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S. 350

To provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

IN THE SENATE OF THE UNITED STATES

January 29, 2009

Mr. BAUCUS, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

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

SECTION 1. SHORT TITLE.

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

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:

TITLE I--TAX PROVISIONS

Sec. 1000. Short title, etc.

Subtitle A--Tax Relief for Individuals and Families

PART I--General Tax Relief

- Sec. 1001. Making work pay credit.
- Sec. 1002. Temporary increase in earned income tax credit.
- Sec. 1003. Temporary increase of refundable portion of child credit.
- Sec. 1004. American opportunity tax credit.
- Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010.
- Sec. 1006. Extension of first-time homebuyer credit; waiver of requirement to repay.
- Sec. 1007. Suspension of tax on portion of unemployment compensation.

PART II--Alternative Minimum Tax Relief

- Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.
- Sec. 1012. Extension of increased alternative minimum tax exemption amount.

Subtitle B--Energy Incentives

PART I--Renewable Energy Incentives

- Sec. 1101. Extension of credit for electricity produced from certain renewable resources.
- Sec. 1102. Election of investment credit in lieu of production credit.
- Sec. 1103. Repeal of certain limitations on credit for renewable energy property.

PART II--Increased Allocations of New Clean Renewable Energy Bonds and Qualified Energy Conservation Bonds

- Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds.
- Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds.

PART III--Energy Conservation Incentives

- Sec. 1121. Extension and modification of credit for nonbusiness energy property.
- Sec. 1122. Modification of credit for residential energy efficient property.
- Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property.

PART IV--Energy Research Incentives

- Sec. 1131. Increased research credit for energy research.

PART V--General Business Credit

- Sec. 1141. 5-year carryback of general business credits.
- Sec. 1142. Temporary provision allowing general business credits to offset 100 percent of Federal income tax liability.

PART VI--Modification of Credit for Carbon Dioxide Sequestration

- Sec. 1151. Application of monitoring requirements to carbon dioxide used as a tertiary injectant.

PART VII--Plug-In Electric Drive Motor Vehicles

- Sec. 1161. Modification of credit for qualified plug-in electric motor vehicles.

Subtitle C--Tax Incentives for Business

PART I--Temporary Investment Incentives

- Sec. 1201. Special allowance for certain property acquired during 2009.
- Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets.

PART II--5-Year Carryback of Operating Losses

- Sec. 1211. 5-year carryback of operating losses.
- Sec. 1212. Exception for TARP recipients.

PART III--Incentives for New Jobs

Sec. 1221. Incentives to hire unemployed veterans and disconnected youth.

PART IV--Cancellation of Indebtedness

Sec. 1231. Deferral and ratable inclusion of income arising from indebtedness discharged by the repurchase of a debt instrument.

PART V--Qualified Small Business Stock

Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010.

PART VI--Parity for Transportation Fringe Benefits

Sec. 1251. Increased exclusion amount for commuter transit benefits and transit passes.

PART VII--S Corporations

Sec. 1261. Temporary reduction in recognition period for built-in gains tax.

PART VIII--Broadband Incentives

Sec. 1271. Broadband Internet access tax credit.

PART IX--Clarification of Regulations Related to Limitations on Certain Built-In Losses Following an Ownership Change

Sec. 1281. Clarification of regulations related to limitations on certain built-in losses following an ownership change.

Subtitle D--Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property.

Sec. 1302. Credit for investment in advanced energy facilities.

Subtitle E--Economic Recovery Tools

Sec. 1401. Recovery zone bonds.

Sec. 1402. Tribal economic development bonds.

Sec. 1403. Modifications to new markets tax credit.

Subtitle F--Infrastructure Financing Tools

PART I--Improved Marketability for Tax-Exempt Bonds

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions.

Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.

Sec. 1503. Temporary modification of alternative minimum tax limitations on tax-exempt bonds.

Sec. 1504. Modification to high speed intercity rail facility bonds.

PART II--Delay in Application of Withholding Tax on Government Contractors

Sec. 1511. Delay in application of withholding tax on government contractors.

PART III--Tax Credit Bonds for Schools

Sec. 1521. Qualified school construction bonds.

Sec. 1522. Extension and expansion of qualified zone academy bonds.

PART IV--Build America Bonds

Sec. 1531. Build America bonds.

Subtitle G--Economic Recovery Payments to Certain Individuals

Sec. 1601. Economic recovery payment to recipients of Social Security, supplemental security income, railroad retirement benefits, and veterans disability compensation or pension benefits.

Subtitle H--Trade Adjustment Assistance

Sec. 1701. Temporary extension of Trade Adjustment Assistance program.

Subtitle I--Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

Sec. 1801. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000.

Subtitle J--Other Provisions

Sec. 1901. Application of certain labor standards to projects financed with certain tax-favored bonds.

Sec. 1902. Increase in public debt limit.

Subtitle A--Tax Relief for Individuals and Families

PART I--GENERAL TAX RELIEF

SEC. 1001. MAKING WORK PAY CREDIT.

(a) In General- Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36 the following new section:

SEC. 36A. MAKING WORK PAY CREDIT.

(a) Allowance of Credit- In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the lesser of--

(1) 6.2 percent of earned income of the taxpayer, or

(2) \$500 (\$1,000 in the case of a joint return).

(b) Limitation Based on Modified Adjusted Gross Income-

(1) IN GENERAL- The amount allowable as a credit under subsection (a) (determined without regard to this paragraph and subsection (c)) for the taxable year shall be reduced (but not below zero) by 4 percent of so much of the taxpayer's modified adjusted gross income as exceeds \$75,000 (\$150,000 in the case of a joint return).

(2) MODIFIED ADJUSTED GROSS INCOME- For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

`(c) Reduction for Certain Other Payments- The credit allowed under subsection (a) for any taxable year shall be reduced by the amount of any payments received by the taxpayer during such taxable year under section 1601 of the American Recovery and Reinvestment Tax Act of 2009.

`(d) Definitions- For purposes of this section--

`(1) ELIGIBLE INDIVIDUAL- The term `eligible individual' means any individual other than--

`(A) any nonresident alien individual,

`(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, and

`(C) an estate or trust.

Such term shall not include any individual unless the requirements of section 32(c)(1)(E) are met with respect to such individual.

`(2) EARNED INCOME- The term `earned income' has the meaning given such term by section 32(c)(2), except that such term shall not include net earnings from self-employment which are not taken into account in computing taxable income. For purposes of the preceding sentence, any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.

`(e) Termination- This section shall not apply to taxable years beginning after December 31, 2010'.

(b) Treatment of Possessions-

(1) PAYMENTS TO POSSESSIONS-

(A) MIRROR CODE POSSESSION- The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section with respect to taxable years beginning in 2009 and 2010. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS- The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the amendments made by this section for taxable years beginning in 2009 and 2010 if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES- No credit shall be allowed against United States income taxes for any taxable year under section 36A of the Internal Revenue Code of 1986 (as added by this section) to any person--

(A) to whom a credit is allowed against taxes imposed by the possession by reason of the amendments made by this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES-

(A) POSSESSION OF THE UNITED STATES- For purposes of this subsection, the term `possession of the United States' includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM- For purposes of this subsection, the term `mirror code tax system' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS- For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from the credit allowed under section 36A of the Internal Revenue Code of 1986 (as added by this section).

(c) Refunds Disregarded in the Administration of Federal Programs and Federally Assisted Programs- Any credit or refund allowed or made to any individual by reason of section 36A of the Internal Revenue Code of 1986 (as added by this section) or by reason of subsection (b) of this section shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months, for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) Authority Relating to Clerical Errors- Section 6213(g)(2) is amended by striking 'and' at the end of subparagraph (L)(ii), by striking the period at the end of subparagraph (M) and inserting ', and', and by adding at the end the following new subparagraph:

'(N) an omission of the reduction required under section 36A(c) with respect to the credit allowed under section 36A or an omission of the correct TIN required under section 36A(d)(1).'

(e) Conforming Amendments-

(1) Section 6211(b)(4)(A) is amended by inserting '36A,' after '36,'.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting '36A,' after '36,'.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36 the following new item:

'Sec. 36A. Making work pay credit.'

(f) Effective Date- This section, and the amendments made by this section, shall apply to taxable years beginning after December 31, 2008.

SEC. 1002. TEMPORARY INCREASE IN EARNED INCOME TAX CREDIT.

(a) In General- Subsection (b) of section 32 is amended by adding at the end the following new paragraph:

'(3) SPECIAL RULES FOR 2009 AND 2010- In the case of any taxable year beginning in 2009 or 2010--

'(A) INCREASED CREDIT PERCENTAGE FOR 3 OR MORE QUALIFYING CHILDREN- In the case of a taxpayer with 3 or more qualifying children, the credit percentage is 45 percent.

'(B) REDUCTION OF MARRIAGE PENALTY-

'(i) IN GENERAL- The dollar amount in effect under paragraph (2)(B) shall be \$5,000.

'(ii) INFLATION ADJUSTMENT- In the case of any taxable year beginning in 2010, the \$5,000 amount in clause (i) shall be increased by an amount equal to--

'(I) such dollar amount, multiplied by

'(II) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

'(iii) ROUNDING- Subparagraph (A) of subsection (j)(2) shall apply after taking into account any increase under clause (ii).'

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1003. TEMPORARY INCREASE OF REFUNDABLE PORTION OF CHILD CREDIT.

(a) In General- Paragraph (4) of section 24(d) is amended to read as follows:

'(4) SPECIAL RULE FOR 2009 AND 2010- Notwithstanding paragraph (3), in the case of any taxable year beginning in 2009 or 2010, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be \$6,000.'

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1004. AMERICAN OPPORTUNITY TAX CREDIT.

(a) In General- Section 25A (relating to Hope scholarship credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

'(i) American Opportunity Tax Credit- In the case of any taxable year beginning in 2009 or 2010--

'(1) INCREASE IN CREDIT- The Hope Scholarship Credit shall be an amount equal to the sum of--

'(A) 100 percent of so much of the qualified tuition and related expenses paid by the taxpayer during the taxable year (for education furnished to the eligible student during any academic period beginning in such taxable year) as does not exceed \$2,000, plus

'(B) 25 percent of such expenses so paid as exceeds \$2,000 but does not exceed \$4,000.

'(2) CREDIT ALLOWED FOR FIRST 4 YEARS OF POST-SECONDARY EDUCATION- Subparagraphs (A) and (C) of subsection (b)(2) shall be applied by substituting '4' for '2'.

'(3) QUALIFIED TUITION AND RELATED EXPENSES TO INCLUDE REQUIRED COURSE MATERIALS- Subsection (f)(1)(A) shall be applied by substituting 'tuition, fees, and course materials' for 'tuition and fees'.

`(4) INCREASE IN AGI LIMITS FOR HOPE SCHOLARSHIP CREDIT- In lieu of applying subsection (d) with respect to the Hope Scholarship Credit, such credit (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such credit (as so determined) as--

`(A) the excess of--

`(i) the taxpayer's modified adjusted gross income (as defined in subsection (d)(3)) for such taxable year, over

`(ii) \$80,000 (\$160,000 in the case of a joint return), bears to

`(B) \$10,000 (\$20,000 in the case of a joint return).

`(5) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX- In the case of a taxable year to which section 26(a)(2) does not apply, so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit shall not exceed the excess of--

`(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

`(B) the sum of the credits allowable under this subpart (other than this subsection and sections 23, 25D, and 30D) and section 27 for the taxable year.

Any reference in this section or section 24, 25, 26, 25B, 904, or 1400C to a credit allowable under this subsection shall be treated as a reference to so much of the credit allowable under subsection (a) as is attributable to the Hope Scholarship Credit.

`(6) PORTION OF CREDIT MADE REFUNDABLE- 30 percent of so much of the credit allowed under subsection (a) as is attributable to the Hope Scholarship Credit (determined after application of paragraph (4) and without regard to this paragraph and section 26(a)(2) or paragraph (5), as the case may be) shall be treated as a credit allowable under subpart C (and not allowed under subsection (a)). The preceding sentence shall not apply to any taxpayer for any taxable year if such taxpayer is a child to whom subsection (g) of section 1 applies for such taxable year.

`(7) COORDINATION WITH MIDWESTERN DISASTER AREA BENEFITS- In the case of a taxpayer with respect to whom section 702(a)(1)(B) of the Heartland Disaster Tax Relief Act of 2008 applies for any taxable year, such taxpayer may elect to waive the application of this subsection to such taxpayer for such taxable year.'

(b) Conforming Amendments--

(1) Section 24(b)(3)(B) is amended by inserting `25A(i),' after `23,'.

(2) Section 25(e)(1)(C)(ii) is amended by inserting `25A(i),' after `24,'.

(3) Section 26(a)(1) is amended by inserting `25A(i),' after `24,'.

(4) Section 25B(g)(2) is amended by inserting `25A(i),' after `23,'.

(5) Section 904(i) is amended by inserting `25A(i),' after `24,'.

(6) Section 1400C(d)(2) is amended by inserting `25A(i),' after `24,'.

(7) Section 1324(b)(2) of title 31, United States Code, is amended by inserting `25A,' before `35'.

(c) Effective Date-- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) Application of EGTRRA Sunset-- The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

(e) Treasury Studies Regarding Education Incentives--

(1) STUDY REGARDING COORDINATION WITH NON-TAX EDUCATIONAL INCENTIVES-- The Secretary of the Treasury, or the Secretary's delegate, shall study how to coordinate the credit allowed under section 25A of the Internal Revenue Code of 1986 with the Federal Pell Grant program under section 401 of the Higher Education Act of 1965.

(2) STUDY REGARDING IMPOSITION OF COMMUNITY SERVICE REQUIREMENTS-- The Secretary of the Treasury, or the Secretary's delegate, shall study the feasibility of requiring students to perform community service as a condition of taking their tuition and related expenses into account under section 25A of the Internal Revenue Code of 1986.

(3) REPORT-- Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the studies conducted under this paragraph.

SEC. 1005. COMPUTER TECHNOLOGY AND EQUIPMENT ALLOWED AS A QUALIFIED HIGHER EDUCATION EXPENSE FOR SECTION 529 ACCOUNTS IN 2009 AND 2010.

(a) In General-- Section 529(e)(3)(A) is amended by striking `and' at the end of clause (i), by striking the period at the end of clause (ii), and by adding at the end the following:

(iii) expenses paid or incurred in 2009 or 2010 for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary's family during any of the years the beneficiary is enrolled at an eligible educational institution.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.'

(b) Effective Date- The amendments made by this section shall apply to expenses paid or incurred after December 31, 2008.

SEC. 1006. EXTENSION OF FIRST-TIME HOMEBUYER CREDIT; WAIVER OF REQUIREMENT TO REPAY.

(a) Extension-

(1) IN GENERAL- Section 36(h) is amended by striking 'July 1, 2009' and inserting 'September 1, 2009'.

(2) CONFORMING AMENDMENT- Section 36(g) is amended by striking 'July 1, 2009' and inserting 'September 1, 2009'.

(b) Waiver of Recapture-

(1) IN GENERAL- Paragraph (4) of section 36(f) is amended by adding at the end the following new subparagraph:
'(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009- In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before September 1, 2009--

(i) paragraph (1) shall not apply, and

(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.'

(2) CONFORMING AMENDMENT- Subsection (g) of section 36 is amended by striking 'subsection (c)' and inserting 'subsections (c) and (f)(4)(D)'.

(c) Effective Date- The amendments made by this section shall apply to residences purchased after December 31, 2008.

SEC. 1007. SUSPENSION OF TAX ON PORTION OF UNEMPLOYMENT COMPENSATION.

(a) In General- Section 85 of the Internal Revenue Code of 1986 (relating to unemployment compensation) is amended by adding at the end the following new subsection:

'(c) Special Rule for 2009- In the case of any taxable year beginning in 2009, gross income shall not include so much of the unemployment compensation received by an individual as does not exceed \$2,400.'

(b) Effective Date- The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART II--ALTERNATIVE MINIMUM TAX RELIEF

SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) In General- Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2008) is amended--

(1) by striking 'or 2008' and inserting '2008, or 2009', and

(2) by striking '2008' in the heading thereof and inserting '2009'.

