section 42 of the IRC of 1986, and the long term viability of buildings funded by assistance under this heading: Provided further, That the term eligible basis (as such term is defined in such section 42) of a qualified low-income housing tax credit building receiving assistance under this heading shall not be reduced by the amount of any grant described under this heading: Provided further, That the Secretary shall be given access upon reasonable notice to a State housing credit agency to information related to the award of Federal funds from such housing credit agency pursuant to this heading and shall establish an Internet site that shall identify all projects selected for an award, including the amount of the award and such site shall provide linkage to the housing credit agency allocation plan which describes the process that was used to make the award decision, Provided further, That in administering funds under this heading, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds except for requirements imposed by this heading and requirements related to fair housing, non-discrimination, labor standards and the environment, upon a finding that such waiver is required to expedite the use of such funds: Provided further, That for purposes of environmental compliance review, funds under this heading that are made available to State housing credit agencies for distribution to projects awarded low income housing tax credits shall be treated as funds under the HOME program and shall be subject to Section 288 of the HOME Investment Partnership Act.

HOMELESSNESS PREVENTION FUND

For homelessness prevention and rapid re-housing activities, $1,500,000,000, to remain available until September 30, 2011: Provided, That funds provided under this heading shall be used for the provision of short-term or medium-term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, moving cost assistance, and case management; or other appropriate activities for homelessness prevention and rapid re-housing of persons who have become homeless: Provided further, That grantees receiving such assistance shall collect data on the use of the funds awarded and persons served with this assistance in the HUD Homeless Management Information System (''HMIS'') or other comparable database: Provided further, That grantees may use up to 5 percent of any grant for administrative costs: Provided further, That funding made available under this heading shall be allocated to eligible grantees (as defined and designated in sections 411 and 412 of subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, (the ''Act'')) pursuant to the formula authorized by section 413 of the Act: Provided further, That the Secretary may establish a minimum grant size: Provided further, That grantees shall expend at least 60 percent of funds within 2 years of the date that funds became available to them for obligation, and 100 percent of funds within 3 years of such date, and the Secretary may recapture unexpended funds in violation of the 2-year expenditure requirement and reallocate such funds to grantees in compliance with that requirement: Provided further, That the Secretary may waive statutory or regulatory provisions (except provisions for fair housing, nondiscrimination, labor standards, and the environment) necessary to facilitate the timely expenditure of funds: Provided further, That the Secretary shall publish a notice to establish such requirements as may be necessary to carry out the provisions of this section within 30 days of enactment of this Act and that this notice shall take effect upon issuance: Provided further, That of the funds provided under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That funds set aside under the previous proviso shall remain available until September 30, 2012: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Community Planning and Development Personnel Compensation and Benefits'' and shall retain the terms and conditions of this account including reprogramming provisions except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management'' for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funding made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Fund.''

HOUSING PROGRAMS

ASSISTED HOUSING STABILITY AND ENERGY AND GREEN RETROFIT INVESTMENTS

For assistance to owners of properties receiving project-based assistance pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 17012), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), or section 8 of the United States Housing Act of 1937 as amended (42 U.S.C. 1437f), $2,250,000,000, of which $2,000,000,000 shall be for an additional amount for paragraph (1) under the heading ''Project-Based Rental Assistance'' in Public Law 110–161 for payments to owners for 12-month periods, and of which $250,000,000 shall be for grants or loans for energy retrofit and green investments in such assisted housing: Provided, That projects funded with grants or loans provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: Provided further, That such grants or loans shall be provided through the policies, procedures, contracts, and transactional infrastructure of the authorized programs administered by the Office of Affordable Housing Preservation of the Department of Housing and Urban Development, on such terms and conditions as the Secretary of Housing and Urban Development deems appropriate to ensure the maintenance and preservation of the property, the continued operation and maintenance of energy efficiency technologies, and the timely expenditure of funds: Provided further, That the Secretary may provide incentives to owners to undertake energy or green retrofits as a part of such grant or loan terms, including, but not limited to, fees to cover investment oversight and implementation by said owner, or to encourage job creation for low-income or very low-income individuals: Provided further, That the Secretary may share in a portion of future property

utility savings resulting from improvements made by grants or loans made available under this heading: Provided further, That the grants or loans shall include a financial assessment and physical inspection of such property: Provided further, That eligible owners must have at least a satisfactory management review rating, be in substantial compliance with applicable performance standards and legal requirements, and commit to an additional period of affordability determined by the Secretary, but of not fewer than 15 years: Provided further, That the Secretary shall undertake appropriate underwriting and oversight with respect to grant and loan transactions and may set aside up to 5 percent of the funds made available under this heading for grants or loans for such purpose: Provided further, That the Secretary shall take steps necessary to ensure that owners receiving funding for energy and green retrofit investments under this heading shall expend such funding within 2 years of the date they received the funding: Provided further, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: Provided further, That of the funds provided under this heading for grants and loans, up to 1 percent shall be available for staffing, training, technical assistance, technology, monitoring, research and evaluation activities: Provided further, That funds set aside in the previous proviso shall remain available until September 30, 2012: Provided further, That funding made available under this heading and used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Housing Personnel Compensation and Benefits'' and shall retain the terms and conditions of this account including reprogramming provisos except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funding made available under this heading used by the Secretary for training and other administrative expenses shall be transferred to ''Administration, Operations and Management'' for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funding made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Fund.''

OFFICE OF LEAD HAZARD CONTROL AND HEALTHY HOMES

For an additional amount for the ''Lead Hazard Reduction Program'', as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and by sections 501 and 502 of the Housing and Urban Development Act of 1974, $100,000,000, to remain available until September 30, 2011: Provided, That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(e) of the Multifamily Housing Property Disposition Reform Act of 1994: Provided further, That funds shall be awarded first to applicants which had applied under the Lead Hazard Reduction Program Notices of Funding Availability for fiscal year 2008, and were found in the application review to be qualified for award, but were not awarded because of funding limitations, and that any funds which remain after reservation of funds for such grants shall be added to the amount of funds to be awarded under the Lead Hazard Reduction Program Notices of Funding Availability for fiscal year 2009: Provided further, That each applicant for the Lead Hazard Program Notices of Funding Availability for fiscal year 2009 shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds: Provided further, That recipients of funds under this heading shall expend at least 50 percent of such funds within 2 years of the date on which funds become available to such jurisdictions for obligation, and expend 100 percent of such funds within 3 years of such date: Provided further, That if a recipient fails to comply with the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds to recipients that are in compliance with those requirements: Provided further, That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds awarded to the recipient: Provided further, That in administering funds appropriated or otherwise made available under this heading, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of these funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds: Provided further, That of the funds made available under this heading, up to .5 percent shall be available for staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities: Provided further, That funds set aside in the previous proviso shall remain available until September 30, 2012: Provided further, That any funds made available under this heading used by the Secretary for personnel expenses related to administering funding under this heading shall be transferred to ''Personnel Compensation and Benefits, Office of Lead Hazard Control and Healthy Homes'' and shall retain the terms and conditions of this account, including reprogramming provisions, except that the period of availability set forth in the previous proviso shall govern such transferred funds: Provided further, That any funds made available under this heading used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management'', for non-personnel expenses of the Department of Housing and Urban Development: Provided further, That any funds made available under this heading used by the Secretary for technology shall be transferred to ''Working Capital Fund''.

MANAGEMENT AND ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the necessary salaries and expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $15,000,000, to remain available until September 30, 2013: Provided, That the Inspector General shall have independent authority over all personnel issues within this office.

GENERAL PROVISIONS—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 1202. FHA LOAN LIMITS FOR 2009. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, if the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) for any size residence for any area is less than such dollar amount limitation that was in effect for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620), notwithstanding any other provision of law, the maximum dollar amount limitation on the principal obligation of a mortgage for such size residence for such area for purposes of such section 203(b)(2) shall be considered (except for purposes of section 255(g) of such Act (12 U.S.C. 1715z–20(g))) to be such dollar amount limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Secretary of Housing and Urban Development determines, for any geographic area that is smaller than an area for which dollar amount limitations on the principal obligation of a mortgage are determined under section 203(b)(2) of the National Housing Act, that a higher such maximum dollar amount limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Secretary may, for mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, increase the maximum dollar amount limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section), but in no case to an amount that exceeds the amount specified in section 202(a)(2) of the Economic Stimulus Act of 2008.

SEC. 1203. GSE CONFORMING LOAN LIMITS FOR 2009. (a) LOAN LIMIT FLOOR BASED ON 2008 LEVELS.—For mortgages originated during calendar year 2009, if the limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation determined under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) or section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1754(a)(2)), respectively, for any size residence for any area is less than such maximum original principal obligation limitation that was in effect for such size residence for such area for 2008 pursuant to section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619), notwithstanding any other provision of law, the limitation on the maximum original principal obligation of a mortgage for such Association and Corporation for such size residence for such area shall be such maximum limitation in effect for such size residence for such area for 2008.

(b) DISCRETIONARY AUTHORITY FOR SUB-AREAS.—Notwithstanding any other provision of law, if the Director of the Federal Housing Finance Agency determines, for any geographic area that is smaller than an area for which limitations on the maximum original principal obligation of a mortgage are determined for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, that a higher such maximum original principal obligation limitation is warranted for any particular size or sizes of residences in such sub-area by higher median home prices in such sub-area, the Director may, for mortgages originated during 2009, increase the maximum original principal obligation limitation for such size or sizes of residences for such sub-area that is otherwise in effect (including pursuant to subsection (a) of this section) for such Association and Corporation, but in no case to an amount that exceeds the amount specified in the matter following the comma in section 201(a)(1)(B) of the Economic Stimulus Act of 2008.

SEC. 1204. FHA REVERSE MORTGAGE LOAN LIMITS FOR 2009. For mortgages for which the mortgagee issues credit approval for the borrower during calendar year 2009, the second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) shall be considered to require that in no case may the benefits of insurance under such section 255 exceed 150

percent of the maximum dollar amount in effect under the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)).

TITLE XIII—HEALTH INFORMATION TECHNOLOGY

SEC. 13001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) SHORT TITLE.—This title (and title IV of division B) may be cited as the ''Health Information Technology for Economic and Clinical Health Act'' or the ''HITECH Act''.

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

Subtitle A—Promotion of Health Information Technology

PART 1—IMPROVING HEALTH CARE QUALITY, SAFETY, AND EFFICIENCY

SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

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

''TITLE XXX—HEALTH INFORMATION TECHNOLOGY AND QUALITY

''SEC. 3000. DEFINITIONS.