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) In General- Paragraph (1) of section 55(d) (relating to exemption amount) is amended--

(1) by striking '\$69,950 in the case of taxable years beginning in 2008' in subparagraph (A) and inserting '\$70,950 in the case of taxable years beginning in 2009)', and

(2) by striking '\$46,200 in the case of taxable years beginning in 2008' in subparagraph (B) and inserting '\$46,700 in the case of taxable years beginning in 2009)'.

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

Subtitle B--Energy Incentives

PART I--RENEWABLE ENERGY INCENTIVES

SEC. 1101. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

- (a) In General- Subsection (d) of section 45 is amended--
- (1) by striking `2010' in paragraph (1) and inserting `2013',
 - (2) by striking `2011' each place it appears in paragraphs (2), (3), (4), (6), (7) and (9) and inserting `2014', and
 - (3) by striking `2012' in paragraph (11)(B) and inserting `2014'.
- (b) Technical Amendment- Paragraph (5) of section 45(d) is amended by striking `and before' and all that follows and inserting `and before October 3, 2008.'.
- (c) Effective Date-
- (1) IN GENERAL- The amendments made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.
 - (2) TECHNICAL AMENDMENT- The amendment made by subsection (b) shall take effect as if included in section 102 of the Energy Improvement and Extension Act of 2008.

SEC. 1102. ELECTION OF INVESTMENT CREDIT IN LIEU OF PRODUCTION CREDIT.

- (a) In General- Subsection (a) of section 48 is amended by adding at the end the following new paragraph:
- `(5) ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY-
 - `(A) IN GENERAL- In the case of any qualified investment credit facility--
 - `(i) such facility shall be treated as energy property for purposes of this section, and
 - `(ii) the energy percentage with respect to such property shall be 30 percent.
 - `(B) DENIAL OF PRODUCTION CREDIT- No credit shall be allowed under section 45 for any taxable year with respect to any qualified investment credit facility.
 - `(C) QUALIFIED INVESTMENT CREDIT FACILITY- For purposes of this paragraph, the term `qualified investment credit facility' means any of the following facilities if no credit has been allowed under section 45 with respect to such facility and the taxpayer makes an irrevocable election to have this paragraph apply to such facility:
 - `(i) WIND FACILITIES- Any facility described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, or 2012.
 - `(ii) OTHER FACILITIES- Any facility described in paragraph (2), (3), (4), (6), (7), (9), or (11) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013.'.
- (b) Effective Date- The amendments made by this section shall apply to facilities placed in service after December 31, 2008.

SEC. 1103. REPEAL OF CERTAIN LIMITATIONS ON CREDIT FOR RENEWABLE ENERGY PROPERTY.

- (a) Repeal of Limitation on Credit for Qualified Small Wind Energy Property- Paragraph (4) of section 48(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C).
- (b) Repeal of Limitation on Property Financed by Subsidized Energy Financing-
- (1) IN GENERAL- Section 48(a)(4) is amended by adding at the end the following new subparagraph:
 - `(D) TERMINATION- This paragraph shall not apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).'
 - (2) CONFORMING AMENDMENTS-
 - (A) Section 25C(e)(1) is amended by striking `(8), and (9)' and inserting `and (8)'.
 - (B) Section 25D(e) is amended by striking paragraph (9).
 - (C) Section 48A(b)(2) is amended by inserting `(without regard to subparagraph (D) thereof)' after `section 48(a)(4)'.
 - (D) Section 48B(b)(2) is amended by inserting `(without regard to subparagraph (D) thereof)' after `section 48(a)(4)'.
- (c) Effective Date-
- (1) IN GENERAL- Except as provided in paragraph (2), the amendment made by this section shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(2) CONFORMING AMENDMENTS- The amendments made by subsection (b)(2) shall apply to taxable years beginning after December 31, 2008.

PART II--INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

SEC. 1111. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

Subsection (c) of section 54C is amended by adding at the end the following new paragraph:

“(4) ADDITIONAL LIMITATION- The national new clean renewable energy bond limitation shall be increased by \$1,600,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3).”

SEC. 1112. INCREASED LIMITATION ON ISSUANCE OF QUALIFIED ENERGY CONSERVATION BONDS.

Section 54D(d) is amended by striking ‘800,000,000’ and inserting ‘\$3,200,000,000’.

PART III--ENERGY CONSERVATION INCENTIVES

SEC. 1121. EXTENSION AND MODIFICATION OF CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) In General- Section 25C is amended by striking subsections (a) and (b) and inserting the following new subsections:

“(a) Allowance of Credit- In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of--

“(1) the amount paid or incurred by the taxpayer during such taxable year for qualified energy efficiency improvements, and

“(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

“(b) Limitation- The aggregate amount of the credits allowed under this section for taxable years beginning in 2009 and 2010 with respect to any taxpayer shall not exceed \$1,500.”

(b) Extension- Section 25C(g)(2) is amended by striking ‘December 31, 2009’ and inserting ‘December 31, 2010’.

(c) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1122. MODIFICATION OF CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) Removal of Credit Limitation for Property Placed in Service-

(1) IN GENERAL- Paragraph (1) of section 25D(b) is amended to read as follows:

“(1) MAXIMUM CREDIT FOR FUEL CELLS- In the case of any qualified fuel cell property expenditure, the credit allowed under subsection (a) (determined without regard to subsection (c)) for any taxable year shall not exceed \$500 with respect to each half kilowatt of capacity of the qualified fuel cell property (as defined in section 48(c)(1)) to which such expenditure relates.”

(2) CONFORMING AMENDMENT- Paragraph (4) of section 25D(e) is amended--

(A) by striking all that precedes subparagraph (B) and inserting the following:

“(4) FUEL CELL EXPENDITURE LIMITATIONS IN CASE OF JOINT OCCUPANCY- In the case of any dwelling unit with respect to which qualified fuel cell property expenditures are made and which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

“(A) MAXIMUM EXPENDITURES FOR FUEL CELLS- The maximum amount of such expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be \$1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) with respect to which such expenditures relate.”, and

(B) by striking subparagraph (C).

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 1123. TEMPORARY INCREASE IN CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

- (a) In General- Section 30C(e) is amended by adding at the end the following new paragraph:
` (6) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE DURING 2009 AND 2010- In the case of property placed in service in taxable years beginning after December 31, 2008, and before January 1, 2011--
` (A) in the case of any such property which does not relate to hydrogen--
` (i) subsection (a) shall be applied by substituting `50 percent' for `30 percent',
` (ii) subsection (b)(1) shall be applied by substituting `\$50,000' for `\$30,000', and
` (iii) subsection (b)(2) shall be applied by substituting `\$2,000' for `\$1,000', and
` (B) in the case of any such property which relates to hydrogen, subsection (b)(1) shall be applied by substituting `\$200,000' for `\$30,000'.
- (b) Effective Date- The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART IV--ENERGY RESEARCH INCENTIVES

SEC. 1131. INCREASED RESEARCH CREDIT FOR ENERGY RESEARCH.

- (a) In General- Section 41 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:
` (h) Energy Research Credit- In the case of any taxable year beginning in 2009 or 2010--
` (1) IN GENERAL- The credit determined under subsection (a)(1) shall be increased by 20 percent of the qualified energy research expenses for the taxable year.
` (2) QUALIFIED ENERGY RESEARCH EXPENSES- For purposes of this subsection--
` (A) IN GENERAL- The term `qualified energy research expenses' means so much of the taxpayer's qualified research expenses as are related to the fields of fuel cells and battery technology, renewable energy and renewable fuels, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.
` (B) COORDINATION WITH QUALIFYING ADVANCED ENERGY PROJECT CREDIT- Such term shall not include expenditures taken into account in determining the amount of the credit under section 48 or 48C.
` (3) COORDINATION WITH OTHER RESEARCH CREDITS-
` (A) IN GENERAL- The amount of qualified energy research expenses taken into account under subsection (a)(1)(A) shall not exceed the base amount.
` (B) ALTERNATIVE SIMPLIFIED CREDIT- For purposes of subsection (c)(5), the amount of qualified energy research expenses taken into account for the taxable year for which the credit is being determined shall not exceed--
` (i) in the case of subsection (c)(5)(A), 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined, and
` (ii) in the case of subsection (c)(5)(B)(ii), zero.
` (C) BASIC RESEARCH AND ENERGY RESEARCH CONSORTIUM PAYMENTS- Any amount taken into account under paragraph (1) shall not be taken into account under paragraph (2) or (3) of subsection (a).
- (b) Conforming Amendment- Subparagraph (B) of section 41(i)(1)(B), as redesignated by subsection (a), is amended by inserting `(in the case of the increase in the credit determined under subsection (h), December 31, 2010)' after `December 31, 2009'.
- (c) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART V--GENERAL BUSINESS CREDIT

SEC. 1141. 5-YEAR CARRYBACK OF GENERAL BUSINESS CREDITS.

- (a) In General- Subsection (a) of section 39 is amended by adding at the end the following new paragraph:
` (4) SPECIAL RULE FOR 2008 AND 2009 BUSINESS CREDITS- In the case of any current year business credit for a taxable year ending in 2008 or 2009--
` (A) paragraph (1)(A) shall be applied by substituting `each of the 5 taxable years' for `the taxable year' in subparagraph (A) thereof, and
` (B) paragraph (2) shall be applied--
` (i) by substituting `25 taxable years' for `21 taxable years', and

(ii) by substituting '24 taxable years' for '20 taxable years'.

(b) Effective Date- The amendment made by this subsection shall apply to taxable years ending after December 31, 2007, and to carrybacks of business credits from such taxable years.

SEC. 1142. TEMPORARY PROVISION ALLOWING GENERAL BUSINESS CREDITS TO OFFSET 100 PERCENT OF FEDERAL INCOME TAX LIABILITY.

(a) In General- Subsection (c) of section 38 is amended by adding at the end the following new paragraph:

(6) TEMPORARY PROVISION ALLOWING GENERAL BUSINESS CREDITS TO OFFSET 100 PERCENT OF FEDERAL INCOME TAX LIABILITY-

(A) IN GENERAL- In the case of a taxable year ending in 2008 or 2009--

(i) the limitation under paragraph (1) shall be the net income tax (as defined in paragraph (1)) for purposes of determining the amount of the credit allowed under subsection (a) for such taxable year, and

(ii) the excess credit for such taxable year shall, solely for purposes of determining the amount of such excess credit which may be carried back to a preceding taxable year, be increased by the amount of business credit carryforwards which are carried to such taxable year and which are not allowed for such taxable year by reason of the limitation under paragraph (1) (as modified by clause (i)).

(B) INCREASE IN LIMITATION FOR TAXABLE YEARS TO WHICH EXCESS CREDITS FOR 2008 AND 2009 ARE CARRIED BACK-

(i) IN GENERAL- Solely for purposes of determining the portion of any excess credit described in subparagraph (A)(ii) for which credit will be allowed under subsection (a)(3) for any preceding taxable year, the limitation under paragraph (1) for such preceding taxable year shall be the net income tax (as defined in paragraph (1)).

(ii) ORDERING RULE- If the excess credit described in subparagraph (A)(ii) includes business credit carryforwards from preceding taxable years, such excess credit shall be treated as allowed for any preceding taxable year on a first-in first-out basis.

(b) Effective Date- The amendment made by this section shall apply to taxable years ending after December 31, 2007, and to carrybacks of credits from such taxable years.

PART VI--MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

SEC. 1151. APPLICATION OF MONITORING REQUIREMENTS TO CARBON DIOXIDE USED AS A TERTIARY INJECTANT.

(a) In General- Section 45Q(a)(2) is amended by striking 'and' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ', and', and by adding at the end the following new subparagraph:

(C) disposed of by the taxpayer in secure geological storage.

(b) Conforming Amendment- Section 45Q(d)(2) is amended by striking 'subsection (a)(1)(B)' and inserting 'paragraph (1)(B) or (2)(C) of subsection (a)'.

(c) Effective Date- The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act.

PART VII--PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

SEC. 1161. MODIFICATION OF CREDIT FOR QUALIFIED PLUG-IN ELECTRIC MOTOR VEHICLES.

(a) Increase in Vehicles Eligible for Credit- Section 30D(b)(2)(B) is amended by striking '250,000' and inserting '500,000'.

(b) Exclusion of Neighborhood Electric Vehicles From Existing Credit- Section 30D(e)(1) is amended to read as follows:

(1) MOTOR VEHICLE- The term 'motor vehicle' means a motor vehicle (as defined in section 30(c)(2)), which is treated as a motor vehicle for purposes of title II of the Clean Air Act.

(c) Credit for Certain Other Vehicles- Section 30D is amended--

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and

(2) by inserting after subsection (e) the following new subsection:

(f) Credit for Certain Other Vehicles- For purposes of this section--

- `(1) IN GENERAL- In the case of a specified vehicle, this section shall be applied with the following modifications:
 - `(A) For purposes of subsection (a)(1), in lieu of the applicable amount determined under subsection (a)(2), the applicable amount shall be 10 percent of so much of the cost of the specified vehicle as does not exceed \$40,000.
 - `(B) Subsection (b) shall not apply and no specified vehicle shall be taken into account under subsection (b)(2).
 - `(C) Subsection (c)(3) shall not apply.
- `(2) SPECIFIED VEHICLE- For purposes of this subsection--
 - `(A) IN GENERAL- The term 'specified vehicle' means--
 - `(i) any 2- or 3-wheeled motor vehicle, or
 - `(ii) any low-speed motor vehicle,
 which is placed in service after December 31, 2009, and before January 1, 2012.
 - `(B) 2- OR 3-WHEELED MOTOR VEHICLE- The term '2- or 3-wheeled motor vehicle' means any vehicle--
 - `(i) which would be described in section 30(c)(2) except that it has 2 or 3 wheels,
 - `(ii) with motive power having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground,
 - `(iii) which has an electric motor that produces in excess of 5-brake horsepower,
 - `(iv) which draws propulsion from 1 or more traction batteries, and
 - `(v) which has been certified to the Department of Transportation pursuant to section 567 of title 49, Code of Federal Regulations, as conforming to all applicable Federal motor vehicle safety standards in effect on the date of the manufacture of the vehicle.
 - `(C) LOW-SPEED MOTOR VEHICLE- The term 'low-speed motor vehicle' means a motor vehicle (as defined in section 30(c)(2)) which meets the requirements of section 571.500 of title 49, Code of Federal Regulations.'.

(d) Effective Dates-

- (1) INCREASE IN VEHICLES ELIGIBLE FOR CREDIT- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.
- (2) OTHER MODIFICATIONS- The amendments made by subsections (b) and (c) shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

Subtitle C--Tax Incentives for Business

PART I--TEMPORARY INVESTMENT INCENTIVES

SEC. 1201. SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED DURING 2009.

(a) Extension of Special Allowance-

- (1) IN GENERAL- Paragraph (2) of section 168(k) is amended--
 - (A) by striking 'January 1, 2010' and inserting 'January 1, 2011', and
 - (B) by striking 'January 1, 2009' each place it appears and inserting 'January 1, 2010'.
- (2) CONFORMING AMENDMENTS-
 - (A) The heading for subsection (k) of section 168 is amended by striking 'January 1, 2009' and inserting 'January 1, 2010'.
 - (B) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking 'PRE-JANUARY 1, 2009' and inserting 'PRE-JANUARY 1, 2010'.
 - (C) Subparagraph (B) of section 168(l)(5) is amended by striking 'January 1, 2009' and inserting 'January 1, 2010'.
 - (D) Subparagraph (C) of section 168(n)(2) is amended by striking 'January 1, 2009' and inserting 'January 1, 2010'.
 - (E) Subparagraph (B) of section 1400N(d)(3) is amended by striking 'January 1, 2009' and inserting 'January 1, 2010'.
- (3) TECHNICAL AMENDMENT- Subparagraph (D) of section 168(k)(4) is amended--
 - (A) by striking 'and' at the end of clause (i),
 - (B) by redesignating clause (ii) as clause (iii), and
 - (C) by inserting after clause (i) the following new clause:

`(ii) `April 1, 2008' shall be substituted for `January 1, 2008' in subparagraph (A)(iii)(I) thereof, and'

(b) Extension of Election To Accelerate the AMT and Research Credits in Lieu of Bonus Depreciation- Section 168(k)(4) (relating to election to accelerate the AMT and research credits in lieu of bonus depreciation) is amended--

- (1) by striking `2009' and inserting `2010'in subparagraph (D)(iii) (as redesignated by subsection (a)(3)), and
- (2) by adding at the end the following new subparagraph:

`(H) SPECIAL RULES FOR EXTENSION PROPERTY-

`(i) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION- In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008--

`(I) the taxpayer may elect not to have this paragraph apply to extension property, but

`(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer a separate bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is extension property and to eligible qualified property which is not extension property.

`(ii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION- In the case of a taxpayer who did not make the election under subparagraph (A) for its first taxable year ending after March 31, 2008--

`(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2008, and each subsequent taxable year, and

`(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is extension property.

`(iii) EXTENSION PROPERTY- For purposes of this subparagraph, the term `extension property' means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 1201(a) of the American Recovery and Reinvestment Tax Act of 2009 (and the application of such extension to this paragraph pursuant to the amendment made by section 1201(b)(1) of such Act).'

(c) Inclusion of Films or Videotape as Qualified Property-

(1) IN GENERAL- Section 168(k)(2) is amended by adding at the end the following new subparagraph:

`(H) CERTAIN FILMS- The term `qualified property' includes property--

`(i) which is a motion picture film or video tape (within the meaning of subsection (f)(3)) for which a deduction is allowable under section 167(a) without regard to this section,

`(ii) the original use of which commences with the taxpayer after December 31, 2008,

`(iii) which is--

`(I) acquired by the taxpayer after December 31, 2008, and before January 1, 2010, but only if no written binding contract for the acquisition was in effect before January 1, 2009, or

`(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2008, and before January 1, 2010,

`(iv) which is placed in service by the taxpayer before January 1, 2010, or, in the case of property described in subparagraph (B), before January 1, 2011, and

`(v) the production of which is a qualified film or television production (as defined in section 181(d) (determined without regard to paragraph (2)(B)(ii) thereof)) with respect to which an election is not in effect under section 181.'

(2) CONFORMING AMENDMENTS-

(A) Subclause (I) of section 168(k)(2)(B)(i) is amended by inserting `subparagraph (H) or' after `requirements of'.

(B) Subclause (II) of section 168(k)(2)(B)(i) is amended by striking `or is transportation property' and inserting `, is transportation property, or is property described in subparagraph (H)'

(C) Clause (iii) of section 168(k)(2)(D) is amended by adding at the end the following new sentence: `For purposes of the preceding sentence, all property described in subparagraph (H) shall be treated as one class of property.'

(D) Subparagraph (E) of section 168(k)(2) is amended by adding at the end the following new clause:

`(v) APPLICATION TO FILM AND VIDEOTAPE PROPERTY- In the case of property described in subparagraph (H), clauses (i), (ii), (iii), and (iv) of this subparagraph shall be applied-

- `(I) by substituting `December 31, 2008' for `December 31, 2007' each place it appears, and
- `(II) by treating any reference to a clause of subparagraph (A) as a reference to the corresponding clause of subparagraph (H).'

(d) Effective Dates-

- (1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.
- (2) TECHNICAL AMENDMENT- The amendments made by subsection (a)(3) shall apply to taxable years ending after March 31, 2008.

SEC. 1202. TEMPORARY INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) In General- Paragraph (7) of section 179(b) is amended--

- (1) by striking `2008' and inserting `2008, or 2009', and
- (2) by striking `2008' in the heading thereof and inserting `2008, AND 2009'.

(b) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

PART II--5-YEAR CARRYBACK OF OPERATING LOSSES

SEC. 1211. 5-YEAR CARRYBACK OF OPERATING LOSSES.

(a) In General- Subparagraph (H) of section 172(b)(1) is amended to read as follows:

`(H) CARRYBACK FOR 2008 AND 2009 NET OPERATING LOSSES-

- `(i) IN GENERAL- In the case of an applicable 2008 or 2009 net operating loss with respect to which the taxpayer has elected the application of this subparagraph--
 - `(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 6 for `2',
 - `(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (II) for `2', and
 - `(III) subparagraph (F) shall not apply.
- `(ii) APPLICABLE 2008 OR 2009 NET OPERATING LOSS- For purposes of this subparagraph, the term `applicable 2008 or 2009 net operating loss' means--
 - `(I) the taxpayer's net operating loss for any taxable year ending in 2008 or 2009, or
 - `(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2008 or 2009.
- `(iii) ELECTION- Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable.
- `(iv) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION- In the case of a taxpayer who elects to have clause (ii)(II) apply, section 56(d)(1)(A)(ii) shall be applied by substituting `ending during 2001 or 2002 or beginning during 2008 or 2009' for `ending during 2001, 2002, 2008, or 2009'.

(b) Alternative Tax Net Operating Loss Deduction- Subclause (I) of section 56(d)(1)(A)(ii) is amended to read as follows:

- `(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses from taxable years ending during 2001, 2002, 2008, or 2009 and carryovers of net operating losses to such taxable years, or'.

(c) Loss From Operations of Life Insurance Companies- Subsection (b) of section 810 is amended by adding at the end the following new paragraph:

`(4) CARRYBACK FOR 2008 AND 2009 LOSSES-

- `(A) IN GENERAL- In the case of an applicable 2008 or 2009 loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied, at the election of the taxpayer, by substituting `5' or `4' for `3'.
- `(B) APPLICABLE 2008 OR 2009 LOSS FROM OPERATIONS- For purposes of this paragraph, the term `applicable 2008 or 2009 loss from operations' means--
 - `(i) the taxpayer's loss from operations for any taxable year ending in 2008 or 2009, or

(ii) if the taxpayer elects to have this clause apply in lieu of clause (i), the taxpayer's loss from operations for any taxable year beginning in 2008 or 2009.

(C) ELECTION- Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the loss from operations. Any such election, once made, shall be irrevocable.

(D) COORDINATION WITH ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION- In the case of a taxpayer who elects to have subparagraph (B)(ii) apply, section 56(d)(1)(A)(ii) shall be applied by substituting 'ending during 2001 or 2002 or beginning during 2008 or 2009' for 'ending during 2001, 2002, 2008, or 2009'.

(d) Conforming Amendment- Section 172 is amended by striking subsection (k) and by redesignating subsection (l) as subsection (k).

(e) Effective Date-

(1) IN GENERAL- Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2007.

(2) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION- The amendment made by subsection (b) shall apply to taxable years ending after 1997.

(3) LOSS FROM OPERATIONS OF LIFE INSURANCE COMPANIES- The amendment made by subsection (d) shall apply to losses from operations arising in taxable years ending after December 31, 2007.

(4) TRANSITIONAL RULE- In the case of a net operating loss (or, in the case of a life insurance company, a loss from operations) for a taxable year ending before the date of the enactment of this Act--

(A) any election made under section 172(b)(3) or 810(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date,

(B) any election made under section 172(k) or 810(b)(4) of such Code with respect to such loss shall (notwithstanding such section) be treated as timely made if made before the applicable date, and

(C) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term 'applicable date' means the date which is 60 days after the date of the enactment of this Act.

SEC. 1212. EXCEPTION FOR TARP RECIPIENTS.

The amendments made by this part shall not apply to--

(1) any taxpayer if--

(A) the Federal Government acquires, at any time, an equity interest in the taxpayer pursuant to the Emergency Economic Stabilization Act of 2008, or

(B) the Federal Government acquires, at any time, any warrant (or other right) to acquire any equity interest with respect to the taxpayer pursuant to such Act,

(2) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

(3) any taxpayer which at any time in 2008 or 2009 is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1986, determined without regard to subsection (b) thereof) as a taxpayer described in paragraph (1) or (2).

PART III--INCENTIVES FOR NEW JOBS

SEC. 1221. INCENTIVES TO HIRE UNEMPLOYED VETERANS AND DISCONNECTED YOUTH.

(a) In General- Subsection (d) of section 51 is amended by adding at the end the following new paragraph:

(14) CREDIT ALLOWED FOR UNEMPLOYED VETERANS AND DISCONNECTED YOUTH HIRED IN 2009 OR 2010-

(A) IN GENERAL- Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 shall be treated as a member of a targeted group for purposes of this subpart.

(B) DEFINITIONS- For purposes of this paragraph--

(i) UNEMPLOYED VETERAN- The term 'unemployed veteran' means any veteran (as defined in paragraph (3)(B), determined without regard to clause (ii) thereof) who is certified by the designated local agency as--

(I) having been discharged or released from active duty in the Armed Forces during 2008, 2009, or 2010, and

- `(II) being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks during the 1-year period ending on the hiring date.
- `(ii) DISCONNECTED YOUTH- The term `disconnected youth' means any individual who is certified by the designated local agency--
 - `(I) as having attained age 16 but not age 25 on the hiring date,
 - `(II) as not regularly attending any secondary, technical, or post-secondary school during the 6-month period preceding the hiring date,
 - `(III) as not regularly employed during such 6-month period, and
 - `(IV) as not readily employable by reason of lacking a sufficient number of basic skills.'

(b) Effective Date- The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2008.

PART IV--CANCELLATION OF INDEBTEDNESS

SEC. 1231. DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM INDEBTEDNESS DISCHARGED BY THE REPURCHASE OF A DEBT INSTRUMENT.

(a) In General- Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end the following new subsection:

`(i) Deferral and Ratable Inclusion of Income Arising From Indebtedness Discharged by the Repurchase of a Debt Instrument-

`(1) IN GENERAL- Notwithstanding section 61, income from the discharge of indebtedness in connection with the repurchase of a debt instrument after December 31, 2008, and before January 1, 2011, shall be includible in gross income ratably over the 8-taxable-year period beginning with--

`(A) in the case of a repurchase occurring in 2009, the second taxable year following the taxable year in which the repurchase occurs, and

`(B) in the case of a repurchase occurring in 2010, the taxable year following the taxable year in which the repurchase occurs.

`(2) DEBT INSTRUMENT- For purposes of this subsection, the term `debt instrument' means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

`(3) REPURCHASE- For purposes of this subsection, the term `repurchase' means, with respect to any debt instrument, a cash purchase of the debt instrument by--

`(A) the debtor which issued the debt instrument, or

`(B) any person related to such debtor.

For purposes of subparagraph (B), the determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

`(4) AUTHORITY TO PRESCRIBE REGULATIONS- The Secretary may prescribe such regulations as may be necessary or appropriate for purposes of applying this subsection.'

(b) Effective Date- The amendments made by this section shall apply to discharges in taxable years ending after December 31, 2008.

PART V--QUALIFIED SMALL BUSINESS STOCK

SEC. 1241. SPECIAL RULES APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK FOR 2009 AND 2010.

(a) In General- Section 1202(a) is amended by adding at the end the following new paragraph:

`(3) SPECIAL RULES FOR 2009 AND 2010- In the case of qualified small business stock acquired after the date of the enactment of this paragraph and before January 1, 2011--

`(A) paragraph (1) shall be applied by substituting `75 percent' for `50 percent', and

`(B) paragraph (2) shall not apply.'

(b) Effective Date- The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act.

PART VI--PARITY FOR TRANSPORTATION FRINGE BENEFITS

SEC. 1251. INCREASED EXCLUSION AMOUNT FOR COMMUTER TRANSIT BENEFITS AND TRANSIT PASSES.

- (a) In General- Paragraph (2) of section 132(f) is amended by adding at the end the following flush sentence:
`In the case of any month beginning on or after the date of the enactment of this sentence and before January 1, 2011, subparagraph (A) shall be applied as if the dollar amount therein were the same as the dollar amount under subparagraph (B) (as in effect for such month).`
- (b) Effective Date- The amendment made by this section shall apply to months beginning on or after the date of the enactment of this section.

PART VII--S CORPORATIONS

SEC. 1261. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

- (a) In General- Paragraph (7) of section 1374(d) (relating to definitions and special rules) is amended to read as follows:
` (7) RECOGNITION PERIOD-
` (A) IN GENERAL- The term `recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.
` (B) SPECIAL RULE FOR 2009 AND 2010- In the case of any taxable year beginning in 2009 or 2010, no tax shall be imposed on the net unrecognized built-in gain of an S corporation if the 7th taxable year in the recognition period preceded such taxable year. The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.
` (C) SPECIAL RULE FOR DISTRIBUTIONS TO SHAREHOLDERS- For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e)--
` (i) subparagraph (A) shall be applied without regard to the phrase `10-year', and
` (ii) subparagraph (B) shall not apply.`
- (b) Effective Date- The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

PART VIII--BROADBAND INCENTIVES

SEC. 1271. BROADBAND INTERNET ACCESS TAX CREDIT.

- (a) In General- Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48C the following new section:

`SEC. 48D. BROADBAND INTERNET ACCESS CREDIT.

- `(a) General Rule- For purposes of section 46, the broadband credit for any taxable year is the sum of--
` (1) the current generation broadband credit, plus
` (2) the next generation broadband credit.
- `(b) Current Generation Broadband Credit; Next Generation Broadband Credit- For purposes of this section--
` (1) CURRENT GENERATION BROADBAND CREDIT- The current generation broadband credit for any taxable year is equal to 10 percent (20 percent in the case of qualified subscribers which are unserved subscribers) of the qualified broadband expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.
` (2) NEXT GENERATION BROADBAND CREDIT- The next generation broadband credit for any taxable year is equal to 20 percent of the qualified broadband expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.
- `(c) When Expenditures Taken Into Account- For purposes of this section--
` (1) IN GENERAL- Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which--
` (A) current generation broadband services are provided through such equipment to qualified subscribers,
or
` (B) next generation broadband services are provided through such equipment to qualified subscribers.
- `(2) LIMITATION-

`(A) IN GENERAL- Qualified broadband expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment--

`(i) the original use of which commences with the taxpayer, and

`(ii) which is placed in service, after December 31, 2008, and before January 1, 2011.

`(B) SALE-LEASEBACKS- For purposes of subparagraph (A), if property--

`(i) is originally placed in service after December 31, 2008, by any person, and

`(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

`(d) Special Allocation Rules for Current Generation Broadband Services- For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction--

`(1) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas and the unserved areas which the equipment is capable of serving with current generation broadband services, and

`(2) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

`(e) Definitions- For purposes of this section--

`(1) ANTENNA- The term `antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

`(2) CABLE OPERATOR- The term `cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

`(3) COMMERCIAL MOBILE SERVICE CARRIER- The term `commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

`(4) CURRENT GENERATION BROADBAND SERVICE- The term `current generation broadband service' means the transmission of signals at a rate of at least 5,000,000 bits per second to the subscriber and at least 1,000,000 bits per second from the subscriber (at least 3,000,000 bits per second to the subscriber and at least 768,000 bits per second from the subscriber in the case of service through radio transmission of energy).

`(5) MULTIPLEXING OR DEMULTIPLEXING- The term `multiplexing' means the transmission of 2 or more signals over a single channel, and the term `demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

`(6) NEXT GENERATION BROADBAND SERVICE- The term `next generation broadband service' means the transmission of signals at a rate of at least 100,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 20,000,000 bits per second from the subscriber (or its equivalent as so measured).

`(7) NONRESIDENTIAL SUBSCRIBER- The term `nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

`(8) OPEN VIDEO SYSTEM OPERATOR- The term `open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

`(9) OTHER WIRELESS CARRIER- The term `other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

`(10) PACKET SWITCHING- The term `packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

`(11) PROVIDER- The term `provider' means, with respect to any qualified equipment any--

`(A) cable operator,

`(B) commercial mobile service carrier,

`(C) open video system operator,

`(D) satellite carrier,

`(E) telecommunications carrier, or

`(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

`(12) PROVISION OF SERVICES- A provider shall be treated as providing services to 1 or more subscribers if--

- `(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,
- `(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,
- `(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,
- `(D) such services have been purchased by 1 or more such subscribers, and
- `(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

`(13) QUALIFIED EQUIPMENT-

`(A) IN GENERAL- The term 'qualified equipment' means property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and which provides current generation broadband services or next generation broadband services--

- `(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and
- `(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

`(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT- Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it--

- `(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier or broadband-over-powerline operator,
- `(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,
- `(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or
- `(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

`(C) PACKET SWITCHING EQUIPMENT- Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

`(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT- Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptations, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

`(14) QUALIFIED BROADBAND EXPENDITURE-

`(A) IN GENERAL- The term 'qualified broadband expenditure' means any amount--

- `(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and
- `(ii) incurred after December 31, 2008, and before January 1, 2011.