''In this title:

''(1) CERTIFIED EHR TECHNOLOGY.—The term 'certified EHR technology' means a qualified electronic health record that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

''(2) ENTERPRISE INTEGRATION.—The term 'enterprise integration' means the electronic linkage of health care providers, health plans, the government, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infrastructure in accordance with applicable law, and such term includes related application protocols and other related standards.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, health care clinic, community mental health center (as defined in section 1913(b)(1)), renal dialysis facility, blood center, ambulatory surgical center described in section 1833(i) of the Social Security Act, emergency medical services provider, Federally qualified health center, group practice, a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, an ambulatory surgical center described in section 1833(i) of the Social Security Act, a therapist (as defined in section 1848(k)(3)(B)(iii) of the Social Security Act), and any other category of health care facility, entity, practitioner, or clinician determined appropriate by the Secretary.

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

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

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

''(7) HIT POLICY COMMITTEE.—The term 'HIT Policy Committee' means such Committee established under section 3002(a).

''(8) HIT STANDARDS COMMITTEE.—The term 'HIT Standards Committee' means such Committee established under section 3003(a).

''(9) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' has the meaning given such term in section 1171(6) of the Social Security Act.

''(10) LABORATORY.—The term 'laboratory' has the meaning given such term in section 353(a).

''(11) NATIONAL COORDINATOR.—The term 'National Coordinator' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

''(12) PHARMACIST.—The term 'pharmacist' has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

''(13) QUALIFIED ELECTRONIC HEALTH RECORD.—The term 'qualified electronic health record' means an electronic record of health-related information on an individual that—

''(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

''(B) has the capacity—

''(i) to provide clinical decision support;

''(ii) to support physician order entry;

''(iii) to capture and query information relevant to health care quality; and

''(iv) to exchange electronic health information with, and integrate such information from other sources.

''(14) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

''Subtitle A—Promotion of Health Information Technology

''SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an Office of the National Coordinator

for Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the Secretary and shall report directly to the Secretary.

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

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

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

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

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

''(5) ensures the inclusion of meaningful public input in such development of such infrastructure;

''(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information;

''(7) improves public health activities and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;

''(8) facilitates health and clinical research and health care quality;

''(9) promotes early detection, prevention, and management of chronic diseases;

''(10) promotes a more effective marketplace, greater competition, greater systems analysis, increased consumer choice, and improved outcomes in health care services; and

''(11) improves efforts to reduce health disparities.

''(c) DUTIES OF THE NATIONAL COORDINATOR.—

''(1) STANDARDS.—The National Coordinator shall—

''(A) review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004;

''(B) make such determinations under subparagraph (A), and report to the Secretary such determinations, not later than 45 days after the date the recommendation is received by the Coordinator; and

''(C) review Federal health information technology investments to ensure that Federal health information technology programs are meeting the objectives of the strategic plan published under paragraph (3).

''(2) HIT POLICY COORDINATION.—

''(A) IN GENERAL.—The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

''(B) HIT POLICY AND STANDARDS COMMITTEES.—The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

''(3) STRATEGIC PLAN.—

''(A) IN GENERAL.—The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific objectives, milestones, and metrics with respect to the following:

''(i) The electronic exchange and use of health information and the enterprise integration of such information.

''(ii) The utilization of an electronic health record for each person in the United States by 2014.

''(iii) The incorporation of privacy and security protections for the electronic exchange of an individual's individually identifiable health information.

''(iv) Ensuring security methods to ensure appropriate authorization and electronic authentication of health information and specifying technologies or methodologies for rendering health information unusable, unreadable, or indecipherable.

''(v) Specifying a framework for coordination and flow of recommendations and policies under this subtitle among the Secretary, the National Coordinator, the HIT Policy Committee, the HIT Standards Committee, and other health information exchanges and other relevant entities.

''(vi) Methods to foster the public understanding of health information technology.

''(vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, increasing prevention and coordination with community resources, and improving the continuity of care among health care settings.

''(viii) Specific plans for ensuring that populations with unique needs, such as children, are appropriately addressed in the technology design, as appropriate, which may include technology that automates enrollment and retention for eligible individuals.

''(B) COLLABORATION.—The strategic plan shall be updated through collaboration of public and private entities.

''(C) MEASURABLE OUTCOME GOALS.—The strategic plan update shall include measurable outcome goals.

''(D) PUBLICATION.—The National Coordinator shall republish the strategic plan, including all updates.

''(4) WEBSITE.—The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall keep or recognize a program or programs for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this subtitle. Such program shall include, as appropriate, testing of the technology in accordance with section 13201(b) of the Health Information Technology for Economic and Clinical Health Act.

''(B) CERTIFICATION CRITERIA DESCRIBED.—In this title, the term 'certification criteria' means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.

''(6) REPORTS AND PUBLICATIONS.—

''(A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED.—Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(B) IMPLEMENTATION REPORT.—The National Coordinator shall prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology, including information on whether the technologies and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers.

''(C) ASSESSMENT OF IMPACT OF HIT ON COMMUNITIES WITH HEALTH DISPARITIES AND UNINSURED, UNDERINSURED, AND MEDICALLY UNDERSERVED AREAS.—The National Coordinator shall assess and publish the impact of health information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved individuals (including urban and rural areas) and identify practices to increase the adoption of such technology by health care providers in such communities, and the use of health information technology to reduce and better manage chronic diseases.

''(D) EVALUATION OF BENEFITS AND COSTS OF THE ELECTRONIC USE AND EXCHANGE OF HEALTH INFORMATION.—The National Coordinator shall evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue.

''(E) RESOURCE REQUIREMENTS.—The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including—

''(i) the required level of Federal funding;

''(ii) expectations for regional, State, and private investment;

''(iii) the expected contributions by volunteers to activities for the utilization of such records; and

''(iv) the resources needed to establish a health information technology workforce sufficient to support this effort (including education programs in medical informatics and health information management).

''(7) ASSISTANCE.—The National Coordinator may provide financial assistance to consumer advocacy groups and not-for-profit entities that work in the public interest for purposes of defraying the cost to such groups and entities to participate under, whether in whole or in part, the National Technology Transfer Act of 1995 (15 U.S.C. 272 note).

''(8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK.—The National Coordinator shall establish a governance mechanism for the nationwide health information network.

''(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, by reducing chronic disease, and by advancing research and education.

''(vi) Technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in the nationwide health information network or physically transported outside of the secured, physical perimeter of a health care provider, health plan, or health care clearinghouse.

''(vii) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including, at a minimum, race, ethnicity, primary language, and gender information.

''(viii) Technologies that address the needs of children and other vulnerable populations.

''(C) OTHER AREAS FOR CONSIDERATION.—In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

''(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of—

''(I) the collection of quality data and public reporting;

''(II) biosurveillance and public health;

''(III) medical and clinical research; and

''(IV) drug safety.

''(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

''(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

''(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

''(v) Technologies that help reduce medical errors.

''(vi) Technologies that facilitate the continuity of care among health settings.

''(vii) Technologies that meet the needs of diverse populations.

''(viii) Methods to facilitate secure access by an individual to such individual's protected health information.

''(ix) Methods, guidelines, and safeguards to facilitate secure access to patient information by a family member, caregiver, or guardian acting on behalf of a patient due to age-related and other disability, cognitive impairment, or dementia.

''(x) Any other technology that the HIT Policy Committee finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

''(3) FORUM.—The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

''(4) CONSISTENCY WITH EVALUATION CONDUCTED UNDER MIPPA.—

''(A) REQUIREMENT FOR CONSISTENCY.—The HIT Policy Committee shall ensure that recommendations made under paragraph (2)(B)(vi) are consistent with the evaluation conducted under section 1809(a) of the Social Security Act.

''(B) SCOPE.—Nothing in subparagraph (A) shall be construed to limit the recommendations under paragraph (2)(B)(vi) to the elements described in section 1809(a)(3) of the Social Security Act.

''(C) TIMING.—The requirement under subparagraph (A) shall be applicable to the extent that evaluations have been conducted under section 1809(a) of the Social Security Act, regardless of whether the report described in subsection (b) of such section has been submitted.

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall take a leading position in the establishment and operations of the HIT Policy Committee.

''(2) MEMBERSHIP.—The HIT Policy Committee shall be composed of members to be appointed as follows:

''(A) 3 members shall be appointed by the Secretary, 1 of whom shall be appointed to represent the Department of Health and Human Services and 1 of whom shall be a public health official.

''(B) 1 member shall be appointed by the majority leader of the Senate.

''(C) 1 member shall be appointed by the minority leader of the Senate.

''(D) 1 member shall be appointed by the Speaker of the House of Representatives.

''(E) 1 member shall be appointed by the minority leader of the House of Representatives.

''(F) Such other members as shall be appointed by the President as representatives of other relevant Federal agencies.

''(G) 13 members shall be appointed by the Comptroller General of the United States of whom—

''(i) 3 members shall advocates for patients or consumers;

''(ii) 2 members shall represent health care providers, one of which shall be a physician;

''(iii) 1 member shall be from a labor organization representing health care workers;

''(iv) 1 member shall have expertise in health information privacy and security;

''(v) 1 member shall have expertise in improving the health of vulnerable populations;

''(vi) 1 member shall be from the research community;

''(vii) 1 member shall represent health plans or other third-party payers;

''(viii) 1 member shall represent information technology vendors;

''(ix) 1 member shall represent purchasers or employers; and

''(x) 1 member shall have expertise in health care quality measurement and reporting.

''(3) PARTICIPATION.—The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

''(4) TERMS.—

''(A) IN GENERAL.—The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

''(B) VACANCIES.—Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

''(5) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of policies for the electronic exchange and use of health information, including in the areas of health information privacy and security.

''(6) QUORUM.—A majority of the member of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

''(7) FAILURE OF INITIAL APPOINTMENT.—If, on the date that is 45 days after the date of enactment of this title, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint, the Secretary is authorized to appoint such members.

''(8) CONSIDERATION.—The National Coordinator shall ensure that the relevant and available recommendations and comments from the

National Committee on Vital and Health Statistics are considered in the development of policies.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information 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) HARMONIZATION.—The HIT Standards Committee recognize harmonized or updated standards from an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

''(C) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 13201(a) of the Health Information Technology for Economic and Clinical Health Act.

''(D) CONSISTENCY.—The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

''(2) FORUM.—The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

''(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.

''(5) CONSIDERATION.—The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

''(c) MEMBERSHIP AND OPERATIONS.—

''(1) IN GENERAL.—The National Coordinator shall take a leading position in the establishment and operations of the HIT Standards Committee.

''(2) MEMBERSHIP.—The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

''(3) PARTICIPATION.—The members of the HIT Standards Committee appointed under this subsection shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of such Committee.

''(4) OUTSIDE INVOLVEMENT.—The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of standards for the electronic exchange and use of health information, including in the areas of health information privacy and security.

''(5) BALANCE AMONG SECTORS.—In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

''(6) ASSISTANCE.—For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

''(d) APPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

''(e) PUBLICATION.—The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

''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 under section 553 of title 5, United States Code, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

''(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 STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall, through the rulemaking process consistent with subsection (a)(2)(A), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B). The rulemaking for the initial set of standards, implementation specifications, and certification criteria may be issued on an interim, final basis.

''(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.—The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

''(3) SUBSEQUENT STANDARDS ACTIVITY.—The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 3003(b)(2).

''SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

''For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 13111 of the Health Information Technology for Economic and Clinical Health Act.

''SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

''(a) IN GENERAL.—Except as provided under section 13112 of the HITECH Act, nothing in such Act or in the amendments made by such Act shall be construed—

''(1) to require a private entity to adopt or comply with a standard or implementation specification adopted under section 3004; or

''(2) to provide a Federal agency authority, other than the authority such agency may have under other provisions of law, to require a private entity to comply with such a standard or implementation specification.

''(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to activities not related to the contract.

''SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

''(a) IN GENERAL.—The National Coordinator shall support the development and routine updating of qualified electronic health record technology (as defined in section 3000) consistent with subsections (b) and (c) and make available

such qualified electronic health record technology unless the Secretary determines through an assessment that the needs and demands of providers are being substantially and adequately met through the marketplace.

''(b) CERTIFICATION.—In making such electronic health record technology publicly available, the National Coordinator shall ensure that the qualified electronic health record technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

''(c) AUTHORIZATION TO CHARGE A NOMINAL FEE.—The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

''SEC. 3008. TRANSITIONS.

''(a) ONCHIT.—To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order No. 13335 or the Office of such National Coordinator on the date before the date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

''(b) NATIONAL EHEALTH COLLABORATIVE.—Nothing in sections 3002 or 3003 or this subsection shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 so as to allow the Secretary to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

''(c) CONSISTENCY OF RECOMMENDATIONS.—In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

''SEC. 3009. MISCELLANEOUS PROVISIONS.

''(a) RELATION TO HIPAA PRIVACY AND SECURITY LAW.—

''(1) IN GENERAL.—With respect to the relation of this title to HIPAA privacy and security law:

''(A) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

''(B) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.

''(2) DEFINITION.—For purposes of this section, the term 'HIPAA privacy and security law' means—

''(A) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of title IV of the Health Information Technology for Economic and Clinical Health Act; and

''(B) regulations under such provisions.

''(b) FLEXIBILITY.—In administering the provisions of this title, the Secretary shall have flexibility in applying the definition of health care provider under section 3000(3), including the authority to omit certain entities listed in such definition when applying such definition under this title, where appropriate.''.

SEC. 13102. TECHNICAL AMENDMENT.

Section 1171(5) of the Social Security Act (42 U.S.C. 1320d) is amended by striking ''or C'' and inserting ''C, or D''.

PART 2—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) SPENDING ON HEALTH INFORMATION TECHNOLOGY SYSTEMS.—As each agency (as defined by the Director of the Office of Management and Budget, in consultation with the Secretary of Health and Human Services) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 13101.

(b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation specification adopted under section 3004 of the Public Health Service Act, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) APPLICATION OF DEFINITIONS.—The definitions contained in section 3000 of the Public Health Service Act, as added by section 13101, shall apply for purposes of this part.

SEC. 13112. APPLICATION TO PRIVATE ENTITIES.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 13101.

SEC. 13113. STUDY AND REPORTS.

(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. 13201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) VOLUNTARY TESTING PROGRAM.—In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 13101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.

(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 include Federal research and development programs related to health information technology.

Subtitle C—Grants and Loans Funding

SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 13101, is amended by adding at the end the following new subtitle:

"Subtitle B—Incentives for the Use of Health Information Technology

"SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

''(a) IN GENERAL.—The Secretary shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 3001. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

''(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

''(2) Development and adoption of appropriate certified electronic health records for categories of health care providers not eligible for support under title XVIII or XIX of the Social Security Act for the adoption of such records.

''(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012(b), including community health centers receiving assistance under section 330, covered entities under section 340B, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

''(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

''(5) Promotion of the interoperability of clinical data repositories or registries.

''(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

''(7) Improvement and expansion of the use of health information technology by public health departments.

''(b) COORDINATION.—The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

''(c) ADDITIONAL USE OF FUNDS.—In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out health information technology activities that are provided for under laws in effect on the date of the enactment of this title.

''(d) STANDARDS FOR ACQUISITION OF HEALTH INFORMATION TECHNOLOGY.—To the greatest extent practicable, the Secretary shall ensure that where funds are expended under this section for the acquisition of health information technology, such funds shall be used to acquire health information technology that meets applicable standards adopted under section 3004. Where it is not practicable to expend funds on health information technology that meets such applicable standards, the Secretary shall ensure that such health information technology meets applicable standards otherwise adopted by the Secretary.

"SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

''(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 (which may include costs associated with upgrading health information technology so that it meets criteria necessary to be a certified EHR technology);

''(3) train personnel in the use of such technology; or

''(4) improve the secure electronic exchange of health information.

''(f) TYPES OF ASSISTANCE.—Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

''(1) To award loans that comply with the following:

''(A) The interest rate for each loan shall not exceed the market interest rate.

''(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

''(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

''(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

''(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

''(4) To earn interest on the amounts deposited into the Loan Fund.

''(5) To make reimbursements described in subsection (g)(4)(A).

''(g) ADMINISTRATION OF LOAN FUNDS.—

''(1) COMBINED FINANCIAL ADMINISTRATION.—An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

''(2) COST OF ADMINISTERING FUND.—Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

''(3) GUIDANCE AND REGULATIONS.—The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

''(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, increase access to prevention, reduce chronic diseases, and enhance health care quality;

''(3) be—

''(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

''(B) a graduate school of nursing or physician assistant studies;

''(C) a consortium of two or more schools described in subparagraph (A) or (B); or

''(D) an institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies;

''(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

''(5) provide matching funds in accordance with subsection (d).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—With respect to a grant under subsection (a), an eligible entity shall—

''(A) use grant funds in collaboration with 2 or more disciplines; and

''(B) use grant funds to integrate certified EHR technology into community-based clinical education.

''(2) LIMITATION.—An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

''(d) FINANCIAL SUPPORT.—The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

''(e) EVALUATION.—The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

''(f) REPORTS.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that—

''(1) describes the specific projects established under this section; and

''(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

''SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS IN HEALTH CARE.

''(a) IN GENERAL.—The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

''(b) ACTIVITIES.—Activities for which assistance may be provided under subsection (a) may include the following:

''(1) Developing and revising curricula in medical health informatics and related disciplines.

''(2) Recruiting and retaining students to the program involved.

''(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

''(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.

''(c) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give preference to the following:

''(1) Existing education and training programs.

''(2) Programs designed to be completed in less than six months.

''SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

''(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.''.

Subtitle D—Privacy

SEC. 13400. DEFINITIONS.

In this subtitle, except as specified otherwise:

(1) BREACH.—

(A) IN GENERAL.—The term ''breach'' means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information.

(B) EXCEPTIONS.—The term ''breach'' does not include—

(i) any unintentional acquisition, access, or use of protected health information by an employee or individual acting under the authority of a covered entity or business associate if—

(I) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate; and

(II) such information is not further acquired, accessed, used, or disclosed by any person; or

(ii) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at same facility; and

(iii) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

(2) BUSINESS ASSOCIATE.—The term ''business associate'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(3) COVERED ENTITY.—The term ''covered entity'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(4) DISCLOSE.—The terms ''disclose'' and ''disclosure'' have the meaning given the term ''disclosure'' in section 160.103 of title 45, Code of Federal Regulations.

(5) ELECTRONIC HEALTH RECORD.—The term ''electronic health record'' means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(6) HEALTH CARE OPERATIONS.—The term ''health care operation'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) HEALTH CARE PROVIDER.—The term ''health care provider'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(9) NATIONAL COORDINATOR.—The term ''National Coordinator'' means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a) of the Public Health Service Act, as added by section 13101.

(10) PAYMENT.—The term ''payment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) PERSONAL HEALTH RECORD.—The term ''personal health record'' means an electronic record of PHR identifiable health information (as defined in section 13407(f)(2)) on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or primarily for the individual.

(12) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(14) SECURITY.—The term ''security'' has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) TREATMENT.—The term ''treatment'' has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) USE.—The term ''use'' has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) VENDOR OF PERSONAL HEALTH RECORDS.—The term ''vendor of personal health records'' means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

PART 1—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES; ANNUAL GUIDANCE ON SECURITY PROVISIONS.

(a) APPLICATION OF SECURITY PROVISIONS.—Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any security provision specified in subsection (a), sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision.

(c) ANNUAL GUIDANCE.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall, after consultation with stakeholders, annually issue guidance on the most effective and appropriate

technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, including the use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 13101 of this Act, as such provisions are in effect as of the date before the enactment of this Act.

SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.

(a) IN GENERAL.—A covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in subsection (h)(1)) shall, in the case of a breach of such information that is discovered by the covered entity, notify each individual whose unsecured protected health information has been, or is reasonably believed by the covered entity to have been, accessed, acquired, or disclosed as a result of such breach.

(b) NOTIFICATION OF COVERED ENTITY BY BUSINESS ASSOCIATE.—A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c) BREACHES TREATED AS DISCOVERED.—For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)).

(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 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 13407(f)(3), not later than the date that is 60 days after the date of the enactment of this Act, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals, including the use of standards developed under section 3002(b)(2)(B)(vi) of the Public Health Service Act, as added by section 13101 of this Act.

(i) REPORT TO CONGRESS ON BREACHES.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) INFORMATION.—The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this title. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

SEC. 13403. EDUCATION ON HEALTH INFORMATION PRIVACY.

(a) REGIONAL OFFICE PRIVACY ADVISORS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

(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. 13404. APPLICATION OF PRIVACY PROVISIONS AND PENALTIES TO BUSINESS ASSOCIATES OF COVERED ENTITIES.

(a) APPLICATION OF CONTRACT REQUIREMENTS.—In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described

in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subtitle that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) APPLICATION OF KNOWLEDGE ELEMENTS ASSOCIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) APPLICATION OF CIVIL AND CRIMINAL PENALTIES.—In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND SALES OF HEALTH INFORMATION; ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES; ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.

(a) REQUESTED RESTRICTIONS ON CERTAIN DISCLOSURES OF HEALTH INFORMATION.—In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) DISCLOSURES REQUIRED TO BE LIMITED TO THE LIMITED DATA SET OR THE MINIMUM NECESSARY.—

(1) IN GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), a covered entity shall be treated as being in compliance with section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) GUIDANCE.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue guidance on what constitutes ''minimum necessary'' for purposes of subpart E of part 164 of title 45, Code of Federal Regulation. In issuing such guidance the Secretary shall take into consideration the guidance under section 13424(c) and the information necessary to improve patient outcomes and to detect, prevent, and manage chronic disease.

(C) SUNSET.—Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) DETERMINATION OF MINIMUM NECESSARY.—For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) APPLICATION OF EXCEPTIONS.—The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) ACCOUNTING OF CERTAIN PROTECTED HEALTH INFORMATION DISCLOSURES REQUIRED IF COVERED ENTITY USES ELECTRONIC HEALTH RECORD.—

''(1) IN GENERAL.—In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

''(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

''(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

''(2) REGULATIONS.—The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1), not later than 6 months after the date on which the Secretary adopts standards on accounting for disclosure described in the section 3002(b)(2)(B)(iv) of the Public Health Service Act, as added by section 13101. Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of the individuals in learning the circumstances under which their protected health information is being disclosed and takes into account the administrative burden of accounting for such disclosures.

''(3) PROCESS.—In response to an request from an individual for an accounting, a covered entity shall elect to provide either an—

''(A) accounting, as specified under paragraph (1), for disclosures of protected health information that are made by such covered entity and by a business associate acting on behalf of the covered entity; or

''(B) accounting, as specified under paragraph (1), for disclosures that are made by such covered entity and provide a list of all business associates acting on behalf of the covered entity, including contact information for such associates (such as mailing address, phone, and email address).

A business associate included on a list under subparagraph (B) shall provide an accounting of disclosures (as required under paragraph (1) for a covered entity) made by the business associate upon a request made by an individual directly to the business associate for such an accounting.

''(4) EFFECTIVE DATE.—

''(A) CURRENT USERS OF ELECTRONIC RECORDS.—In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

''(B) OTHERS.—In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

''(i) January 1, 2011; or

''(ii) the date that it acquires an electronic health record.

''(C) LATER DATE.—The Secretary may set an effective date that is later that the date specified under subparagraph (A) or (B) if the Secretary determines that such later date is necessary, but in no case may the date specified under—

''(i) subparagraph (A) be later than 2016; or

''(ii) subparagraph (B) be later than 2013.''

(d) PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in the following cases:

(A) The purpose of the exchange is for public health activities (as described in section 164.512(b) of title 45, Code of Federal Regulations).

(B) The purpose of the exchange is for research (as described in sections 164.501 and 164.512(i) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is for the treatment of the individual, subject to any regulation that the Secretary may promulgate to prevent protected health information from inappropriate access, use, or disclosure.

(D) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.

(E) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(F) The purpose of the exchange is to provide an individual with a copy of the individual's protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(G) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (F).

(3) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Secretary shall promulgate regulations to carry out this subsection. In promulgating such regulations, the Secretary—

(A) shall evaluate the impact of restricting the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, on research or public health activities, including those conducted by or for the use of the Food and Drug Administration; and

(B) may further restrict the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, if

the Secretary finds that such further restriction will not impede such research or public health activities.

(4) EFFECTIVE DATE.—Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(e) ACCESS TO CERTAIN INFORMATION IN ELECTRONIC FORMAT.—In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format and, if the individual chooses, to direct the covered entity to transmit such copy directly to an entity or person designated by the individual, provided that any such choice is clear, conspicuous, and specific; and

(2) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART OF HEALTH CARE OPERATIONS.

(a) MARKETING.—

(1) IN GENERAL.—A communication by a covered entity or business associate that is about a product or service and that encourages recipients of the communication to purchase or use the product or service shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations, unless the communication is made as described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of such title.

(2) PAYMENT FOR CERTAIN COMMUNICATIONS.—A communication by a covered entity or business associate that is described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations if the covered entity receives or has received direct or indirect payment in exchange for making such communication, except where—

(A)(i) such communication describes only a drug or biologic that is currently being prescribed for the recipient of the communication; and

(ii) any payment received by such covered entity in exchange for making a communication described in clause (i) is reasonable in amount;

(B) each of the following conditions apply—

(i) the communication is made by the covered entity; and

(ii) the covered entity making such communication obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; or

(C) each of the following conditions apply—

(i) the communication is made by a business associate on behalf of the covered entity; and

(ii) the communication is consistent with the written contract (or other written arrangement described in section 164.502(e)(2) of such title) between such business associate and covered entity.

(3) REASONABLE IN AMOUNT DEFINED.—For purposes of paragraph (2), the term ''reasonable in amount'' shall have the meaning given such term by the Secretary by regulation.

(4) DIRECT OR INDIRECT PAYMENT.—For purposes of paragraph (2), the term ''direct or indirect payment'' shall not include any payment for treatment (as defined in section 164.501 of title 45, Code of Federal Regulations) of an individual.

(b) OPPORTUNITY TO OPT OUT OF FUNDRAISING.—The Secretary shall by rule provide that any written fundraising communication that is a healthcare operation as defined under section 164.501 of title 45, Code of Federal Regulations, shall, in a clear and conspicuous manner, provide an opportunity for the recipient of the communications to elect not to receive any further such communication. When an individual elects not to receive any further such communication, such election shall be treated as a revocation of authorization under section 164.508 of title 45, Code of Federal Regulations.

(c) EFFECTIVE DATE.—This section shall apply to written communications occurring on or after the effective date specified under section 13423.

SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii), (iii), or (iv) of section 13424(b)(1)(A), following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such a breach of security; and

(2) notify the Federal Trade Commission.

(b) NOTIFICATION BY THIRD PARTY SERVICE PROVIDERS.—A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii), (iii). or (iv) of section 13424(b)(1)(A) in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) APPLICATION OF REQUIREMENTS FOR TIMELINESS, METHOD, AND CONTENT OF NOTIFICATIONS.—Subsections (c), (d), (e), and (f) of section 13402 shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described in subsection (a) and a third party service provider described in subsection (b), with respect to a breach of security under subsection (a) of unsecured PHR identifiable health information in such records maintained or offered by such vendor, in a manner specified by the Federal Trade Commission.

(d) NOTIFICATION OF THE SECRETARY.—Upon receipt of a notification of a breach of security under subsection (a)(2), the Federal Trade Commission shall notify the Secretary of such breach.

(e) ENFORCEMENT.—A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

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

(1) BREACH OF SECURITY.—The term ''breach of security'' means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR IDENTIFIABLE HEALTH INFORMATION.—The term ''PHR identifiable health information'' means individually identifiable health information, as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) UNSECURED PHR IDENTIFIABLE HEALTH INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''unsecured PHR identifiable health information'' means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 13402(h)(2) by the date specified in such section, for purposes of this section, the term ''unsecured PHR identifiable health information'' shall mean PHR identifiable health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Federal Trade Commission shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—If Congress enacts new legislation establishing requirements for notification in the case of a breach of security, that apply to entities that are not covered entities or business associates, the provisions of this section shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED FOR CERTAIN ENTITIES.

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this title.

SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: ''For purposes of the previous sentence, a person (including an

employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.''.

SEC. 13410. IMPROVED ENFORCEMENT.

(a) IN GENERAL.—

(1) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(A) in subsection (b)(1), by striking ''the act constitutes an offense punishable under section 1177'' and inserting ''a penalty has been imposed under section 1177 with respect to such act''; and

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

''(c) NONCOMPLIANCE DUE TO WILLFUL NEGLECT.—

''(1) IN GENERAL.—A violation of a provision of this part due to willful neglect is a violation for which the Secretary is required to impose a penalty under subsection (a)(1).

''(2) REQUIRED INVESTIGATION.—For purposes of paragraph (1), the Secretary shall formally investigate any complaint of a violation of a provision of this part if a preliminary investigation of the facts of the complaint indicate such a possible violation due to willful neglect.''.

(2) ENFORCEMENT UNDER SOCIAL SECURITY ACT.—Any violation by a covered entity under thus subtitle is subject to enforcement and penalties under section 1176 and 1177 of the Social Security Act.

(b) EFFECTIVE DATE; REGULATIONS.—

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after the date of the enactment of this title.

(2) Not later than 18 months after the date of the enactment of this title, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) DISTRIBUTION OF CERTAIN CIVIL MONETARY PENALTIES COLLECTED.—

(1) IN GENERAL.—Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subtitle or section 1176 of the Social Security Act (42 U.S.C. 1320d–5) insofar as such section relates to privacy or security shall be transferred to the Office for Civil Rights of the Department of Health and Human Services to be used for purposes of enforcing the provisions of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act.

(2) GAO REPORT.—Not later than 18 months after the date of the enactment of this title, the Comptroller General shall submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) ESTABLISHMENT OF METHODOLOGY TO DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO HARMED INDIVIDUALS.—Not later than 3 years after the date of the enactment of this title, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) APPLICATION OF METHODOLOGY.—The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) TIERED INCREASE IN AMOUNT OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1176(a)(1) of the Social Security Act (42 U.S.C. 1320d–5(a)(1)) is amended by striking ''who violates a provision of this part a penalty of not more than'' and all that follows and inserting the following: ''who violates a provision of this part—

''(A) in the case of a violation of such provision in which it is established that the person did not know (and by exercising reasonable diligence would not have known) that such person violated such provision, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(A) but not to exceed the amount described in paragraph (3)(D);

''(B) in the case of a violation of such provision in which it is established that the violation was due to reasonable cause and not to willful neglect, a penalty for each such violation of an amount that is at least the amount described in paragraph (3)(B) but not to exceed the amount described in paragraph (3)(D); and

''(C) in the case of a violation of such provision in which it is established that the violation was due to willful neglect—

''(i) if the violation is corrected as described in subsection (b)(3)(A), a penalty in an amount that is at least the amount described in paragraph (3)(C) but not to exceed the amount described in paragraph (3)(D); and

''(ii) if the violation is not corrected as described in such subsection, a penalty in an amount that is at least the amount described in paragraph (3)(D).

In determining the amount of a penalty under this section for a violation, the Secretary shall base such determination on the nature and extent of the violation and the nature and extent of the harm resulting from such violation.''.

(2) TIERS OF PENALTIES DESCRIBED.—Section 1176(a) of such Act (42 U.S.C. 1320d–5(a)) is further amended by adding at the end the following new paragraph:

''(3) TIERS OF PENALTIES DESCRIBED.—For purposes of paragraph (1), with respect to a violation by a person of a provision of this part—

''(A) the amount described in this subparagraph is $100 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $25,000;

''(B) the amount described in this subparagraph is $1,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $100,000;

''(C) the amount described in this subparagraph is $10,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $250,000; and

''(D) the amount described in this subparagraph is $50,000 for each such violation, except that the total amount imposed on the person for all such violations of an identical requirement or prohibition during a calendar year may not exceed $1,500,000.''.

(3) CONFORMING AMENDMENTS.—Section 1176(b) of such Act (42 U.S.C. 1320d–5(b)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) in paragraph (2), as so redesignated—

(i) in subparagraph (A), by striking ''in subparagraph (B), a penalty may not be imposed under subsection (a) if'' and all that follows through ''the failure to comply is corrected'' and inserting ''in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected''; and

(ii) in subparagraph (B), by striking ''(A)(ii)'' and inserting ''(A)'' each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this title.

(e) ENFORCEMENT THROUGH STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended by adding at the end the following new subsection:

''(d) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

''(1) CIVIL ACTION.—Except as provided in subsection (b), in any case in which the attorney general of a State has reason to believe that an interest of one or more of the residents of that State has been or is threatened or adversely affected by any person who violates a provision of this part, the attorney general of the State, as parens patriae, may bring a civil action on behalf of such residents of the State in a district court of the United States of appropriate jurisdiction—

''(A) to enjoin further such violation by the defendant; or

''(B) to obtain damages on behalf of such residents of the State, in an amount equal to the amount determined under paragraph (2).