`(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED- Such term shall not include any expenditure with respect to the launching of any satellite equipment.

`(C) LEASED EQUIPMENT- Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

`(15) QUALIFIED SUBSCRIBER- The term 'qualified subscriber' means--

- `(A) with respect to the provision of current generation broadband services--
 - `(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area, or
 - `(ii) any residential subscriber residing in a dwelling located in a rural area, an underserved area, or an unserved area which is not a saturated market, and
 - `(B) with respect to the provision of next generation broadband services--
 - `(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, an underserved area, or an unserved area , or
 - `(ii) any residential subscriber.
- `(16) RESIDENTIAL SUBSCRIBER- The term `residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.
- `(17) RURAL AREA- The term `rural area' means any census tract which--
 - `(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and
 - `(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.
- `(18) RURAL SUBSCRIBER- The term `rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.
- `(19) SATELLITE CARRIER- The term `satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.
- `(20) SATURATED MARKET- The term `saturated market' means any census tract in which, as of the date of the enactment of this section--
 - `(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and
 - `(B) such services can be utilized--
 - `(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and
 - `(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).
- `(21) SUBSCRIBER- The term `subscriber' means any person who purchases current generation broadband services or next generation broadband services.
- `(22) TELECOMMUNICATIONS CARRIER- The term `telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but--
 - `(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and
 - `(B) does not include any commercial mobile service carrier.
- `(23) TOTAL POTENTIAL SUBSCRIBER POPULATION- The term `total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.
- `(24) UNDERSERVED AREA- The term `underserved area' means any census tract which is located in--
 - `(A) an empowerment zone or enterprise community designated under section 1391,
 - `(B) the District of Columbia Enterprise Zone established under section 1400,
 - `(C) a renewal community designated under section 1400E, or
 - `(D) a low-income community designated under section 45D.
- `(25) UNDERSERVED SUBSCRIBER- The term `underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.
- `(26) UNSERVED AREA- The term `unserved area' means any census tract in which no current generation broadband services are provided, as certified by the State in which such tract is located not later than September 30, 2009.
- `(27) UNSERVED SUBSCRIBER- The term `unserved subscriber' means any residential subscriber residing in a dwelling located in an unserved area or nonresidential subscriber maintaining a permanent place of business located in an unserved area.'

(b) Credit To Be Part of Investment Credit- Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking `and' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting `, and', and by adding at the end the following:

`(6) the broadband Internet access credit.'

(c) Special Rule for Mutual or Cooperative Telephone Companies- Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking `or' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting `, or', and by adding at the end the following new clause:

`(v) from the sale of property subject to a lease described in section 48D(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified broadband expenditures which would be determined under section 48D for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.'

(d) Conforming Amendments-

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking `and' at the end of clause (iv), by striking the period at the end of clause (v) and inserting `, and', and by adding after clause (v) the following new clause:

`(vi) the portion of the basis of any qualified equipment attributable to qualified broadband expenditures under section 48D.'

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48C the following:

`Sec. 48D. Broadband internet access credit.'

(e) Designation of Census Tracts-

(1) IN GENERAL- The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17), (23), (24), and (26) of section 48D(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET-

(A) IN GENERAL- For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48D--

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED- The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS- In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) Other Regulatory Matters-

(1) PROHIBITION- No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any credit or portion thereof allowed under section 48D of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY- It is the intent of Congress in providing the broadband Internet access credit under section 48D of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48D of such Code, including--

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 48D of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48D of such Code.

(g) Effective Date- The amendments made by this section shall apply to expenditures incurred after December 31, 2008.

PART IX--CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

SEC. 1281. CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE.

- (a) Findings- Congress finds as follows:
- (1) The delegation of authority to the Secretary of the Treasury under section 382(m) of the Internal Revenue Code of 1986 does not authorize the Secretary to provide exemptions or special rules that are restricted to particular industries or classes of taxpayers.
 - (2) Internal Revenue Service Notice 2008-83 is inconsistent with the congressional intent in enacting such section 382(m).
 - (3) The legal authority to prescribe Internal Revenue Service Notice 2008-83 is doubtful.
 - (4) However, as taxpayers should generally be able to rely on guidance issued by the Secretary of the Treasury legislation is necessary to clarify the force and effect of Internal Revenue Service Notice 2008-83 and restore the proper application under the Internal Revenue Code of 1986 of the limitation on built-in losses following an ownership change of a bank.
- (b) Determination of Force and Effect of Internal Revenue Service Notice 2008-83 Exempting Banks From Limitation on Certain Built-in Losses Following Ownership Change-
- (1) IN GENERAL- Internal Revenue Service Notice 2008-83--
 - (A) shall be deemed to have the force and effect of law with respect to any ownership change (as defined in section 382(g) of the Internal Revenue Code of 1986) occurring on or before January 16, 2009, and
 - (B) shall have no force or effect with respect to any ownership change after such date.
 - (2) BINDING CONTRACTS- Notwithstanding paragraph (1), Internal Revenue Service Notice 2008-83 shall have the force and effect of law with respect to any ownership change (as so defined) which occurs after January 16, 2009, if such change--
 - (A) is pursuant to a written binding contract entered into on or before such date, or
 - (B) is pursuant to a written agreement entered into on or before such date and such agreement was described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required by reason of such ownership change.

Subtitle D--Manufacturing Recovery Provisions

SEC. 1301. TEMPORARY EXPANSION OF AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS TO FACILITIES MANUFACTURING INTANGIBLE PROPERTY.

- (a) In General- Subparagraph (C) of section 144(a)(12) is amended--
- (1) by striking 'For purposes of this paragraph, the term' and inserting 'For purposes of this paragraph--
 - (i) IN GENERAL- The term', and
 - (2) by striking the last sentence and inserting the following new clauses:
 - (ii) CERTAIN FACILITIES INCLUDED- Such term includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if--
 - (I) such facilities are located on the same site as the manufacturing facility, and
 - (II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.
 - (iii) SPECIAL RULES FOR BONDS ISSUED IN 2009 AND 2010- In the case of any issue made after the date of enactment of this clause and before January 1, 2011, clause (ii) shall not apply and the net proceeds from a bond shall be considered to be used to provide a manufacturing facility if such proceeds are used to provide--
 - (I) a facility which is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or
 - (II) a facility which is functionally related and subordinate to a manufacturing facility (determined without regard to this subclause) if such facility is located on the same site as the manufacturing facility.'
- (b) Effective Date- The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1302. CREDIT FOR INVESTMENT IN ADVANCED ENERGY FACILITIES.

(a) In General- Section 46 (relating to amount of credit) is amended by striking `and' at the end of paragraph (3), by striking the period at the end of paragraph (4), and by adding at the end the following new paragraph:

`(5) the qualifying advanced energy project credit.'

(b) Amount of Credit- Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48B the following new section:

SEC. 48C. QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) In General- For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

(b) Qualified Investment-

(1) IN GENERAL- For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project--

(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after October 31, 2008, or

(ii) which is acquired by the taxpayer if the original use of such eligible property commences with the taxpayer after October 31, 2008, and

(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY- Rules similar to section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE- Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

(4) LIMITATION- The amount which is treated for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

(c) Definitions-

(1) QUALIFYING ADVANCED ENERGY PROJECT-

(A) IN GENERAL- The term `qualifying advanced energy project' means a project--

(i) which re-equips, expands, or establishes a manufacturing facility for the production of property which is--

(I) designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

(II) designed to manufacture fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,

(III) designed to manufacture electric grids to support the transmission of intermittent sources of renewable energy,

(IV) designed to capture and sequester carbon dioxide emissions, or

(V) designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies), and

(ii) any portion of the qualified investment of which is certified by the Secretary under subsection (d) as eligible for a credit under this section.

(B) EXCEPTION- Such term shall not include any portion of a project for the production of any property which is used in the refining or blending of any transportation fuel (other than renewable fuels).

(2) ELIGIBLE PROPERTY- The term `eligible property' means any property which is part of a qualifying advanced energy project and is necessary for the production of property described in paragraph (1)(A)(i).

(d) Qualifying Advanced Energy Project Program-

(1) ESTABLISHMENT-

(A) IN GENERAL- Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced energy project program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

`(B) LIMITATION- The total amount of credits that may be allocated under the program shall not exceed \$2,000,000,000.

`(2) CERTIFICATION-

`(A) APPLICATION PERIOD- Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

`(B) TIME TO MEET CRITERIA FOR CERTIFICATION- Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

`(C) PERIOD OF ISSUANCE- An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

`(3) SELECTION CRITERIA- In determining which qualifying advanced energy projects to certify under this section, the Secretary shall take into consideration only those projects where there is a reasonable expectation of commercial viability.

`(4) REVIEW AND REDISTRIBUTION-

`(A) REVIEW- Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

`(B) REDISTRIBUTION- The Secretary may reallocate credits awarded under this section if the Secretary determines that--

`(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

`(ii) any certification made pursuant to paragraph (2) has been revoked pursuant to paragraph (2)(B) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

`(C) REALLOCATION- If the Secretary determines that credits under this section are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

`(5) DISCLOSURE OF ALLOCATIONS- The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

`(e) Denial of Double Benefit- A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48, 48A, or 48B.'.

(c) Conforming Amendments-

(1) Section 49(a)(1)(C) is amended by striking 'and' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ', and', and by adding after clause (iv) the following new clause:

`(v) the basis of any property which is part of a qualifying advanced energy project under section 48C.'.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48B the following new item:

`48C. Qualifying advanced energy project credit.'.

(d) Effective Date- The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle E--Economic Recovery Tools

SEC. 1401. RECOVERY ZONE BONDS.

(a) In General- Subchapter Y of chapter 1 is amended by adding at the end the following new part:

PART III--RECOVERY ZONE BONDS

`Sec. 1400U-1. Allocation of recovery zone bonds.

`Sec. 1400U-2. Recovery zone economic development bonds.

`Sec. 1400U-3. Recovery zone facility bonds.

SEC. 1400U-1. ALLOCATION OF RECOVERY ZONE BONDS.

(a) Allocations-

(1) IN GENERAL- The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States--

(A) by allocating 1 percent of each such limitation to each State, and

(B) by allocating the remainder of each such limitation among the States in the proportion that each State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

(2) 2008 STATE EMPLOYMENT DECLINE- For purposes of this subsection, the term '2008 State employment decline' means, with respect to any State, the excess (if any) of--

(A) the number of individuals employed in such State determined for December 2007, over

(B) the number of individuals employed in such State determined for December 2008.

(3) ALLOCATIONS BY STATES-

(A) IN GENERAL- Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion the each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State.

(B) LARGE MUNICIPALITIES- For purposes of subparagraph (A), the term 'large municipality' means a municipality with a population of more than 100,000.

(C) DETERMINATION OF LOCAL EMPLOYMENT DECLINES- For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

(4) NATIONAL LIMITATIONS-

(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS- There is a national recovery zone economic development bond limitation of \$10,000,000,000.

(B) RECOVERY ZONE FACILITY BONDS- There is a national recovery zone facility bond limitation of \$15,000,000,000.

(b) Recovery Zone- For purposes of this part, the term 'recovery zone' means--

(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress, and

(2) any area for which a designation as an empowerment zone or renewal community is in effect.

SEC. 1400U-2. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.

(a) In General- In the case of a recovery zone economic development bond--

(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

(2) subsection (b) of such section shall be applied by substituting '40 percent' for '35 percent'.

(b) Recovery Zone Economic Development Bond-

(1) IN GENERAL- For purposes of this section, the term 'recovery zone economic development bond' means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if--

(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for one or more qualified economic development purposes, and

(B) the issuer designates such bond for purposes of this section.

(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED- The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U-1.

(c) Qualified Economic Development Purpose- For purposes of this section, the term 'qualified economic development purpose' means expenditures for purposes of promoting development or other economic activity in a recovery zone, including--

(1) capital expenditures paid or incurred with respect to property located in such zone,

(2) expenditures for public infrastructure and construction of public facilities, and

(3) expenditures for job training and educational programs.

SEC. 1400U-3. RECOVERY ZONE FACILITY BONDS.

- `(a) In General- For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term `exempt facility bond' includes any recovery zone facility bond.
- `(b) Recovery Zone Facility Bond-
 - `(1) IN GENERAL- For purposes of this section, the term `recovery zone facility bond' means any bond issued as part of an issue if--
 - `(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,
 - `(B) such bond is issued before January 1, 2011, and
 - `(C) the issuer designates such bond for purposes of this section.
 - `(2) LIMITATION ON AMOUNT OF BONDS DESIGNATED- The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U-1.
- `(c) Recovery Zone Property- For purposes of this section--
 - `(1) IN GENERAL- The term `recovery zone property' means any property to which section 168 applies (or would apply but for section 179) if--
 - `(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the recovery zone took effect,
 - `(B) the original use of which in the recovery zone commences with the taxpayer, and
 - `(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.
 - `(2) QUALIFIED BUSINESS- The term `qualified business' means any trade or business except that--
 - `(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and
 - `(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).
 - `(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK- Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.
- `(d) Nonapplication of Certain Rules- Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond'.
- (b) Clerical Amendment- The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

`Part III. Recovery Zone Bonds.'

- (c) Effective Date- The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1402. TRIBAL ECONOMIC DEVELOPMENT BONDS.

- (a) In General- Section 7871 is amended by adding at the end the following new subsection:
- `(f) Tribal Economic Development Bonds-
 - `(1) ALLOCATION OF LIMITATION-
 - `(A) IN GENERAL- The Secretary shall allocate the national tribal economic development bond limitation among the Indian tribal governments in such manner as the Secretary, in consultation with the Secretary of the Interior, determines appropriate.
 - `(B) NATIONAL LIMITATION- There is a national tribal economic development bond limitation of \$2,000,000,000.
 - `(2) BONDS TREATED AS EXEMPT FROM TAX- In the case of a tribal economic development bond--
 - `(A) notwithstanding subsection (c), such bond shall be treated for purposes of this title in the same manner as if such bond were issued by a State,
 - `(B) the Indian tribal government issuing such bond and any instrumentality of such Indian tribal government shall be treated as a State for purposes of section 141, and
 - `(C) section 146 shall not apply.
 - `(3) TRIBAL ECONOMIC DEVELOPMENT BOND-
 - `(A) IN GENERAL- For purposes of this section, the term `tribal economic development bond' means any bond issued by an Indian tribal government--

- (i) the interest on which would be exempt from tax under section 103 if issued by a State or local government, and
- (ii) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

(B) EXCEPTIONS- The term tribal economic development bond shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance--

- (i) any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually used in the conduct of such gaming, or
- (ii) any facility located outside the Indian reservation (as defined in section 168(j)(6)).

(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED- The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).'

- (b) Study- The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the effects of the amendment made by subsection (a). Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, or the Secretary's delegate, shall report to Congress on the results of the study conducted under this paragraph, including the Secretary's recommendations regarding such amendment.
- (c) Effective Date- The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1403. MODIFICATIONS TO NEW MARKETS TAX CREDIT.

(a) Increase in National Limitation-

(1) IN GENERAL- Section 45D(f)(1) is amended--

- (A) by striking 'and' at the end of subparagraph (C),
- (B) by striking ', 2007, 2008, and 2009.' in subparagraph (D), and inserting 'and 2007,' and
- (C) by adding at the end the following new subparagraphs:
 - (E) \$5,000,000,000 for 2008, and
 - (F) \$5,000,000,000 for 2009.'