''(2) STATUTORY DAMAGES.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the amount determined under this paragraph is the amount calculated by multiplying the number of violations by up to $100. For purposes of the preceding sentence, in the case of a continuing violation, the number of violations shall be determined consistent with the HIPAA privacy regulations (as defined in section 1180(b)(3)) for violations of subsection (a).

''(B) LIMITATION.—The total amount of damages imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

''(C) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider the factors the Secretary may consider in determining the amount of a civil money penalty under subsection (a) under the HIPAA privacy regulations.

''(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the court, in its discretion, may award the costs of the action and reasonable attorney fees to the State.

''(4) NOTICE TO SECRETARY.—The State shall serve prior written notice of any action under paragraph (1) upon the Secretary and provide the Secretary with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Secretary shall have the right—

''(A) to intervene in the action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State.

''(6) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) maintains a physical place of business.

''(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Secretary has instituted an action against a person under subsection (a) with respect to a specific violation of this part, no State attorney general may bring an action under this subsection against the person with respect to such violation during the pendency of that action.

''(8) APPLICATION OF CMP STATUTE OF LIMITATION.—A civil action may not be instituted with respect to a violation of this part unless an action to impose a civil money penalty may be instituted under subsection (a) with respect to such violation consistent with the second sentence of section 1128A(c)(1).''.

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section, as amended by subsection (d)(3), is amended—

(A) in paragraph (1), by striking ''A penalty may not be imposed under subsection (a)'' and inserting ''No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)'';

(B) in paragraph (2)(A)—

(i) after ''subsection (a)(1)(C),'', by striking ''a penalty may not be imposed under subsection (a)'' and inserting ''no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)''; and

(ii) in clause (ii), by inserting ''or damages'' after ''the penalty'';

(C) in paragraph (2)(B)(i), by striking ''The period'' and inserting ''With respect to the imposition of a penalty by the Secretary under subsection (a), the period''; and

(D) in paragraph (3), by inserting ''and any damages under subsection (d)'' after ''any penalty under subsection (a)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to violations occurring after the date of the enactment of this Act.

(f) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Such section is further amended by adding at the end the following new subsection:

''(e) ALLOWING CONTINUED USE OF CORRECTIVE ACTION.—Nothing in this section shall be construed as preventing the Office for Civil Rights of the Department of Health and Human Services from continuing, in its discretion, to use corrective action without a penalty in cases where the person did not know (and by exercising reasonable diligence would not have known) of the violation involved.''.

SEC. 13411. AUDITS.

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subtitle and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of the date of enactment of this Act, comply with such requirements.

PART 2—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

SEC. 13421. RELATIONSHIP TO OTHER LAWS.

(a) APPLICATION OF HIPAA STATE PREEMPTION.—Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subtitle in the same manner that such section applies to a provision or requirement under part C of title XI of such Act or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act.

(b) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.—The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subtitle. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subtitle.

(c) CONSTRUCTION.—Nothing in this subtitle shall constitute a waiver of any privilege otherwise applicable to an individual with respect to the protected health information of such individual.

SEC. 13422. REGULATORY REFERENCES.

Each reference in this subtitle to a provision of the Code of Federal Regulations refers to such provision as in effect on the date of the enactment of this title (or to the most recent update of such provision).

SEC. 13423. EFFECTIVE DATE.

Except as otherwise specifically provided, the provisions of part I shall take effect on the date that is 12 months after the date of the enactment of this title.

SEC. 13424. STUDIES, REPORTS, GUIDANCE.

(a) REPORT ON COMPLIANCE.—

(1) IN GENERAL.—For the first year beginning after the date of the enactment of this Act and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subtitle as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as such provisions are in effect as of the date of enactment of this Act) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY REQUIREMENTS TO NON-HIPAA COVERED ENTITIES.—

(1) STUDY.—Not later than one year after the date of the enactment of this title, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of the date of the enactment of this title, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) REPORT.—The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) GUIDANCE ON IMPLEMENTATION SPECIFICATION TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—Not later than 12 months after the date of the enactment of this title, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

(d) GAO REPORT ON TREATMENT DISCLOSURES.—Not later than one year after the date of the enactment of this title, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.

(e) REPORT REQUIRED.—Not later than 5 years after the date of enactment of this section, the Government Accountability Office shall submit to Congress and the Secretary of Health and Human Services a report on the impact of any of the provisions of this Act on health insurance premiums, overall health care costs, adoption of electronic health records by providers, and reduction in medical errors and other quality improvements.

(f) STUDY.—The Secretary shall study the definition of ''psychotherapy notes'' in section 164.501 of title 45, Code of Federal Regulations, with regard to including test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation in such definitions and may, based on such study, issue regulations to revise such definition.

TITLE XIV—STATE FISCAL STABILIZATION FUND

DEPARTMENT OF EDUCATION

STATE FISCAL STABILIZATION FUND

For necessary expenses for a State Fiscal Stabilization Fund, $53,600,000,000, which shall be administered by the Department of Education.

GENERAL PROVISIONS—THIS TITLE

SEC. 14001. ALLOCATIONS.

(a) OUTLYING AREAS.—From the amount appropriated to carry out this title, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this title under such terms and conditions as the Secretary may determine.

(b) ADMINISTRATION AND OVERSIGHT.—The Secretary may, in addition, reserve up to $14,000,000 for administration and oversight of this title, including for program evaluation.

(c) RESERVATION FOR ADDITIONAL PROGRAMS.—After reserving funds under subsections (a) and (b), the Secretary shall reserve $5,000,000,000 for grants under sections 14006 and 14007.

(d) STATE ALLOCATIONS.—After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this title to the States as follows:

(1) 61 percent on the basis of their relative population of individuals aged 5 through 24.

(2) 39 percent on the basis of their relative total population.

(e) STATE GRANTS.—From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

(f) REALLOCATION.—The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

SEC. 14002. STATE USES OF FUNDS.

(a) EDUCATION FUND.—

(1) IN GENERAL.—For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 14001(d) for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

(2) RESTORING STATE SUPPORT FOR EDUCATION.—

(A) IN GENERAL.—The Governor shall first use the funds described in paragraph (1)—

(i) to provide the amount of funds, through the State's primary elementary and secondary funding formulae, that is needed—

(I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

(II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

(ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

(B) SHORTFALL.—If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

(C) FISCAL YEAR.—For purposes of this paragraph, the term ''fiscal year'' shall have the meaning given such term under State law.

(3) SUBGRANTS TO IMPROVE BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.—After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

(b) OTHER GOVERNMENT SERVICES.—

(1) IN GENERAL.—The Governor shall use 18.2 percent of the State's allocation under section 14001 for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(2) AVAILABILITY TO ALL INSTITUTIONS OF HIGHER EDUCATION.—A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection 14013(3); and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14003. USES OF FUNDS BY LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—A local educational agency that receives funds under this title may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (''ESEA''), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (''IDEA''), the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (''the Perkins Act'') or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—A local educational agency may not use funds received under this title for—

(1) payment of maintenance costs;

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

(3) purchase or upgrade of vehicles; or

(4) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

SEC. 14004. USES OF FUNDS BY INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—A public institution of higher education that receives funds under this title shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

(b) PROHIBITION.—An institution of higher education may not use funds received under this title to increase its endowment.

(c) ADDITIONAL PROHIBITION.—No funds awarded under this title may be used for—

(1) the maintenance of systems, equipment, or facilities;

(2) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(3) modernization, renovation, or repair of facilities—

(A) used for sectarian instruction or religious worship; or

(B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

SEC. 14005. STATE APPLICATIONS.

(a) IN GENERAL.—The Governor of a State desiring to receive an allocation under section 14001 shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) APPLICATION.—In such application, the Governor shall—

(1) include the assurances described in subsection (d);

(2) provide baseline data that demonstrates the State's current status in each of the areas described in such assurances; and

(3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

(c) INCENTIVE GRANT APPLICATION.—The Governor of a State seeking a grant under section 14006 shall—

(1) submit an application for consideration;

(2) describe the status of the State's progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State's proficiency targets continue making progress toward meeting the State's student academic achievement standards;

(3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi) of the ESEA (20 U.S.C. 6311(b)(2)(C)(vi)) and as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations) of public elementary and secondary school students in the State, and the strategies the State is employing to help ensure that all subgroups of students identified in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2)) in the State continue making progress toward meeting the State's student academic achievement standards;

(4) describe how the State would use its grant funding to improve student academic achievement in the State, including how it will allocate the funds to give priority to high-need local educational agencies; and

(5) include a plan for evaluating the State's progress in closing achievement gaps.

(d) ASSURANCES.—An application under subsection (b) shall include the following assurances:

(1) MAINTENANCE OF EFFORT.—

(A) ELEMENTARY AND SECONDARY EDUCATION.—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for elementary and secondary education at least at the level of such support in fiscal year 2006.

(B) HIGHER EDUCATION.—The State will, in each of fiscal years 2009, 2010, and 2011, maintain State support for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at least at the level of such support in fiscal year 2006.

(2) ACHIEVING EQUITY IN TEACHER DISTRIBUTION.—The State will take actions to improve teacher effectiveness and comply with section 1111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are

not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

(3) IMPROVING COLLECTION AND USE OF DATA.—The State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).

(4) STANDARDS AND ASSESSMENTS.—The State—

(A) will enhance the quality of the academic assessments it administers pursuant to section 1111(b)(3) of the ESEA (20 U.S.C. 6311(b)(3)) through activities such as those described in section 6112(a) of such Act (20 U.S.C. 7301a(a));

(B) will comply with the requirements of paragraphs (3)(C)(ix) and (6) of section 1111(b) of the ESEA (20 U.S.C. 6311(b)) and section 612(a)(16) of the IDEA (20 U.S.C. 1412(a)(16)) related to the inclusion of children with disabilities and limited English proficient students in State assessments, the development of valid and reliable assessments for those students, and the provision of accommodations that enable their participation in State assessments; and

(C) will take steps to improve State academic content standards and student academic achievement standards consistent with section 6401(e)(1)(9)(A)(ii) of the America COMPETES Act.

(5) SUPPORTING STRUGGLING SCHOOLS.—The State will ensure compliance with the requirements of section 1116(a)(7)(C)(iv) and section 1116(a)(8)(B) of the ESEA with respect to schools identified under such sections.

SEC. 14006. STATE INCENTIVE GRANTS.

(a) IN GENERAL.—

(1) RESERVATION.—From the total amount reserved under section 14001(c) that is not used for section 14007, the Secretary may reserve up to 1 percent for technical assistance to States to assist them in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(2) REMAINDER.—Of the remaining funds, the Secretary shall, in fiscal year 2010, make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d).