(2) SPECIAL RULE FOR ALLOCATION OF INCREASED 2008 LIMITATION- The amount of the increase in the new markets tax credit limitation for calendar year 2008 by reason of the amendments made by subsection (a) shall be allocated in accordance with section 45D(f)(2) of the Internal Revenue Code of 1986 to qualified community development entities (as defined in section 45D(c) of such Code) which--

- (A) submitted an allocation application with respect to calendar year 2008, and
- (B)(i) did not receive an allocation for such calendar year, or
- (ii) received an allocation for such calendar year in an amount less than the amount requested in the allocation application.

(b) Alternative Minimum Tax Relief-

(1) IN GENERAL- Section 38(c)(4)(B) is amended by redesignating clauses (v) through (viii) as clauses (vi) through (ix), respectively, and by inserting after clause (iv) the following new clause:

- (v) the credit determined under section 45D to the extent that such credit is attributable to a qualified equity investment which is designated as such under section 45D(b)(1)(C) pursuant to an allocation of the new markets tax credit limitation for calendar year 2009.'

(2) EFFECTIVE DATE- The amendments made by this subsection shall apply to credits determined under section 45D of the Internal Revenue Code of 1986 in taxable years ending after the date of the enactment of this Act, and to carrybacks of such credits.

Subtitle F--Infrastructure Financing Tools

PART I--IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

SEC. 1501. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS.

- (a) In General- Subsection (b) of section 265 is amended by adding at the end the following new paragraph:

`(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010-

`(A) IN GENERAL- In applying paragraph (2)(A), there shall not be taken into account tax-exempt obligations issued during 2009 or 2010.

`(B) LIMITATION- The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).

`(C) REFUNDINGS- For purposes of this paragraph, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).'

(b) Treatment as Financial Institution Preference Item- Clause (iv) of section 291(e)(1)(B) is amended by adding at the end the following: 'That portion of any obligation not taken into account under paragraph (2)(A) of section 265(b) by reason of paragraph (7) of such section shall be treated for purposes of this section as having been acquired on August 7, 1986.'

(c) Effective Date- The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1502. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) In General- Paragraph (3) of section 265(b) (relating to exception for certain tax-exempt obligations) is amended by adding at the end the following new subparagraph:

`(G) SPECIAL RULES FOR OBLIGATIONS ISSUED DURING 2009 AND 2010-

`(i) INCREASE IN LIMITATION- In the case of obligations issued during 2009 or 2010, subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be applied by substituting '\$30,000,000' for '\$10,000,000'.

`(ii) QUALIFIED 501(c)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION- In the case of a qualified 501(c)(3) bond (as defined in section 145) issued during 2009 or 2010, this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

`(iii) SPECIAL RULE FOR QUALIFIED FINANCINGS- In the case of a qualified financing issue issued during 2009 or 2010--

`(I) subparagraph (F) shall not apply, and

`(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).

`(iv) QUALIFIED FINANCING ISSUE- For purposes of this subparagraph, the term 'qualified financing issue' means any composite, pooled, or other conduit financing issue the proceeds of which are used directly or indirectly to make or finance loans to 1 or more ultimate borrowers each of whom is a qualified borrower.

`(v) QUALIFIED PORTION- For purposes of this subparagraph, the term 'qualified portion' means that portion of the proceeds which are used with respect to each qualified borrower under the issue.

`(vi) QUALIFIED BORROWER- For purposes of this subparagraph, the term 'qualified borrower' means a borrower which is a State or political subdivision thereof or an organization described in section 501(c)(3) and exempt from taxation under section 501(a).'

(b) Effective Date- The amendment made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1503. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) Interest on Private Activity Bonds Issued During 2009 and 2010 Not Treated as Tax Preference Item- Subparagraph (C) of section 57(a)(5) is amended by adding at the end a new clause:

`(vi) EXCEPTION FOR BONDS ISSUED IN 2009 AND 2010- For purposes of clause (i), the term 'private activity bond' shall not include any bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).'

(b) No Adjustment to Adjusted Current Earnings for Interest on Tax-Exempt Bonds Issued During 2009 and 2010- Subparagraph (B) of section 56(g)(4) is amended by adding at the end the following new clause:

(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010- Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011. For purposes of the preceding sentence, a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).'

(c) Effective Date- The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 1504. MODIFICATION TO HIGH SPEED INTERCITY RAIL FACILITY BONDS.

(a) In General- Paragraph (1) of section 142(i) is amended by striking 'operate at speeds in excess of' and inserting 'be capable of attaining a maximum speed in excess of'.

(b) Effective Date- The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

PART II--DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

SEC. 1511. DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking 'December 31, 2010' and inserting 'December 31, 2011'.

PART III--TAX CREDIT BONDS FOR SCHOOLS

SEC. 1521. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) In General- Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

SEC. 54F. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) Qualified School Construction Bond- For purposes of this subchapter, the term 'qualified school construction bond' means any bond issued as part of an issue if--

(1) 100 percent of the available project proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

(2) the bond is issued by a State or local government within the jurisdiction of which such school is located, and

(3) the issuer designates such bond for purposes of this section.

(b) Limitation on Amount of Bonds Designated- The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under subsection (d) for such calendar year to such issuer.

(c) National Limitation on Amount of Bonds Designated- There is a national qualified school construction bond limitation for each calendar year. Such limitation is--

(1) \$5,000,000,000 for 2009,

(2) \$5,000,000,000 for 2010, and

(3) except as provided in subsection (e), zero after 2010.

(d) Limitation Allocated Among States-

(1) IN GENERAL- The limitation applicable under subsection (c) for any calendar year shall be allocated by the Secretary among the States in proportion to the respective numbers of children in each State who have attained age 5 but not age 18 for the most recent fiscal year ending before such calendar year. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State to issuers within such State.

(2) MINIMUM ALLOCATIONS TO STATES-

(A) IN GENERAL- The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the amount allocated to such State under this subsection for such year is not less than an amount equal to such State's adjusted minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

`(B) MINIMUM PERCENTAGE- A State's minimum percentage for any calendar year is equal to the product of--

`(i) the quotient of--

`(I) the amount the State is eligible to receive under section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(d)) for the most recent fiscal year ending before such calendar year, divided by

`(II) the amount all States are eligible to receive under section 1124 of such Act (20 U.S.C. 6333) for such fiscal year, multiplied by

`(ii) 100.

`(3) ALLOCATIONS TO CERTAIN POSSESSIONS- The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

`(4) ALLOCATIONS FOR INDIAN SCHOOLS- In addition to the amounts otherwise allocated under this subsection, \$200,000,000 for calendar year 2009, and \$200,000,000 for calendar year 2010, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7701(a)(40)) shall be treated as qualified issuers for purposes of this subchapter.

`(e) Carryover of Unused Limitation- If for any calendar year--

`(1) the amount allocated under subsection (d) to any State, exceeds

`(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (d)(4).'

(b) Conforming Amendments-

(1) Paragraph (1) of section 54A(d) is amended by striking `or' at the end of subparagraph (C), by inserting `or' at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

`(E) a qualified school construction bond.'

(2) Subparagraph (C) of section 54A(d)(2) is amended by striking `and' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting `, and', and by adding at the end the following new clause:

`(v) in the case of a qualified school construction bond, a purpose specified in section 54F(a)(1).'

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

`Sec. 54F. Qualified school construction bonds.'

(c) Effective Date- The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1522. EXTENSION AND EXPANSION OF QUALIFIED ZONE ACADEMY BONDS.

(a) In General- Section 54E(c)(1) is amended by striking `and 2009' and inserting `and \$1,400,000,000 for 2009 and 2010'.

(b) Effective Date- The amendment made by this section shall apply to obligations issued after December 31, 2008.

PART IV--BUILD AMERICA BONDS

SEC. 1531. BUILD AMERICA BONDS.

(a) In General- Part IV of subchapter A of chapter 1 is amended by adding at the end the following new subpart:

`Subpart J--Build America Bonds

`Sec. 54AA. Build America bonds.

`SEC. 54AA. BUILD AMERICA BONDS.

`(a) In General- If a taxpayer holds a build America bond on one or more interest payment dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

`(b) Amount of Credit- The amount of the credit determined under this subsection with respect to any interest payment date for a build America bond is 35 percent of the amount of interest payable by the issuer with respect to such date.

`(c) Limitation Based on Amount of Tax-

`(1) IN GENERAL- The credit allowed under subsection (a) for any taxable year shall not exceed the excess of--

`(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

`(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

`(2) CARRYOVER OF UNUSED CREDIT- If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

`(d) Build America Bond-

`(1) IN GENERAL- For purposes of this section, the term `build America bond' means any obligation (other than a private activity bond) if--

`(A) the interest on such obligation would (but for this section) be excludable from gross income under section 103,

`(B) such obligation is issued before January 1, 2012, and

`(C) the issuer makes an irrevocable election to have this section apply.

`(2) APPLICABLE RULES- For purposes of applying paragraph (1)--

`(A) a build America bond shall not be treated as federally guaranteed by reason of the credit allowed under subsection (a) or section 6431,

`(B) the yield on a build America bond shall be determined without regard to the credit allowed under subsection (a), and

`(C) a bond shall not be treated as a build America bond if the issue price has more than a de minimis amount (determined under rules similar to the rules of section 1273(a)(3)) of premium over the stated principal amount of the bond.

`(e) Interest Payment Date- For purposes of this section, the term `interest payment date' means any date on which the holder of record of the build America bond is entitled to a payment of interest under such bond.

`(f) Special Rules-

`(1) INTEREST ON BUILD AMERICA BONDS INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES- For purposes of this title, interest on any build America bond shall be includible in gross income.

`(2) APPLICATION OF CERTAIN RULES- Rules similar to the rules of subsections (f), (g), (h), and (i) of section 54A shall apply for purposes of the credit allowed under subsection (a).

`(g) Special Rule for Qualified Bonds Issued Before 2011- In the case of a qualified bond issued before January 1, 2011--

`(1) ISSUER ALLOWED REFUNDABLE CREDIT- In lieu of any credit allowed under this section with respect to such bond, the issuer of such bond shall be allowed a credit as provided in section 6431.

`(2) QUALIFIED BOND- For purposes of this subsection, the term `qualified bond' means any build America bond issued as part of an issue if--

`(A) 100 percent of the available project proceeds (as defined in section 54A) of such issue are to be used for capital expenditures, and

`(B) the issuer makes an irrevocable election to have this subsection apply.

`(h) Regulations- The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 6431.'

(b) Credit for Qualified Bonds Issued Before 2011- Subchapter B of chapter 65 is amended by adding at the end the following new section:

`SEC. 6431. CREDIT FOR QUALIFIED BONDS ALLOWED TO ISSUER.

`(a) In General- In the case of a qualified bond issued before January 1, 2011, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b).

`(b) Payment of Credit- The Secretary shall pay (contemporaneously with each interest payment date under such bond) to the issuer of such bond (or to any person who makes such interest payments on behalf of the issuer) 35 percent of the interest payable under such bond on such date.

`(c) Application of Arbitrage Rules- For purposes of section 148, the yield on a qualified bond shall be reduced by the credit allowed under this section.

`(d) Interest Payment Date- For purposes of this subsection, the term `interest payment date' means each date on which interest is payable by the issuer under the terms of the bond.

`(e) Qualified Bond- For purposes of this subsection, the term `qualified bond' has the meaning given such term in section 54AA(g).'

(c) Conforming Amendments-

(1) Section 1324(b)(2) of title 31, United States Code, is amended by striking `or 6428' and inserting `6428, or 6431,'.

(2) Section 54A(c)(1)(B) is amended by striking `subpart C' and inserting `subparts C and J'.

(3) Sections 54(c)(2), 1397E(c)(2), and 1400N(l)(3)(B) are each amended by striking `and I' and inserting `, I, and J'.

(4) Section 6401(b)(1) is amended by striking `and I' and inserting `I, and J'.

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

`Subpart J. Build America bonds.'

(6) The table of section for subchapter B of chapter 65 is amended by adding at the end the following new item:

`Sec. 6431. Credit for qualified bonds allowed to issuer.'

(d) Transitional Coordination With State Law- Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any build America bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.

(e) Effective Date- The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Subtitle G--Economic Recovery Payments to Certain Individuals

SEC. 1601. ECONOMIC RECOVERY PAYMENT TO RECIPIENTS OF SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, RAILROAD RETIREMENT BENEFITS, AND VETERANS DISABILITY COMPENSATION OR PENSION BENEFITS.

(a) Authority To Make Payments-

(1) ELIGIBILITY-

(A) IN GENERAL- Subject to paragraph (5)(B), the Secretary of the Treasury shall make a \$300 payment to each individual who, for any month during the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of this Act, is entitled to a benefit payment described in clause (i), (ii), or (iii) of subparagraph (B) or is eligible for a SSI cash benefit described in subparagraph (C).

(B) BENEFIT PAYMENT DESCRIBED- For purposes of subparagraph (A):

(i) TITLE II BENEFIT- A benefit payment described in this clause is a monthly insurance benefit payable (without regard to sections 202(j)(1) and 223(b) of the Social Security Act (42 U.S.C. 402(j)(1), 423(b))) under--

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

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

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

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

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

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

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

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

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

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

(XI) section 228 of such Act (42 U.S.C. 428).

(ii) RAILROAD RETIREMENT BENEFIT- A benefit payment described in this clause is a monthly annuity or pension payment payable (without regard to section 5(a)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(a)(ii))) under--

(I) section 2(a)(1) of such Act (45 U.S.C. 231a(a)(1));

(II) section 2(c) of such Act (45 U.S.C. 231a(c));

- (III) section 2(d)(1)(i) of such Act (45 U.S.C. 231a(d)(1)(i));
- (IV) section 2(d)(1)(ii) of such Act (45 U.S.C. 231a(d)(1)(ii));
- (V) section 2(d)(1)(iii)(C) of such Act to an adult disabled child (45 U.S.C. 231a(d)(1)(iii)(C));
- (VI) section 2(d)(1)(iv) of such Act (45 U.S.C. 231a(d)(1)(iv));
- (VII) section 2(d)(1)(v) of such Act (45 U.S.C. 231a(d)(1)(v)); or
- (VIII) section 7(b)(2) of such Act (45 U.S.C. 231f(b)(2)) with respect to any of the benefit payments described in clause (i) of this subparagraph.

(iii) VETERANS BENEFIT- A benefit payment described in this clause is a compensation or pension payment payable under--

- (I) section 1110, 1117, 1121, 1131, 1141, or 1151 of title 38, United States Code;
- (II) section 1310, 1312, 1313, 1315, 1316, or 1318 of title 38, United States Code;
- (III) section 1513, 1521, 1533, 1536, 1537, 1541, 1542, or 1562 of title 38, United States Code; or
- (IV) section 1805, 1815, or 1821 of title 38, United States Code,

to a veteran, surviving spouse, child, or parent as described in paragraph (2), (3), (4)(A)(ii), or (5) of section 101, title 38, United States Code, who received that benefit during any month within the 3 month period ending with the month which ends prior to the month that includes the date of the enactment of this Act.

(C) SSI CASH BENEFIT DESCRIBED- A SSI cash benefit described in this subparagraph is a cash benefit payable under section 1611 (other than under subsection (e)(1)(B) of such section) or 1619(a) of the Social Security Act (42 U.S.C. 1382, 1382h).

(2) REQUIREMENT- A payment shall be made under paragraph (1) only to individuals who reside in 1 of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, or the Northern Mariana Islands. For purposes of the preceding sentence, the determination of the individual's residence shall be based on the current address of record under a program specified in paragraph (1).

(3) NO DOUBLE PAYMENTS- An individual shall be paid only 1 payment under this section, regardless of whether the individual is entitled to, or eligible for, more than 1 benefit or cash payment described in paragraph (1).

(4) LIMITATION- A payment under this section shall not be made--

(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if, for the most recent month of such individual's entitlement in the 3-month period described in paragraph (1), such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a-8a);

(B) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(iii) if, for the most recent month of such individual's entitlement in the 3-month period described in paragraph (1), such individual's benefit under such paragraph was not payable, or was reduced, by reason of section 1505, 5313, or 5313B of title 38, United States Code;

(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if, for such most recent month, such individual's benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a-8a); or

(D) in the case of any individual whose date of death occurs before the date on which the individual is certified under subsection (b) to receive a payment under this section.