(b) BASIS FOR GRANTS.—The Secretary shall determine which States receive grants under this section, and the amount of those grants, on the basis of information provided in State applications under section 14005 and such other criteria as the Secretary determines appropriate, which may include a State's need for assistance to help meet the objective of paragraphs (2), (3), (4), and (5) of section 14005(d).

(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each State receiving a grant under this section shall use at least 50 percent of the grant to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

SEC. 14007. INNOVATION FUND.

(a) IN GENERAL.—

(1) ELIGIBLE ENTITIES.—For the purposes of this section, the term ''eligible entity'' means—

(A) a local educational agency; or

(B) a partnership between a nonprofit organization and—

(i) one or more local educational agencies; or

(ii) a consortium of schools.

(2) PROGRAM ESTABLISHED.—From the total amount reserved under section 14001(c), the Secretary may reserve up to $650,000,000 to establish an Innovation Fund, which shall consist of academic achievement awards that recognize eligible entities that meet the requirements described in subsection (b).

(3) BASIS FOR AWARDS.—The Secretary shall make awards to eligible entities that have made significant gains in closing the achievement gap as described in subsection (b)(1)—

(A) to allow such eligible entities to expand their work and serve as models for best practices;

(B) to allow such eligible entities to work in partnership with the private sector and the philanthropic community; and

(C) to identify and document best practices that can be shared, and taken to scale based on demonstrated success.

(b) ELIGIBILITY.—To be eligible for such an award, an eligible entity shall—

(1) have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (20 U.S.C. 6311(b)(2));

(2) have exceeded the State's annual measurable objectives consistent with such section 1111(b)(2) for 2 or more consecutive years or have demonstrated success in significantly increasing student academic achievement for all groups of students described in such section through another measure, such as measures described in section 1111(c)(2) of the ESEA;

(3) have made significant improvement in other areas, such as graduation rates or increased recruitment and placement of high-quality teachers and school leaders, as demonstrated with meaningful data; and

(4) demonstrate that they have established partnerships with the private sector, which may include philanthropic organizations, and that the private sector will provide matching funds in order to help bring results to scale.

(c) SPECIAL RULE.—In the case of an eligible entity that includes a nonprofit organization, the eligible entity shall be considered to have met the eligibility requirements of paragraphs (1), (2), (3) of subsection (b) if such nonprofit organization has a record of meeting such requirements.

SEC. 14008. STATE REPORTS.

For each year of the program under this title, a State receiving funds under this title shall submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes—

(1) the uses of funds provided under this title within the State;

(2) how the State distributed the funds it received under this title;

(3) the number of jobs that the Governor estimates were saved or created with funds the State received under this title;

(4) tax increases that the Governor estimates were averted because of the availability of funds from this title;

(5) the State's progress in reducing inequities in the distribution of highly qualified teachers, in implementing a State longitudinal data system, and in developing and implementing valid and reliable assessments for limited English proficient students and children with disabilities;

(6) the tuition and fee increases for in-State students imposed by public institutions of higher education in the State during the period of availability of funds under this title, and a description of any actions taken by the State to limit those increases;

(7) the extent to which public institutions of higher education maintained, increased, or decreased enrollment of in-State students, including students eligible for Pell Grants or other need-based financial assistance; and

(8) a description of each modernization, renovation and repair project funded, which shall include the amounts awarded and project costs.

SEC. 14009. EVALUATION.

The Comptroller General of the United States shall conduct evaluations of the programs under sections 14006 and 14007 which shall include, but not be limited to, the criteria used for the awards made, the States selected for awards, award amounts, how each State used the award received, and the impact of this funding on the progress made toward closing achievement gaps.

SEC. 14010. SECRETARY'S REPORT TO CONGRESS.

The Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committees on Appropriations of the House of Representatives and of the Senate, not less than 6 months following the submission of State reports, that evaluates the information provided in the State reports under section 14008 and the information required by section 14005(b)(3) including State-by-State information.

SEC. 14011. PROHIBITION ON PROVISION OF CERTAIN ASSISTANCE.

No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.

SEC. 14012. FISCAL RELIEF.

(a) IN GENERAL.—For the purpose of relieving fiscal burdens on States and local educational agencies that have experienced a precipitous decline in financial resources, the Secretary of Education may waive or modify any requirement of this title relating to maintaining fiscal effort.

(b) DURATION.—A waiver or modification under this section shall be for any of fiscal year 2009, fiscal year 2010, or fiscal year 2011, as determined by the Secretary.

(c) CRITERIA.—The Secretary shall not grant a waiver or modification under this section unless the Secretary determines that the State or local educational agency receiving such waiver or modification will not provide for elementary and secondary education, for the fiscal year under consideration, a smaller percentage of the total revenues available to the State or local educational agency than the amount provided for such purpose in the preceding fiscal year.

(d) MAINTENANCE OF EFFORT.—Upon prior approval from the Secretary, a State or local educational agency that receives funds under this title may treat any portion of such funds that is used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program, including part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), administered by the Secretary.

(e) SUBSEQUENT LEVEL OF EFFORT.—Notwithstanding (d), the level of effort required by a State or local educational agency for the following fiscal year shall not be reduced.

SEC. 14013. DEFINITIONS.

Except as otherwise provided in this title, as used in this title—

(1) the terms ''elementary education'' and ''secondary education'' have the meaning given such terms under State law;

(2) the term ''high-need local educational agency'' means a local educational agency—

(A) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(B) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line;

(3) the term ''institution of higher education'' has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term ''Secretary'' means the Secretary of Education;

(5) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) any other term used that is defined in section 9101 of the ESEA (20 U.S.C. 7801) shall have the meaning given the term in such section.

TITLE XV—ACCOUNTABILITY AND TRANSPARENCY

SEC. 1501. DEFINITIONS.

In this title:

(1) AGENCY.—The term ''agency'' has the meaning given under section 551 of title 5, United States Code.

(2) BOARD.—The term ''Board'' means the Recovery Accountability and Transparency Board established in section 1521.

(3) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Board.

(4) COVERED FUNDS.—The term ''covered funds'' means any funds that are expended or obligated from appropriations made under this Act.

(5) PANEL.—The term ''Panel'' means the Recovery Independent Advisory Panel established in section 1541.

Subtitle A—Transparency and Oversight Requirements

SEC. 1511. CERTIFICATIONS.

With respect to covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, shall certify that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Such certification shall include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and shall be posted on a website and linked to the website established by section 1526. A State or local agency may not receive infrastructure investment funding from funds made available in this Act unless this certification is made and posted.

SEC. 1512. REPORTS ON USE OF FUNDS.

(a) SHORT TITLE.—This section may be cited as the ''Jobs Accountability Act''.

(b) DEFINITIONS.—In this section:

(1) RECIPIENT.—The term ''recipient''—

(A) means any entity that receives recovery funds directly from the Federal Government (including recovery funds received through grant, loan, or contract) other than an individual; and

(B) includes a State that receives recovery funds.

(2) RECOVERY FUNDS.—The term ''recovery funds'' means any funds that are made available from appropriations made under this Act.

(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—

(1) the total amount of recovery funds received from that agency;

(2) the amount of recovery funds received that were expended or obligated to projects or activities; and

(3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—

(A) the name of the project or activity;

(B) a description of the project or activity;

(C) an evaluation of the completion status of the project or activity;

(D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and

(E) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

(d) AGENCY REPORTS.—Not later than 30 days after the end of each calendar quarter, each agency that made recovery funds available to any recipient shall make the information in reports submitted under subsection (c) publicly available by posting the information on a website.

(e) OTHER REPORTS.—The Congressional Budget Office and the Government Accountability Office shall comment on the information described in subsection (c)(3)(D) for any reports submitted under subsection (c). Such comments shall be due within 45 days after such reports are submitted.

(f) COMPLIANCE.—Within 180 days of enactment, as a condition of receipt of funds under this Act, Federal agencies shall require any recipient of such funds to provide the information required under subsection (c).

(g) GUIDANCE.—Federal agencies, in coordination with the Director of the Office of Management and Budget, shall provide for user-friendly means for recipients of covered funds to meet the requirements of this section.

(h) REGISTRATION.—Funding recipients required to report information per subsection (c)(4) must register with the Central Contractor Registration database or complete other registration requirements as determined by the Director of the Office of Management and Budget.

SEC. 1513. REPORTS OF THE COUNCIL OF ECONOMIC ADVISERS.

(a) IN GENERAL.—In consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury, the Chairperson of the Council of Economic Advisers shall submit quarterly reports to the Committees on Appropriations of the Senate and House of Representatives that detail the impact of programs funded through covered funds on employment, estimated economic growth, and other key economic indicators.

(b) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report submitted under subsection (a) shall be submitted not later than 45 days after the end of the first full quarter following the date of enactment of this Act.

(2) LAST REPORT.—The last report required to be submitted under subsection (a) shall apply to the quarter in which the Board terminates under section 1530.

SEC. 1514. INSPECTOR GENERAL REVIEWS.

(a) REVIEWS.—Any inspector general of a Federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using funds made available in this Act. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in this Act, shall be posted on the inspector general's website and linked to the website established by section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

SEC. 1515. ACCESS OF OFFICES OF INSPECTOR GENERAL TO CERTAIN RECORDS AND EMPLOYEES.

(a) ACCESS.—With respect to each contract or grant awarded using covered funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized—

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

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

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

Subtitle B—Recovery Accountability and Transparency Board

SEC. 1521. ESTABLISHMENT OF THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

There is established the Recovery Accountability and Transparency Board to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

SEC. 1522. COMPOSITION OF BOARD.

(a) CHAIRPERSON.—

(1) DESIGNATION OR APPOINTMENT.—The President shall—

(A) designate the Deputy Director for Management of the Office of Management and Budget to serve as Chairperson of the Board;

(B) designate another Federal officer who was appointed by the President to a position that required the advice and consent of the Senate, to serve as Chairperson of the Board; or

(C) appoint an individual as the Chairperson of the Board, by and with the advice and consent of the Senate.

(2) COMPENSATION.—

(A) DESIGNATION OF FEDERAL OFFICER.—If the President designates a Federal officer under paragraph (1)(A) or (B) to serve as Chairperson, that Federal officer may not receive additional compensation for services performed as Chairperson.

(B) APPOINTMENT OF NON-FEDERAL OFFICER.—If the President appoints an individual as Chairperson under paragraph (1)(C), that individual shall be compensated at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) MEMBERS.—The members of the Board shall include—

(1) the Inspectors General of the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Homeland Security, Justice, Transportation, Treasury, and the Treasury Inspector General for Tax Administration; and

(2) any other Inspector General as designated by the President from any agency that expends or obligates covered funds.

SEC. 1523. FUNCTIONS OF THE BOARD.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Board shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse.

(2) SPECIFIC FUNCTIONS.—The functions of the Board shall include—

(A) reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(B) reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(C) auditing or reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters it considers appropriate for investigation to the inspector general for the agency that disbursed the covered funds;

(D) reviewing whether there are sufficient qualified acquisition and grant personnel overseeing covered funds;

(E) reviewing whether personnel whose duties involve acquisitions or grants made with covered funds receive adequate training; and

(F) reviewing whether there are appropriate mechanisms for interagency collaboration relating to covered funds, including coordinating and collaborating to the extent practicable with the Inspectors General Council on Integrity and Efficiency established by the Inspector General Reform Act of 2008 (Public Law 110–409).

(b) REPORTS.—

(1) FLASH AND OTHER REPORTS.—The Board shall submit to the President and Congress, including the Committees on Appropriations of the

Senate and House of Representatives, reports, to be known as ''flash reports'', on potential management and funding problems that require immediate attention. The Board also shall submit to Congress such other reports as the Board considers appropriate on the use and benefits of funds made available in this Act.

(2) QUARTERLY REPORTS.—The Board shall submit quarterly reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, summarizing the findings of the Board and the findings of inspectors general of agencies. The Board may submit additional reports as appropriate.

(3) ANNUAL REPORTS.—The Board shall submit annual reports to the President and Congress, including the Committees on Appropriations of the Senate and House of Representatives, consolidating applicable quarterly reports on the use of covered funds.

(4) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—All reports submitted under this subsection shall be made publicly available and posted on the website established by section 1526.

(B) REDACTIONS.—Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—The Board shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) RESPONSIVE REPORTS.—Not later than 30 days after receipt of a recommendation under paragraph (1), an agency shall submit a report to the President, the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, and the Board on—

(A) whether the agency agrees or disagrees with the recommendations; and

(B) any actions the agency will take to implement the recommendations.

SEC. 1524. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board shall conduct audits and reviews of spending of covered funds and coordinate on such activities with the inspectors general of the relevant agency to avoid duplication and overlap of work.

(b) AUDITS AND REVIEWS.—The Board may—

(1) conduct its own independent audits and reviews relating to covered funds; and

(2) collaborate on audits and reviews relating to covered funds with any inspector general of an agency.

(c) AUTHORITIES.—

(1) AUDITS AND REVIEWS.—In conducting audits and reviews, the Board shall have the authorities provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.). Additionally, the Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees and may enforce such subpoenas in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) STANDARDS AND GUIDELINES.—The Board shall carry out the powers under subsections (a) and (b) in accordance with section 4(b)(1) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) PUBLIC HEARINGS.—The Board may hold public hearings and Board personnel may conduct necessary inquiries. The head of each agency shall make all officers and employees of that agency available to provide testimony to the Board and Board personnel. The Board may issue subpoenas to compel the testimony of persons who are not Federal officers or employees at such public hearings. Any such subpoenas may be enforced in the same manner as provided for inspector general subpoenas under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

(e) CONTRACTS.—The Board may enter into contracts to enable the Board to discharge its duties under this subtitle, including contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Board.

(f) TRANSFER OF FUNDS.—The Board may transfer funds appropriated to the Board for expenses to support administrative support services and audits, reviews, or other activities related to oversight by the Board of covered funds to any office of inspector general, the Office of Management and Budget, the General Services Administration, and the Panel.

SEC. 1525. EMPLOYMENT, PERSONNEL, AND RELATED AUTHORITIES.

(a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

(1) IN GENERAL.—

(A) AUTHORITIES.—Subject to paragraph (2), the Board may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(B) APPLICATION.—For purposes of exercising the authorities described under subparagraph (A), the term ''Chairperson of the Board'' shall be substituted for the term ''head of a temporary organization''.

(C) CONSULTATION.—In exercising the authorities described under subparagraph (A), the Chairperson shall consult with members of the Board.

(2) EMPLOYMENT AUTHORITIES.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under paragraph (1) of this subsection—

(A) paragraph (2) of subsection (b) of section 3161 of that title (relating to periods of appointments) shall not apply; and

(B) no period of appointment may exceed the date on which the Board terminates under section 1530.

(b) INFORMATION AND ASSISTANCE.—

(1) IN GENERAL.—Upon request of the Board for information or assistance from any agency or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Board, or an authorized designee.

(2) REPORT OF REFUSALS.—Whenever information or assistance requested by the Board is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives, without delay.

(c) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Board with administrative support services, including the provision of office space and facilities.

SEC. 1526. BOARD WEBSITE.

(a) ESTABLISHMENT.—The Board shall establish and maintain, no later than 30 days after enactment of this Act, a user-friendly, public-facing website to foster greater accountability and transparency in the use of covered funds.

(b) PURPOSE.—The website established and maintained under subsection (a) shall be a portal or gateway to key information relating to this Act and provide connections to other Government websites with related information.

(c) CONTENT AND FUNCTION.—In establishing the website established and maintained under subsection (a), the Board shall ensure the following:

(1) The website shall provide materials explaining what this Act means for citizens. The materials shall be easy to understand and regularly updated.

(2) The website shall provide accountability information, including findings from audits, inspectors general, and the Government Accountability Office.

(3) The website shall provide data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds.

(4) The website shall provide detailed data on contracts awarded by the Federal Government that expend covered funds, including information about the competitiveness of the contracting process, information about the process that was used for the award of contracts, and for contracts over $500,000 a summary of the contract.

(5) The website shall include printable reports on covered funds obligated by month to each State and congressional district.

(6) The website shall provide a means for the public to give feedback on the performance of contracts that expend covered funds.

(7) The website shall include detailed information on Federal Government contracts and grants that expend covered funds, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

(8) The website shall provide a link to estimates of the jobs sustained or created by the Act.

(9) The website shall provide a link to information about announcements of grant competitions and solicitations for contracts to be awarded.

(10) The website shall include appropriate links to other government websites with information concerning covered funds, including Federal agency and State websites.

(11) The website shall include a plan from each Federal agency for using funds made available in this Act to the agency.

(12) The website shall provide information on Federal allocations of formula grants and awards of competitive grants using covered funds.

(13) The website shall provide information on Federal allocations of mandatory and other entitlement programs by State, county, or other appropriate geographical unit.

(14) To the extent practical, the website shall provide, organized by the location of the job opportunities involved, links to and information about how to access job opportunities, including, if possible, links to or information about local employment agencies, job banks operated by State workforce agencies, the Department of Labor's CareerOneStop website, State, local and other public agencies receiving Federal funding, and private firms contracted to perform work with Federal funding, in order to direct job seekers to job opportunities created by this Act.

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

(d) WAIVER.—The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

SEC. 1527. INDEPENDENCE OF INSPECTORS GENERAL.

(a) INDEPENDENT AUTHORITY.—Nothing in this subtitle shall affect the independent authority of an inspector general to determine whether to conduct an audit or investigation of covered funds.

(b) REQUESTS BY BOARD.—If the Board requests that an inspector general conduct or refrain from conducting an audit or investigation and the inspector general rejects the request in whole or in part, the inspector general shall, not later than 30 days after rejecting the request,

submit a report to the Board, the head of the applicable agency, and the congressional committees of jurisdiction, including the Committees on Appropriations of the Senate and House of Representatives. The report shall state the reasons that the inspector general has rejected the request in whole or in part. The inspector general's decision shall be final.

SEC. 1528. COORDINATION WITH THE COMPTROLLER GENERAL AND STATE AUDITORS.

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

SEC. 1529. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

SEC. 1530. TERMINATION OF THE BOARD.

The Board shall terminate on September 30, 2013.

Subtitle C—Recovery Independent Advisory Panel

SEC. 1541. ESTABLISHMENT OF RECOVERY INDEPENDENT ADVISORY PANEL.

(a) ESTABLISHMENT.—There is established the Recovery Independent Advisory Panel.

(b) MEMBERSHIP.—The Panel shall be composed of 5 members who shall be appointed by the President.

(c) QUALIFICATIONS.—Members shall be appointed on the basis of expertise in economics, public finance, contracting, accounting, or any other relevant field.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

(e) MEETINGS.—The Panel shall meet at the call of the Chairperson of the Panel.

(f) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1542. DUTIES OF THE PANEL.

The Panel shall make recommendations to the Board on actions the Board could take to prevent fraud, waste, and abuse relating to covered funds.

SEC. 1543. POWERS OF THE PANEL.

(a) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any agency such information as the Panel considers necessary to carry out this subtitle. Upon request of the Chairperson of the Panel, the head of such agency shall furnish such information to the Panel.

(c) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as agencies of the Federal Government.

(d) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

SEC. 1544. PANEL PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel. All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.

(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide the Panel with administrative support services, including the provision of office space and facilities.

SEC. 1545. TERMINATION OF THE PANEL.

The Panel shall terminate on September 30, 2013.

SEC. 1546. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this subtitle.

Subtitle D—Additional Accountability and Transparency Requirements

SEC. 1551. AUTHORITY TO ESTABLISH SEPARATE FUNDING ACCOUNTS.

Although this Act provides supplemental appropriations for programs, projects, and activities in existing Treasury accounts, to facilitate tracking these funds through Treasury and agency accounting systems, the Secretary of the Treasury shall ensure that all funds appropriated in this Act shall be established in separate Treasury accounts, unless a waiver from this provision is approved by the Director of the Office of Management and Budget.

SEC. 1552. SET-ASIDE FOR STATE AND LOCAL GOVERNMENT REPORTING AND RECORDKEEPING.

Federal agencies receiving funds under this Act, may, after following the notice and comment rulemaking requirements under the Administrative Procedures Act (5 U.S.C. 500), reasonably adjust applicable limits on administrative expenditures for Federal awards to help award recipients defray the costs of data collection requirements initiated pursuant to this Act.

SEC. 1553. PROTECTING STATE AND LOCAL GOVERNMENT AND CONTRACTOR WHISTLEBLOWERS.

(a) PROHIBITION OF REPRISALS.—An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of—

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;

(4) an abuse of authority related to the implementation or use of covered funds; or

(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(b) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate inspector general. Except as provided under paragraph (3), unless the inspector general determines that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint, the inspector general shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the person's employer, the head of the appropriate agency, and the Board.

(2) TIME LIMITATIONS FOR ACTIONS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the inspector general shall, not later than 180 days after receiving a complaint under paragraph (1)—

(i) make a determination that the complaint is frivolous, does not relate to covered funds, or another Federal or State judicial or administrative proceeding has previously been invoked to resolve such complaint; or

(ii) submit a report under paragraph (1).

(B) EXTENSIONS.—

(i) VOLUNTARY EXTENSION AGREED TO BETWEEN INSPECTOR GENERAL AND COMPLAINANT.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A) and the person submitting the complaint agrees to an extension of time, the inspector general shall submit a report under paragraph (1) within such additional period of time as shall be agreed upon between the inspector general and the person submitting the complaint.

(ii) EXTENSION GRANTED BY INSPECTOR GENERAL.—If the inspector general is unable to complete an investigation under this section in time to submit a report within the 180-day period specified under subparagraph (A), the inspector general may extend the period for not more than 180 days without agreeing with the person submitting the complaint to such extension, provided that the inspector general provides a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for the decision, which shall be provided to both the person submitting the complaint and the non-Federal employer.