(5) TIMING AND MANNER OF PAYMENTS-

(A) IN GENERAL- The Secretary of the Treasury shall commence making payments under this section at the earliest practicable date but in no event later than 120 days after the date of enactment of this Act. The Secretary of the Treasury may make any payment electronically to an individual in such manner as if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of paragraph (1).

(B) DEADLINE- No payments shall be made under this section after December 31, 2010, regardless of any determinations of entitlement to, or eligibility for, such payments made after such date.

(b) Identification of Recipients- The Commissioner of Social Security, the Railroad Retirement Board, and the Secretary of Veterans Affairs shall certify the individuals entitled to receive payments under this section and provide the Secretary of the Treasury with the information needed to disburse such payments. A certification of an individual shall be unaffected by any subsequent determination or redetermination of the individual's entitlement to, or eligibility for, a benefit specified in subparagraph (B) or (C) of subsection (a)(1).

(c) Treatment of Payments-

(1) PAYMENT TO BE DISREGARDED FOR PURPOSES OF ALL FEDERAL AND FEDERALLY ASSISTED PROGRAMS- A payment under subsection (a) shall not be regarded as income and shall not be regarded as a resource for the month of receipt and the following 9 months, for purposes of determining the eligibility of the recipient (or the recipient's spouse or family) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

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

(3) PAYMENTS PROTECTED FROM ASSIGNMENT- The provisions of sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407, 1383(d)(1)), section 14(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231m(a)), and section 5301 of title 38, United States Code, shall apply to any payment made under subsection (a) as if such payment was a benefit payment or cash benefit to such individual under the applicable program described in subparagraph (B) or (C) of subsection (a)(1).

(4) PAYMENTS SUBJECT TO OFFSET- Notwithstanding paragraph (3), for purposes of section 3716 of title 31, United States Code, any payment made under this section shall not be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1) and all amounts paid shall be subject to offset to collect delinquent debts.

(d) Payment to Representative Payees and Fiduciaries-

(1) IN GENERAL- In any case in which an individual who is entitled to a payment under subsection (a) and whose benefit payment or cash benefit described in paragraph (1) of that subsection is paid to a representative payee or fiduciary, the payment under subsection (a) shall be made to the individual's representative payee or fiduciary and the entire payment shall be used only for the benefit of the individual who is entitled to the payment.

(2) APPLICABILITY-

(A) PAYMENT ON THE BASIS OF A TITLE II OR SSI BENEFIT- Section 1129(a)(3) of the Social Security Act (42 U.S.C. 1320a-8(a)(3)) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(i) or (1)(C) of subsection (a) in the same manner as such section applies to a payment under title II or XVI of such Act.

(B) PAYMENT ON THE BASIS OF A RAILROAD RETIREMENT BENEFIT- Section 13 of the Railroad Retirement Act (45 U.S.C. 2311) shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(ii) of subsection (a) in the same manner as such section applies to a payment under such Act.

(C) PAYMENT ON THE BASIS OF A VETERANS BENEFIT- Sections 5502, 6106, and 6108 of title 38, United States Code, shall apply to any payment made on the basis of an entitlement to a benefit specified in paragraph (1)(B)(iii) of subsection (a) in the same manner as those sections apply to a payment under that title.

(e) Appropriation- Out of any sums in the Treasury of the United States not otherwise appropriated, the following sums are appropriated for the period of fiscal years 2009 and 2010 to carry out this section:

(1) For the Secretary of the Treasury--

(A) such sums as may be necessary to make payments under this section; and

(B) \$57,000,000 for administrative costs incurred in carrying out this section and section 36A of the Internal Revenue Code of 1986 (as added by this Act).

(2) For the Commissioner of Social Security, \$90,000,000 for the Social Security Administration's Limitation on Administrative Expenses for costs incurred in carrying out this section.

(3) For the Railroad Retirement Board, \$1,000,000 for administrative costs incurred in carrying out this section.

(4) For the Secretary of Veterans Affairs, \$100,000 for the Information Systems Technology account and \$7,100,000 for the General Operating Expenses account for administrative costs incurred in carrying out this section.

Subtitle H--Trade Adjustment Assistance

SEC. 1701. TEMPORARY EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) Assistance for Workers-

(1) IN GENERAL- Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking 'December 31, 2007' and inserting 'December 31, 2010'.

(2) ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE- Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking '5 years' and inserting '7 years'.

- (b) Assistance for Firms- Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking '2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007,' and inserting 'December 31, 2010'.
- (c) Assistance for Farmers- Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking 'through 2007' and all that follows through the end period and inserting 'through December 31, 2010 to carry out the purposes of this chapter.'
- (d) Extension of Termination Dates- Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by striking 'December 31, 2007' each place it appears and inserting 'December 31, 2010'.
- (e) Sense of the Senate Regarding Adjustment Assistance for Communities- It is the sense of the Senate that title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) should be amended to assist any community impacted by trade with economic adjustment through--
- (1) the coordination of efforts by State and local governments and economic organizations;
 - (2) the coordination of Federal, State, and local resources;
 - (3) the creation of community-based development strategies; and
 - (4) the development and provision of training programs.
- (f) Effective Date- The amendments made by this section shall be effective as of January 1, 2008.

Subtitle I--Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

SEC. 1801. PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

- (a) In General- Notwithstanding any other provision of law, neither the Secretary of Homeland Security nor any other person may--
- (1) require repayment of, or attempt in any other way to recoup, any payments described in subsection (b); or
 - (2) offset any past, current, or future distributions of antidumping or countervailing duties assessed with respect to imports from countries that are not parties to the North American Free Trade Agreement in an attempt to recoup any payments described in subsection (b).
- (b) Payments Described- Payments described in this subsection are payments of antidumping or countervailing duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 154))) that were--
- (1) assessed and paid on imports of goods from countries that are parties to the North American Free Trade Agreement; and
 - (2) distributed on or after January 1, 2001, and before January 1, 2006.
- (c) Payment of Funds Collected or Withheld- Not later than the date that is 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall--
- (1) refund any repayments, or any other recoupment, of payments described in subsection (b); and
 - (2) fully distribute any antidumping or countervailing duties that the U.S. Customs and Border Protection is withholding as an offset as described in subsection (a)(2).
- (d) Limitation- Nothing in this section shall be construed to prevent the Secretary of Homeland Security, or any other person, from requiring repayment of, or attempting to otherwise recoup, any payments described in subsection (b) as a result of--
- (1) a finding of false statements or other misconduct by a recipient of such a payment; or
 - (2) the reliquidation of an entry with respect to which such a payment was made.

Subtitle J--Other Provisions

SEC. 1901. APPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED WITH CERTAIN TAX-FAVORED BONDS.

- Subchapter IV of chapter 31 of the title 40, United States Code, shall apply to projects financed with the proceeds of--
- (1) any new clean renewable energy bond (as defined in section 54C of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,
 - (2) any qualified energy conservation bond (as defined in section 54D of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,
 - (3) any qualified zone academy bond (as defined in section 54E of the Internal Revenue Code of 1986) issued after the date of the enactment of this Act,

- (4) any qualified school construction bond (as defined in section 54F of the Internal Revenue Code of 1986), and
- (5) any recovery zone economic development bond (as defined in section 1400U-2 of the Internal Revenue Code of 1986).

SEC. 1902. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting '\$12,140,000,000,000'.

TITLE II--ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

SEC. 2000. SHORT TITLE; TABLE OF CONTENTS.

- (a) Short Title- This title may be cited as the 'Assistance for Unemployed Workers and Struggling Families Act'.
- (b) Table of Contents- The table of contents for this title is as follows:

TITLE II--ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

Sec. 2000. Short title; table of contents.

Subtitle A--Unemployment Insurance

- Sec. 2001. Extension of emergency unemployment compensation program.
- Sec. 2002. Increase in unemployment compensation benefits.
- Sec. 2003. Unemployment compensation modernization.
- Sec. 2004. Temporary assistance for States with advances.

Subtitle B--Assistance for Vulnerable Individuals

- Sec. 2101. Emergency fund for TANF program.
- Sec. 2102. Extension of TANF supplemental grants.
- Sec. 2103. Clarification of authority of States to use TANF funds carried over from prior years to provide TANF benefits and services.
- Sec. 2104. Temporary reinstatement of authority to provide Federal matching payments for State spending of child support incentive payments.

Subtitle A--Unemployment Insurance

SEC. 2001. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

- (a) In General- Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 122 Stat. 5015), is amended--
 - (1) by striking 'March 31, 2009' each place it appears and inserting 'December 31, 2009';
 - (2) in the heading for subsection (b)(2), by striking 'MARCH 31, 2009' and inserting 'DECEMBER 31, 2009'; and
 - (3) in subsection (b)(3), by striking 'August 27, 2009' and inserting 'May 31, 2010'.
- (b) Financing Provisions- Section 4004 of such Act is amended by adding at the end the following:
 - (e) Transfer of Funds- Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)--
 - (1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary to make payments to States under this title by reason of the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act; and

(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments referred to in paragraph (1).

There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.'

SEC. 2002. INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) Federal-State Agreements- Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (hereinafter in this section referred to as the 'Secretary'). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement-

(1) ADDITIONAL COMPENSATION- Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to the amount determined under the State law (before the application of this paragraph) plus an additional \$25.

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

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

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

(c) Nonreduction Rule- An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that--

(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement (determined disregarding any additional amounts attributable to the modification described in subsection (b)(1)) will be less than

(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on December 31, 2008.

(d) Payments to States-

(1) IN GENERAL-

(A) FULL REIMBURSEMENT- There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of--

(i) the total amount of additional compensation (as described in subsection (b)(1)) paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) TERMS OF PAYMENTS- Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) CERTIFICATIONS- The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) APPROPRIATION- There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) Applicability-

(1) IN GENERAL- An agreement entered into under this section shall apply to weeks of unemployment--

(A) beginning after the date on which such agreement is entered into; and

(B) ending before January 1, 2010.

(2) TRANSITION RULE FOR INDIVIDUALS REMAINING ENTITLED TO REGULAR COMPENSATION AS OF JANUARY 1, 2010- In the case of any individual who, as of the date specified in paragraph (1)(B), has not yet exhausted all rights to regular compensation under the State law of a State with respect to a benefit year that began before such date, additional compensation (as described in subsection (b)(1)) shall continue to be payable to such individual for any week beginning on or after such date for which the individual is otherwise eligible for regular compensation with respect to such benefit year.

(3) TERMINATION- Notwithstanding any other provision of this subsection, no additional compensation (as described in subsection (b)(1)) shall be payable for any week beginning after June 30, 2010.

(f) Fraud and Overpayments- The provisions of section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 122 Stat. 2356) shall apply with respect to additional compensation (as described in subsection (b)(1)) to the same extent and in the same manner as in the case of emergency unemployment compensation.

(g) Application to Other Unemployment Benefits-

(1) IN GENERAL- Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (i)(3) to the same extent and in the same manner as if those benefits were regular compensation.

(2) ELIGIBILITY AND TERMINATION RULES- Additional compensation (as described in subsection (b)(1))--

(A) shall not be payable, pursuant to this subsection, with respect to any unemployment benefits described in subsection (i)(3) for any week beginning on or after the date specified in subsection (e)(1)(B), except in the case of an individual who was eligible to receive additional compensation (as so described) in connection with any regular compensation or any unemployment benefits described in subsection (i)(3) for any period of unemployment ending before such date; and

(B) shall in no event be payable for any week beginning after the date specified in subsection (e)(3).

(h) Disregard of Additional Compensation for Purposes of Medicaid and SCHIP- A State that enters into an agreement under this section shall disregard the monthly equivalent of \$25 per week for any individual who receives additional compensation under subsection (b)(1) in considering the amount of income of the individual for any purposes under the Medicaid program under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act.

(i) Definitions- For purposes of this section--

(1) the terms `compensation', `regular compensation', `benefit year', `State', `State agency', `State law', and `week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note);

(2) the term `emergency unemployment compensation' means emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 122 Stat. 2353); and

(3) any reference to unemployment benefits described in this paragraph shall be considered to refer to--

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970); and

(B) unemployment compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary.

SEC. 2003. UNEMPLOYMENT COMPENSATION MODERNIZATION.

(a) In General- Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

`Special Transfers for Modernization

`(f)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter `incentive payments') to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with succeeding provisions of this subsection.

`(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying \$7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

`(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State--

`(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

`(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

- (2) The State law of a State meets the requirements of this paragraph if such State law--
- (A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation; or
 - (B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.
- (3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:
- (A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time (and not full-time) work, except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work.
 - (B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term 'compelling family reason' means the following:
 - (i) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).
 - (ii) The illness or disability of a member of the individual's immediate family (as defined by the Secretary of Labor).
 - (iii) The need for the individual to accompany such individual's spouse--
 - (I) to a place from which it is impractical for such individual to commute; and
 - (II) due to a change in location of the spouse's employment.
 - (C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such programs shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.
 - (D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has any dependents (as defined by State law), in an amount equal to at least \$15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than \$50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less).
- (4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after the date of the enactment of this subsection prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).
- (B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.
- (ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

`(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

`(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

`(iii) No application under subparagraph (A) may be considered if submitted before the date of the enactment of this subsection or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2010. In the case of a State in which the first day of the first regularly scheduled session of the State legislature beginning after the date of enactment of this subsection begins after December 31, 2010, the preceding sentence shall be applied by substituting `October 1, 2011' for `October 1, 2010' .

`(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

`(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to `subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

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

`(7) For purposes of this subsection, the terms `benefit year', `base period', and `week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

`Special Transfer in Fiscal Year 2009 for Administration

`(g)(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after the date of the enactment of this subsection, the amount determined with respect to such State under paragraph (2).

`(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying \$500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

`(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for--

`(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

`(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

`(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

`(D) staff-assisted reemployment services for unemployment compensation claimants.'.

(b) Regulations- The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

SEC. 2004. TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.

Section 1202(b) of the Social Security Act (42 U.S.C. 1322(b)) is amended by adding at the end the following new paragraph:

`(10)(A) With respect to the period beginning on the date of enactment of this paragraph and ending on December 31, 2010--

`(i) any interest payment otherwise due from a State under this subsection during such period shall be deemed to have been made by the State; and

`(ii) no interest shall accrue on any advance or advances made under section 1201 to a State during such period.

`(B) The provisions of subparagraph (A) shall have no effect on the requirement for interest payments under this subsection after the period described in such subparagraph or on the accrual of interest under this subsection after such period.'

Subtitle B--Assistance for Vulnerable Individuals

SEC. 2101. EMERGENCY FUND FOR TANF PROGRAM.

(a) Temporary Fund-

(1) IN GENERAL- Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end the following:

`(c) Emergency Fund-

`(1) ESTABLISHMENT- There is established in the Treasury of the United States a fund which shall be known as the 'Emergency Contingency Fund for State Temporary Assistance for Needy Families Programs' (in this subsection referred to as the 'Emergency Fund').

`(2) DEPOSITS INTO FUND-

`(A) IN GENERAL- Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2009, \$3,000,000,000 for payment to the Emergency Fund.

`(B) AVAILABILITY AND USE OF FUNDS- The amounts appropriated to the Emergency Fund under subparagraph (A) shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with the requirements of paragraph (3).

`(C) LIMITATION- In no case may the Secretary make a grant from the Emergency Fund for a fiscal year after fiscal year 2010.

`(3) GRANTS-

`(A) GRANT RELATED TO CASELOAD INCREASES-

`(i) IN GENERAL- For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that--

`(I) requests a grant under this subparagraph for the quarter; and

`(II) meets the requirement of clause (ii) for the quarter.

`(ii) CASELOAD INCREASE REQUIREMENT- A State meets the requirement of this clause for a quarter if the average monthly assistance caseload of the State for the quarter exceeds the average monthly assistance caseload of the State for the corresponding quarter in the emergency fund base year of the State.

`(iii) AMOUNT OF GRANT- Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be 80 percent of the amount (if any) by which the total expenditures of the State for basic assistance (as defined by the Secretary) in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total expenditures of the State for such assistance for the corresponding quarter in the emergency fund base year of the State.

`(B) GRANT RELATED TO INCREASED EXPENDITURES FOR NON-RECURRENT SHORT TERM BENEFITS-

`(i) IN GENERAL- For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that--

`(I) requests a grant under this subparagraph for the quarter; and

`(II) meets the requirement of clause (ii) for the quarter.

`(ii) NON-RECURRENT SHORT-TERM EXPENDITURE REQUIREMENT- A State meets the requirement of this clause for a quarter if the total expenditures of the State for non-recurrent short-term benefits in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State for non-recurrent short-term benefits in the corresponding quarter in the emergency fund base year of the State.

`(iii) AMOUNT OF GRANT- Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

`(C) GRANT RELATED TO INCREASED EXPENDITURES FOR SUBSIDIZED EMPLOYMENT-

`(i) IN GENERAL- For each calendar quarter in fiscal year 2009 or 2010, the Secretary shall make a grant from the Emergency Fund to each State that--

`(I) requests a grant under this subparagraph for the quarter; and

`(II) meets the requirement of clause (ii) for the quarter.

`(ii) SUBSIDIZED EMPLOYMENT EXPENDITURE REQUIREMENT- A State meets the requirement of this clause for a quarter if the total expenditures of the State for subsidized employment in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total of such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

`(iii) AMOUNT OF GRANT- Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).

`(4) AUTHORITY TO MAKE NECESSARY ADJUSTMENTS TO DATA AND COLLECT NEEDED DATA- In determining the size of the caseload of a State and the expenditures of a State for basic assistance, non-recurrent short-term benefits, and subsidized employment, during any period for which the State requests funds under this subsection, and during the emergency fund base year of the State, the Secretary may make appropriate adjustments to the data to ensure that the data reflect expenditures under the State program funded under this part and qualified State expenditures. The Secretary may develop a mechanism for collecting expenditure data, including procedures which allow States to make reasonable estimates, and may set deadlines for making revisions to the data.

`(5) LIMITATION- The total amount payable to a single State under subsection (b) and this subsection for a fiscal year shall not exceed 25 percent of the State family assistance grant.

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

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

`(8) DEFINITIONS- In this subsection:

`(A) AVERAGE MONTHLY ASSISTANCE CASELOAD DEFINED- The term 'average monthly assistance caseload' means, with respect to a State and a quarter, the number of families receiving assistance during the quarter under the State program funded under this part or as qualified State expenditures, subject to adjustment under paragraph (4).

`(B) EMERGENCY FUND BASE YEAR-

`(i) IN GENERAL- The term 'emergency fund base year' means, with respect to a State and a category described in clause (ii), whichever of fiscal year 2007 or 2008 is the fiscal year in which the amount described by the category with respect to the State is the lesser.

`(ii) CATEGORIES DESCRIBED- The categories described in this clause are the following:

`(I) The average monthly assistance caseload of the State.

`(II) The total expenditures of the State for non-recurrent short-term benefits, whether under the State program funded under this part or as qualified State expenditures.

`(III) The total expenditures of the State for subsidized employment, whether under the State program funded under this part or as qualified State expenditures.

`(C) QUALIFIED STATE EXPENDITURES- The term 'qualified State expenditures' has the meaning given the term in section 409(a)(7).'

(2) REPEAL- Effective October 1, 2010, subsection (c) of section 403 of the Social Security Act (42 U.S.C. 603) (as added by paragraph (1)) is repealed.

(b) Temporary Modification of Caseload Reduction Credit- Section 407(b)(3)(A)(i) of such Act (42 U.S.C. 607(b)(3)(A)(i)) is amended by inserting '(or if the immediately preceding fiscal year is fiscal year 2008, 2009, or 2010, then, at State option, during the emergency fund base year of the State with respect to the average monthly assistance caseload of the State (within the meaning of section 403(c)(8)(B), except that, if a State elects such option for fiscal year 2008, the emergency fund base year of the State with respect to such caseload shall be fiscal year 2007))' before 'under the State'.

(c) Disregard From Limitation on Total Payments to Territories- Section 1108(a)(2) of the Social Security Act (42 U.S.C. 1308(a)(2)) is amended by inserting '403(c)(3),' after '403(a)(5).'

(d) Effective Date- The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 2102. EXTENSION OF TANF SUPPLEMENTAL GRANTS.

(a) Extension Through Fiscal Year 2010- Section 7101(a) of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 135), as amended by section 301(a) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking 'fiscal year 2009' and inserting 'fiscal year 2010'.

(b) Conforming Amendment- Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended to read as follows:

'(ii) subparagraph (G) shall be applied as if 'fiscal year 2010' were substituted for 'fiscal year 2001'; and'.

SEC. 2103. CLARIFICATION OF AUTHORITY OF STATES TO USE TANF FUNDS CARRIED OVER FROM PRIOR YEARS TO PROVIDE TANF BENEFITS AND SERVICES.

Section 404(e) of the Social Security Act (42 U.S.C. 604(e)) is amended to read as follows:

'(e) Authority To Carry Over Certain Amounts for Benefits or Services or for Future Contingencies- A State or tribe may use a grant made to the State or tribe under this part for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under this part.'

SEC. 2104. TEMPORARY REINSTATEMENT OF AUTHORITY TO PROVIDE FEDERAL MATCHING PAYMENTS FOR STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

During the period that begins on October 1, 2008, and ends on December 31, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied without regard to the amendment made by section 7309(a) of the Deficit Reduction Act of 2005 (Public Law 109-171, 120 Stat. 147).

TITLE III--HEALTH INSURANCE ASSISTANCE

SEC. 3000. TABLE OF CONTENTS OF TITLE.

The table of contents for this title is as follows:

TITLE III--HEALTH INSURANCE ASSISTANCE

Sec. 3000. Table of contents of title.

Subtitle A--Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

Sec. 3001. Premium assistance for COBRA benefits.

Subtitle B--Transitional Medical Assistance (TMA)

Sec. 3101. Extension of transitional medical assistance (TMA).

Subtitle C--Extension of the Qualified Individual (QI) Program

Sec. 3201. Extension of the qualifying individual (QI) program.

Subtitle D--Other Provisions

Sec. 3301. Premiums and cost sharing protections under Medicaid, eligibility determinations under Medicaid and CHIP, and protection of certain Indian property from Medicaid estate recovery.

Sec. 3302. Rules applicable under Medicaid and CHIP to managed care entities with respect to Indian enrollees and Indian health care providers and Indian managed care entities.

Sec. 3303. Consultation on Medicaid, CHIP, and other health care programs funded under the Social Security Act involving Indian Health Programs and Urban Indian Organizations.

Sec. 3304. Application of prompt pay requirements to nursing facilities.

Sec. 3305. Period of application; sunset.

Subtitle A--Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

SEC. 3001. PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) Table of Contents of Subtitle- The table of contents of this subtitle is as follows:

Sec. 3001. Premium assistance for COBRA benefits.

(b) Premium Assistance for COBRA Continuation Coverage for Unemployed Workers and Their Families-

(1) PROVISION OF PREMIUM ASSISTANCE-

(A) REDUCTION OF PREMIUMS PAYABLE- In the case of any premium for a month of coverage beginning after the date of the enactment of the Act for COBRA continuation coverage with respect to any assistance eligible individual, such individual shall be treated for purposes of any COBRA continuation provision as having paid the amount of such premium if such individual pays 35 percent of the amount of such premium (as determined without regard to this subsection).

(B) PLAN ENROLLMENT OPTION-

(i) IN GENERAL- Notwithstanding the COBRA continuation provisions, an assistance eligible individual may, not later than 90 days after the date of notice of the plan enrollment option described in this subparagraph, elect to enroll in coverage under a plan offered by the employer involved, or the employee organization involved (including, for this purpose, a joint board of trustees of a multiemployer trust affiliated with one or more multiemployer plans), that is different than coverage under the plan in which such individual was enrolled at the time the qualifying event occurred, and such coverage shall be treated as COBRA continuation coverage for purposes of the applicable COBRA continuation coverage provision.

(ii) REQUIREMENTS- An assistance eligible individual may elect to enroll in different coverage as described in clause (i) only if--

(I) the employer involved has made a determination that such employer will permit assistance eligible individuals to enroll in different coverage as provided for this subparagraph;

(II) the premium for such different coverage does not exceed the premium for coverage in which the individual was enrolled at the time the qualifying event occurred;

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

(IV) the different coverage is not--

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

(bb) a health flexible spending account or health reimbursement arrangement; or

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

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

(2) LIMITATION OF PERIOD OF PREMIUM ASSISTANCE-

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

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

(ii) the earliest of--

(I) the date which is 9 months after the first day of first month that paragraph (1)(A) applies with respect to such individual,

(II) the date following the expiration of the maximum period of continuation coverage required under the applicable COBRA continuation coverage provision, or

(III) the date following the expiration of the period of continuation coverage allowed under paragraph (4)(B)(ii).

(B) TIMING OF ELIGIBILITY FOR ADDITIONAL COVERAGE- For purposes of subparagraph (A)(i), an individual shall not be treated as eligible for coverage under a group health plan before the first date on which such individual could be covered under such plan.

(C) NOTIFICATION REQUIREMENT- An assistance eligible individual shall notify in writing the group health plan with respect to which paragraph (1)(A) applies if such paragraph ceases to apply by reason of subparagraph (A)(i). Such notice shall be provided to the group health plan in such time and manner as may be specified by the Secretary of Labor.

(3) ASSISTANCE ELIGIBLE INDIVIDUAL- For purposes of this section, the term 'assistance eligible individual' means any qualified beneficiary if--

(A) at any time during the period that begins with September 1, 2008, and ends with December 31, 2009, such qualified beneficiary is eligible for COBRA continuation coverage,

(B) such qualified beneficiary elects such coverage, and

(C) the qualifying event with respect to the COBRA continuation coverage consists of the involuntary termination of the covered employee's employment and occurred during such period.

(4) EXTENSION OF ELECTION PERIOD AND EFFECT ON COVERAGE-

(A) IN GENERAL- Notwithstanding section 605(a) of the Employee Retirement Income Security Act of 1974, section 4980B(f)(5)(A) of the Internal Revenue Code of 1986, section 2205(a) of the Public Health Service Act, and section 8905a(c)(2) of title 5, United States Code, in the case of an individual who is a qualified beneficiary described in paragraph (3)(A) as of the date of the enactment of this Act and has not made the election referred to in paragraph (3)(B) as of such date, such individual may elect the COBRA continuation coverage under the COBRA continuation coverage provisions containing such sections during the 60-day period commencing with the date on which the notification required under paragraph (7)(C) is provided to such individual.

(B) COMMENCEMENT OF COVERAGE; NO REACH-BACK- Any COBRA continuation coverage elected by a qualified beneficiary during an extended election period under subparagraph (A)--

(i) shall commence on the date of the enactment of this Act, and

(ii) shall not extend beyond the period of COBRA continuation coverage that would have been required under the applicable COBRA continuation coverage provision if the coverage had been elected as required under such provision.

(C) PREEXISTING CONDITIONS- With respect to a qualified beneficiary who elects COBRA continuation coverage pursuant to subparagraph (A), the period--

(i) beginning on the date of the qualifying event, and

(ii) ending with the day before the date of the enactment of this Act,

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(2) of the Employee Retirement Income Security Act of 1974, section 9801(c)(2) of the Internal Revenue Code of 1986, and section 2701(c)(2) of the Public Health Service Act.

(5) EXPEDITED REVIEW OF DENIALS OF PREMIUM ASSISTANCE- In any case in which an individual requests treatment as an assistance eligible individual and is denied such treatment by the group health plan by reason of such individual's ineligibility for COBRA continuation coverage, the Secretary of Labor (or the Secretary of Health and Human Services in connection with COBRA continuation coverage which is provided other than pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974), in consultation with the Secretary of the Treasury, shall provide for expedited review of such denial. An individual shall be entitled to such review upon application to such Secretary in such form and manner as shall be provided by such Secretary. Such Secretary shall make a determination regarding such individual's eligibility within 10 business days after receipt of such individual's application for review under this paragraph.

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

(7) NOTICES TO INDIVIDUALS-

(A) GENERAL NOTICE-

(i) IN GENERAL- In the case of notices provided under section 606(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(4)), section 4980B(f)(6)(D) of the Internal Revenue Code of 1986, section 2206(4) of the Public Health Service Act (42 U.S.C. 300bb-6(4)), or section 8905a(f)(2)(A) of title 5, United States Code, with respect to individuals who, during the period described in paragraph (3)(A), become entitled to elect COBRA continuation coverage, such notices shall include an additional notification to the recipient of--

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

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

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

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

(B) SPECIFIC REQUIREMENTS- Each additional notification under subparagraph (A) shall include--

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

(ii) the name, address, and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with such premium reduction,

(iii) a description of the extended election period provided for in paragraph (4)(A),

(iv) a description of the obligation of the qualified beneficiary under paragraph (2)(C) to notify the plan providing continuation coverage of eligibility for subsequent coverage under another group health plan or eligibility for benefits under title XVIII of the Social Security Act and the penalty provided for failure to so notify the plan,

(v) a description, displayed in a prominent manner, of the qualified beneficiary's right to a reduced premium and any conditions on entitlement to the reduced premium; and

(vi) a description of the option of the qualified beneficiary to enroll in different coverage if the employer permits such beneficiary to elect to enroll in such different coverage under paragraph (1)(B).

(C) NOTICE RELATING TO RETROACTIVE COVERAGE- In the case of an individual described in paragraph (3)(A) who has elected COBRA continuation coverage as of the date of enactment of this Act or an individual described in paragraph (4)(A), the administrator of the group health plan (or other person) involved shall provide (within 60 days after the date of enactment of this Act) for the additional notification required to be provided under subparagraph (A).

(D) MODEL NOTICES- Not later than 30 days after the date of enactment of this Act, the Secretary of the Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall prescribe models for the additional notification required under this paragraph.

(8) SAFEGUARDS- The Secretary of the Treasury shall provide such rules, procedures, regulations, and other guidance as may be necessary and appropriate to prevent fraud and abuse under this subsection.

(9) OUTREACH- The Secretary of Labor, in consultation with the Secretary of the Treasury and the Secretary of Health and Human Services, shall provide outreach consisting of public education and enrollment assistance relating to premium reduction provided under this subsection. Such outreach shall target employers, group health plan administrators, public assistance programs, States, insurers, and other entities as determined appropriate by such Secretaries. Such outreach shall include an initial focus on those individuals electing continuation coverage who are referred to in paragraph (7)(C). Information on such premium reduction, including enrollment, shall also be made available on website of the Departments of Labor, Treasury, and Health and Human Services.

(10) DEFINITIONS- For purposes of this subsection--

(A) ADMINISTRATOR- The term `administrator' has the meaning given such term in section 3(16) of the Employee Retirement Income Security Act of 1974.

(B) COBRA CONTINUATION COVERAGE- The term `COBRA continuation coverage' means continuation coverage provided pursuant to part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (other than under section 609), title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986 (other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines), or section 8905a of title 5, United States Code, or under a State program that provides continuation coverage comparable to such continuation coverage. Such term does not include coverage under a health flexible spending arrangement.

(C) COBRA CONTINUATION PROVISION- The term `COBRA continuation provision' means the provisions of law described in subparagraph (B).

(D) COVERED EMPLOYEE- The term `covered employee' has the meaning given such term in section 607(2) of the Employee Retirement Income Security Act of 1974.

(E) QUALIFIED BENEFICIARY- The term `qualified beneficiary' has the meaning given such term in section 607(3) of the Employee Retirement Income Security Act of 1974.

(F) GROUP HEALTH PLAN- The term `group health plan' has the meaning given such term in section 607(1) of the Employee Retirement Income Security Act of 1974.

(G) STATE- The term `State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(11) REPORTS-

(A) INTERIM REPORT- The Secretary of the Treasury shall submit an interim report to the Committee on Education and Labor, the Committee on Ways and Means, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate regarding the premium reduction provided under this subsection that includes--

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

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

(B) FINAL REPORT- As soon as practicable after the last period of COBRA continuation coverage for which premium reduction is provided under this section, the Secretary of the Treasury shall submit a final report to each Committee referred to in subparagraph (A) that includes--

(i) the number of individuals provided premium reduction under this section;

(ii) the average dollar amount (monthly and annually) of premium reductions provided to such individuals; and

(iii) the total amount of expenditures incurred (with administrative expenditures noted separately) in connection with premium reduction under this section.

(12) COBRA PREMIUM ASSISTANCE-

(A) IN GENERAL- Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

SEC. 6432. COBRA PREMIUM ASSISTANCE.

(a) In General- The person to whom premiums are payable under COBRA continuation coverage shall be reimbursed for the amount of premiums not paid by plan beneficiaries by reason of section 3001(b) of the American Recovery and Reinvestment Act of 2009. Such amount shall be treated as a credit against the requirement of such person to make deposits of payroll taxes and the liability of such person for payroll taxes. To the extent that such amount exceeds the amount of such taxes, the Secretary shall pay to such person the amount of such excess. No payment may be made under this subsection to a person with respect to any assistance eligible individual until after such person has received the reduced premium from such individual required under section 3001(a)(1)(A) of such Act.

(b) Payroll Taxes- For purposes of this section, the term `payroll taxes' means--

(1) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding),

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

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

(c) Treatment of Credit- Except as otherwise provided by the Secretary, the credit described in subsection (a) shall be applied as though the employer had paid to the Secretary, on the day that the qualified beneficiary's premium payment is received, an amount equal to such credit.

(d) Treatment of Payment- For purposes of section 1324(b)(2) of title 31, United States Code, any payment under this subsection shall be treated in the same manner as a refund of the credit under section 35.

(e) Reporting-

(1) IN GENERAL- Each person entitled to reimbursement under subsection (a) for any period shall submit such reports as the Secretary may require, including--

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

(B) a report of the amount of payroll taxes offset under subsection (a) for the reporting period and the estimated offsets of such taxes for the subsequent reporting period in connection with reimbursements under subsection (a).

`(2) TIMING OF REPORTS RELATING TO AMOUNT OF PAYROLL TAXES- Reports required under paragraph (1)(B) shall be submitted at the same time as deposits of taxes imposed by chapters 21, 22, and 24 or at such time as is specified by the Secretary.

`(f) Regulations- The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including the requirement to report information or the establishment of other methods for verifying the correct amounts of payments and credits under this section, and the application of this section to group health plans which are multiemployer plans.'

(B) SOCIAL SECURITY TRUST FUNDS HELD HARMLESS- In determining any amount transferred or appropriated to any fund under the Social Security Act, section 6432 of the Internal Revenue Code of 1986 shall not be taken into account.

(C) CLERICAL AMENDMENT- The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

`Sec. 6432. COBRA premium assistance.'

(D) EFFECTIVE DATE- The amendments made by this paragraph shall apply to premiums to which subsection (a)(1)(A) applies.

(E) SPECIAL RULE-

(i) IN GENERAL- In the case of an assistance eligible individual who pays the full premium amount required for COBRA continuation coverage for any month during the 60-day period beginning on the first day of the first month after the date of enactment of this Act, the person to whom such payment is made shall--

(I) make a reimbursement payment to such individual for the amount of such premium paid in excess of the amount required to be paid under subsection (b)(1)(A); or

(II) provide credit to the individual for such amount in a manner that reduces one or more subsequent premium payments that the individual is required to pay under such subsection for the coverage involved.

(ii) REIMBURSING EMPLOYER- A person to which clause (i) applies shall be reimbursed as provided for in section 6432 of the Internal Revenue Code of 1986 for any payment made, or credit provided, to the employee under such clause.

(iii) PAYMENT OR CREDITS- Unless it is reasonable to believe that the credit for the excess payment in clause (i)(II) will be used by the assistance eligible individual within 180 days of the date on which the person receives from the individual the payment of the full premium amount, a person to which clause (i) applies shall make the payment required under such clause to the individual within 60 days of such payment of the full premium amount. If, as of any day within the 180-day period, it is no longer reasonable to believe that the credit will be used during that period, payment equal to the remainder of the credit outstanding shall be made to the individual within 60 days of such day.

(13) PENALTY FOR FAILURE TO NOTIFY HEALTH PLAN OF CESSATION OF ELIGIBILITY FOR PREMIUM ASSISTANCE-

(A) IN GENERAL- Part I of subchapter B of chapter 68 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

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

`(a) In General- Any person required to notify a group health plan under section 3001(a)(2)(C) of the American Recovery and Reinvestment Act of 2009 who fails to make such a notification at such time and in such manner as the Secretary of Labor may require shall pay a penalty of 110 percent of the premium reduction provided under such section after termination of eligibility under such subsection.

`(b) Reasonable Cause Exception- No penalty shall be imposed under subsection (a) with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.'

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

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

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

(14) COORDINATION WITH HCTC-

(A) IN GENERAL- Subsection (g) of section 35 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

`(9) COBRA PREMIUM ASSISTANCE- In the case of an assistance eligible individual who receives premium reduction for COBRA continuation coverage under section 3001(a) of the American Recovery and Reinvestment Act of 2009 for any month during the taxable year, such individual shall not be treated as an eligible individual, a certified individual, or a qualifying family member for purposes of this section or section 7527 with respect to such month.'

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

(15) EXCLUSION OF COBRA PREMIUM ASSISTANCE FROM GROSS INCOME-

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

`SEC. 139C. COBRA PREMIUM ASSISTANCE.

'In the case of an assistance eligible individual (as defined in section 3001 of the American Recovery and Reinvestment Act of 2009), gross income does not include any premium reduction provided under subsection (a) of such section.'

(B) CLERICAL AMENDMENT- The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139B the following new item:

'Sec. 139C. COBRA premium assistance.'

(C) EFFECTIVE DATE- The amendments made by this paragraph shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B--Transitional Medical Assistance (TMA)

SEC. 3101. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

(a) 18-Month Extension-

(1) IN GENERAL- Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r-6(f)) are each amended by striking 'September 30, 2003' and inserting 'December 31, 2010'.

(2) EFFECTIVE DATE- The amendments made by this subsection shall take effect on July 1, 2009.

(b) State Option of Initial 12-Month Eligibility- Section 1925 of the Social Security Act (42 U.S.C. 1396r-6) is amended--

(1) in subsection (a)(1), by inserting 'but subject to paragraph (5)' after 'Notwithstanding any other provision of this title';

(2) by adding at the end of subsection (a) the following:

`(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD- A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.'; and

(3) in subsection (b)(1), by inserting 'but subject to subsection (a)(5)' after 'Notwithstanding any other provision of this title'.

(c) Removal of Requirement for Previous Receipt of Medical Assistance- Section 1925(a)(1) of such Act (42 U.S.C. 1396r-6(a)(1)), as amended by subsection (b)(1), is further amended--

(1) by inserting 'subparagraph (B) and' before 'paragraph (5)';

(2) by redesignating the matter after 'REQUIREMENT-' as a subparagraph (A) with the heading 'IN GENERAL-' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

`(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE- A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.'

(d) CMS Report on Enrollment and Participation Rates Under TMA- Section 1925 of such Act (42 U.S.C. 1396r-6), as amended by this section, is further amended by adding at the end the following new subsection:

`(g) Collection and Reporting of Participation Information-

`(1) COLLECTION OF INFORMATION FROM STATES- Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment

and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

`(2) ANNUAL REPORTS TO CONGRESS- Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.'

(e) Effective Date- The amendments made by subsections (b) through (d) shall take effect on July 1, 2009.

Subtitle C--Extension of the Qualified Individual (QI) Program

SEC. 3201. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) Extension- Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking 'December 2009' and inserting 'December 2010'.

(b) Extending Total Amount Available for Allocation- Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended--
(1) in paragraph (2)--

(A) by striking 'and' at the end of subparagraph (K);

(B) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

`(M) for the period that begins on January 1, 2010, and ends on September 30, 2010, the total allocation amount is \$412,500,000; and

`(N) for the period that begins on October 1, 2010, and ends on December 31, 2010, the total allocation amount is \$150,000,000.'; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking 'or (L)' and inserting '(L), or (N)'.

Subtitle D--Other Provisions

SEC. 3301. PREMIUMS AND COST SHARING PROTECTIONS UNDER MEDICAID, ELIGIBILITY DETERMINATIONS UNDER MEDICAID AND CHIP, AND PROTECTION OF CERTAIN INDIAN PROPERTY FROM MEDICAID ESTATE RECOVERY.

(a) Premiums and Cost Sharing Protection Under Medicaid-

(1) IN GENERAL- Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended--

(A) in subsection (a), in the matter preceding paragraph (1), by striking 'and (i)' and inserting ', (i), and (j)'; and

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

`(j) No Premiums or Cost Sharing for Indians Furnished Items or Services Directly by Indian Health Programs or Through Referral Under Contract Health Services-

`(1) NO COST SHARING FOR ITEMS OR SERVICES FURNISHED TO INDIANS THROUGH INDIAN HEALTH PROGRAMS-

`(A) IN GENERAL- No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services for which payment may be made under this title.

`(B) NO REDUCTION IN AMOUNT OF PAYMENT TO INDIAN HEALTH PROVIDERS- Payment due under this title to the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or a health care provider through referral under contract health services for the furnishing of an item or service to an Indian who is eligible for assistance under such title, may not be reduced by the amount of any enrollment fee, premium, or similar charge, or any deduction, copayment, cost sharing, or similar charge that would be due from the Indian but for the operation of subparagraph (A).

`(2) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed as restricting the application of any other limitations on the imposition of premiums or cost sharing that may apply to an individual receiving medical assistance under this title who is an Indian.'

(2) CONFORMING AMENDMENT- Section 1916A(b)(3) of such Act (42 U.S.C. 1396o-1(b)(3)) is amended--

(A) in subparagraph (A), by adding at the end the following new clause:

`(vi) An Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.'; and

(B) in subparagraph (B), by adding at the end the following new clause:

`(ix) Items and services furnished to an Indian directly by the Indian Health Service, an Indian Tribe, Tribal Organization or Urban Indian Organization or through referral under contract health services.'.

(b) Treatment of Certain Property From Resources for Medicaid and CHIP Eligibility-

(1) MEDICAID- Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

`(dd) Notwithstanding any other requirement of this title or any other provision of Federal or State law, a State shall disregard the following property from resources for purposes of determining the eligibility of an individual who is an Indian for medical assistance under this title:

`(1) Property, including real property and improvements, that is held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior, located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

`(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

`(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

`(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.'.

(2) APPLICATION TO CHIP- Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended--

(A) by redesignating subparagraphs (B) through (E), as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

`(B) Section 1902(dd) (relating to disregard of certain property for purposes of making eligibility determinations).'

(c) Continuation of Current Law Protections of Certain Indian Property From Medicaid Estate Recovery- Section 1917(b)(3) of the Social Security Act (42 U.S.C. 1396p(b)(3)) is amended--

(1) by inserting '(A)' after '(3)'; and

(2) by adding at the end the following new subparagraph:

`(B) The standards specified by the Secretary under subparagraph (A) shall require that the procedures established by the State agency under subparagraph (A) exempt income, resources, and property that are exempt from the application of this subsection as of April 1, 2003, under manual instructions issued to carry out this subsection (as in effect on such date) because of the Federal responsibility for Indian Tribes and Alaska Native Villages. Nothing in this subparagraph shall be construed as preventing the Secretary from providing additional estate recovery exemptions under this title for Indians.'.

SEC. 3302. RULES APPLICABLE UNDER MEDICAID AND CHIP TO MANAGED CARE ENTITIES WITH RESPECT TO INDIAN ENROLLEES AND INDIAN HEALTH CARE PROVIDERS AND INDIAN MANAGED CARE ENTITIES.

(a) In General- Section 1932 of the Social Security Act (42 U.S.C. 1396u-2) is amended by adding at the end the following new subsection:

`(h) Special Rules With Respect to Indian Enrollees, Indian Health Care Providers, and Indian Managed Care Entities-

`(1) ENROLLEE OPTION TO SELECT AN INDIAN HEALTH CARE PROVIDER AS PRIMARY CARE PROVIDER- In the case of a non-Indian Medicaid managed care entity that--

`(A) has an Indian enrolled with the entity; and

`(B) has an Indian health care provider that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Indian health care provider and the Indian health care provider has the capacity to provide primary care services to such Indian, the contract with the entity under section 1903(m) or under section 1905(t)(3) shall require, as a condition of receiving payment under such

contract, that the Indian shall be allowed to choose such Indian health care provider as the Indian's primary care provider under the entity.

`(2) ASSURANCE OF PAYMENT TO INDIAN HEALTH CARE PROVIDERS FOR PROVISION OF COVERED SERVICES- Each contract with a managed care entity under section 1903(m) or under section 1905(t)(3) shall require any such entity, as a condition of receiving payment under such contract, to satisfy the following requirements:

`(A) DEMONSTRATION OF ACCESS TO INDIAN HEALTH CARE PROVIDERS AND APPLICATION OF ALTERNATIVE PAYMENT ARRANGEMENTS- Subject to subparagraph (C), to--

`(i) demonstrate that the number of Indian health care providers that are participating providers with respect to such entity are sufficient to ensure timely access to covered Medicaid managed care services for those Indian enrollees who are eligible to receive services from such providers; and

`(ii) agree to pay Indian health care providers, whether such providers are participating or nonparticipating providers with respect to the entity, for covered Medicaid managed care services provided to those Indian enrollees who are eligible to receive services from such providers at a rate equal to the rate negotiated between such entity and the provider involved or, if such a rate has not been negotiated, at a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a participating provider which is not an Indian health care provider.

`(B) PROMPT PAYMENT- To agree to make prompt payment (consistent with rule for prompt payment of providers under section 1932(f)) to Indian health care providers that are participating providers with respect to such entity or, in the case of an entity to which subparagraph (A)(ii) or (C) applies, that the entity is required to pay in accordance with that subparagraph.

`(C) APPLICATION OF SPECIAL PAYMENT REQUIREMENTS FOR FEDERALLY-QUALIFIED HEALTH CENTERS AND FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS-

`(i) FEDERALLY-QUALIFIED HEALTH CENTERS-

`(I) MANAGED CARE ENTITY PAYMENT REQUIREMENT- To agree to pay any Indian health care provider that is a federally-qualified health center under this title but not a participating provider with respect to the entity, for the provision of covered Medicaid managed care services by such provider to an Indian enrollee of the entity at a rate equal to the amount of payment that the entity would pay a federally-qualified health center that is a participating provider with respect to the entity but is not an Indian health care provider for such services.

`(II) CONTINUED APPLICATION OF STATE REQUIREMENT TO MAKE SUPPLEMENTAL PAYMENT- Nothing in subclause (I) or subparagraph (A) or (B) shall be construed as waiving the application of section 1902(bb)(5) regarding the State plan requirement to make any supplemental payment due under such section to a federally-qualified health center for services furnished by such center to an enrollee of a managed care entity (regardless of whether the federally-qualified health center is or is not a participating provider with the entity).

`(ii) PAYMENT RATE FOR SERVICES PROVIDED BY CERTAIN INDIAN HEALTH CARE PROVIDERS- If the amount paid by a managed care entity to an Indian health care provider that is not a federally-qualified health center for services provided by the provider to an Indian enrollee with the managed care entity is less than the rate that applies to the provision of such services by the provider under the State plan, the plan shall provide for payment to the Indian health care provider, whether the provider is a participating or nonparticipating provider with respect to the entity, of the difference between such applicable rate and the amount paid by the managed care entity to the provider for such services.

`(D) CONSTRUCTION- Nothing in this paragraph shall be construed as waiving the application of section 1902(a)(30)(A) (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

`(3) SPECIAL RULE FOR ENROLLMENT FOR INDIAN MANAGED CARE ENTITIES- Regarding the application of a Medicaid managed care program to Indian Medicaid managed care entities, an Indian Medicaid managed care entity may restrict enrollment under such program to Indians and to members of specific Tribes in the same manner as Indian