(iii) SEMI-ANNUAL REPORT ON EXTENSIONS.—The inspector general shall include in semi-annual reports to Congress a list of those investigations for which the inspector general received an extension.

(3) DISCRETION NOT TO INVESTIGATE COMPLAINTS.—

(A) IN GENERAL.—The inspector general may decide not to conduct or continue an investigation under this section upon providing to the person submitting the complaint and the non-Federal employer a written explanation (subject to the authority to exclude information under paragraph (4)(C)) for such decision.

(B) ASSUMPTION OF RIGHTS TO CIVIL REMEDY.—Upon receipt of an explanation of a decision not to conduct or continue an investigation under subparagraph (A), the person submitting a complaint shall immediately assume the right to a civil remedy under subsection (c)(3) as if the 210-day period specified under such subsection has already passed.

(C) SEMI-ANNUAL REPORT.—The inspector general shall include in semi-annual reports to Congress a list of those investigations the inspector general decided not to conduct or continue under this paragraph.

(4) ACCESS TO INVESTIGATIVE FILE OF INSPECTOR GENERAL.—

(A) IN GENERAL.—The person alleging a reprisal under this section shall have access to the investigation file of the appropriate inspector general in accordance with section 552a of title 5, United States Code (commonly referred to as the ''Privacy Act''). The investigation of the inspector general shall be deemed closed for purposes of disclosure under such section when an employee files an appeal to an agency head or a court of competent jurisdiction.

(B) CIVIL ACTION.—In the event the person alleging the reprisal brings suit under subsection (c)(3), the person alleging the reprisal and the non-Federal employer shall have access to the investigative file of the inspector general in accordance with the Privacy Act.

(C) EXCEPTION.—The inspector general may exclude from disclosure—

(i) information protected from disclosure by a provision of law; and

(ii) any additional information the inspector general determines disclosure of which would impede a continuing investigation, provided that such information is disclosed once such disclosure would no longer impede such investigation, unless the inspector general determines that disclosure of law enforcement techniques, procedures, or information could reasonably be expected to risk circumvention of the law or disclose the identity of a confidential source.

(5) PRIVACY OF INFORMATION.—An inspector general investigating an alleged reprisal under this section may not respond to any inquiry or disclose any information from or about any person alleging such reprisal, except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

(c) REMEDY AND ENFORCEMENT AUTHORITY.—

(1) BURDEN OF PROOF.—

(A) DISCLOSURE AS CONTRIBUTING FACTOR IN REPRISAL.—

(i) IN GENERAL.—A person alleging a reprisal under this section shall be deemed to have affirmatively established the occurrence of the reprisal if the person demonstrates that a disclosure described in subsection (a) was a contributing factor in the reprisal.

(ii) USE OF CIRCUMSTANTIAL EVIDENCE.—A disclosure may be demonstrated as a contributing factor in a reprisal for purposes of this paragraph by circumstantial evidence, including—

(I) evidence that the official undertaking the reprisal knew of the disclosure; or

(II) evidence that the reprisal occurred within a period of time after the disclosure such that a reasonable person could conclude that the disclosure was a contributing factor in the reprisal.

(B) OPPORTUNITY FOR REBUTTAL.—The head of an agency may not find the occurrence of a reprisal with respect to a reprisal that is affirmatively established under subparagraph (A) if the non-Federal employer demonstrates by clear and convincing evidence that the non-Federal employer would have taken the action constituting the reprisal in the absence of the disclosure.

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

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

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

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

(3) CIVIL ACTION.—If the head of an agency issues an order denying relief in whole or in part under paragraph (1), has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under subsection (b)(2)(B)(i), within 30 days after the expiration of the extension of time, or decides under subsection (b)(3) not to investigate or to discontinue an investigation, and there is no showing that such delay or decision is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the employer to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

(4) JUDICIAL ENFORCEMENT OF ORDER.—Whenever a person fails to comply with an order issued under paragraph (2), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorneys fees and costs.

(5) JUDICIAL REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (2) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

(d) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—Except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—Except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section.

(3) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under the collective bargaining agreement.

(e) REQUIREMENT TO POST NOTICE OF RIGHTS AND REMEDIES.—Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.

(f) RULES OF CONSTRUCTION.—

(1) NO IMPLIED AUTHORITY TO RETALIATE FOR NON-PROTECTED DISCLOSURES.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(2) RELATIONSHIP TO STATE LAWS.—Nothing may be construed to preempt, preclude, or limit the protections provided for public or private employees under State whistleblower laws.

(g) DEFINITIONS.—In this section:

(1) ABUSE OF AUTHORITY.—The term ''abuse of authority'' means an arbitrary and capricious exercise of authority by a contracting official or employee that adversely affects the rights of any person, or that results in personal gain or advantage to the official or employee or to preferred other persons.

(2) COVERED FUNDS.—The term ''covered funds'' means any contract, grant, or other payment received by any non-Federal employer if—

(A) the Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

(B) at least some of the funds are appropriated or otherwise made available by this Act.

(3) EMPLOYEE.—The term ''employee''—

(A) except as provided under subparagraph (B), means an individual performing services on behalf of an employer; and

(B) does not include any Federal employee or member of the uniformed services (as that term is defined in section 101(a)(5) of title 10, United States Code).

(4) NON-FEDERAL EMPLOYER.—The term ''non-Federal employer''—

(A) means any employer—

(i) with respect to covered funds—

(I) the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and

(II) any professional membership organization, certification or other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or

(ii) with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor of the State or local government; and

(B) does not mean any department, agency, or other entity of the Federal Government.

(5) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' means—

(A) the government of each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; or

(B) the government of any political subdivision of a government listed in subparagraph (A).

SEC. 1554. SPECIAL CONTRACTING PROVISIONS.

To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526.

TITLE XVI—GENERAL PROVISIONS—THIS ACT

RELATIONSHIP TO OTHER APPROPRIATIONS

SEC. 1601. Each amount appropriated or made available in this Act is in addition to amounts otherwise appropriated for the fiscal year involved. Enactment of this Act shall have no effect on the availability of amounts under the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329).

PREFERENCE FOR QUICK-START ACTIVITIES

SEC. 1602. In using funds made available in this Act for infrastructure investment, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act. Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.

PERIOD OF AVAILABILITY

SEC. 1603. All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act.

LIMIT ON FUNDS

SEC. 1604. None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

BUY AMERICAN

SEC. 1605. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS. (a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

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

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

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

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

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

WAGE RATE REQUIREMENTS

SEC. 1606. Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF APPROPRIATE USE OF FUNDS

SEC. 1607. (a) CERTIFICATION BY GOVERNOR.—Not later than 45 days after the date of enactment of this Act, for funds provided to any State or agency thereof, the Governor of the State shall certify that: (1) the State will request and use funds provided by this Act; and (2) the funds will be used to create jobs and promote economic growth.

(b) ACCEPTANCE BY STATE LEGISLATURE.—If funds provided to any State in any division of this Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

(c) DISTRIBUTION.—After the adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

ECONOMIC STABILIZATION CONTRACTING

SEC. 1608. REFORM OF CONTRACTING PROCEDURES UNDER EESA. Section 107(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is amended by inserting ''and individuals with disabilities and businesses owned by individuals with disabilities (for purposes of this subsection the term 'individual with disability' has the same meaning as the term 'handicapped individual' as that term is defined in section 3(f) of the Small Business Act (15 U.S.C. 632(f)),'' after ''(12 U.S.C. 1441a(r)(4)),''.

SEC. 1609. (a) FINDINGS.—

(1) The National Environmental Policy Act protects public health, safety and environmental quality: by ensuring transparency, accountability and public involvement in federal actions and in the use of public funds;

(2) When President Nixon signed the National Environmental Policy Act into law on January 1, 1970, he said that the Act provided the ''direction'' for the country to ''regain a productive harmony between man and nature'';

(3) The National Environmental Policy Act helps to provide an orderly process for considering federal actions and funding decisions and prevents ligation and delay that would otherwise be inevitable and existed prior to the establishment of the National Environmental Policy Act.

(b) Adequate resources within this bill must be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized.

(c) The President shall report to the Senate Environment and Public Works Committee and the House Natural Resources Committee every 90 days following the date of enactment until September 30, 2011 on the status and progress of projects and activities funded by this Act with respect to compliance with National Environmental Policy Act requirements and documentation.

SEC. 1610. (a) None of the funds appropriated or otherwise made available by this Act, for projects initiated after the effective date of this Act, may be used by an executive agency to enter into any Federal contract unless such contract is entered into in accordance with the Federal Property and Administrative Services Act (41 U.S.C. 253) or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

(b) All projects to be conducted under the authority of the Indian Self-Determination and Education Assistance Act, the Tribally-Controlled Schools Act, the Sanitation and Facilities Act, the Native American Housing and Self-Determination Assistance Act and the Buy-Indian Act shall be identified by the appropriate Secretary and the appropriate Secretary shall incorporate provisions to ensure that the agreement conforms with the provisions of this Act regarding the timing for use of funds and transparency, oversight, reporting, and accountability, including review by the Inspectors General, the Accountability and Transparency Board, and Government Accountability Office, consistent with the objectives of this Act.

SEC. 1611. HIRING AMERICAN WORKERS IN COMPANIES RECEIVING TARP FUNDING. (a) SHORT TITLE.—This section may be cited as the ''Employ American Workers Act''.

(b) PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be unlawful for any recipient of funding under title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343) or section 13 of the Federal Reserve Act (12 U.S.C. 342 et seq.) to hire any nonimmigrant described in section 101(a)(15)(h)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(i)(b)) unless the recipient is in compliance with the requirements for an H–1B dependent employer (as defined in section 212(n)(3) of such Act (8 U.S.C. 1182(n)(3))), except that the second sentence of section 212(n)(1)(E)(ii) of such Act shall not apply.

(2) DEFINED TERM.—In this subsection, the term ''hire'' means to permit a new employee to commence a period of employment.

(c) SUNSET PROVISION.—This section shall be effective during the 2-year period beginning on the date of the enactment of this Act.

SEC. 1612. During the current fiscal year not to exceed 1 percent of any appropriation made available by this Act may be transferred by an agency head between such appropriations funded in this Act of that department or agency: Provided, That such appropriations shall be merged with and available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided further, That the agency head shall notify the Committees on Appropriations of the Senate and House of Representatives of the transfer 15 days in advance: Provided further, That notice of any transfer made pursuant to this authority be posted on the website established by the Recovery Act Accountability and Transparency Board 15 days following such transfer: Provided further, That the authority contained in this section is in addition to transfer authorities otherwise available under current law: Provided further, That the authority provided in this section shall not apply to any appropriation that is subject to transfer provisions included elsewhere in this Act.

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

TITLE I—TAX PROVISIONS

SEC. 1000. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the ''American Recovery and Reinvestment Tax Act of 2009''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is 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: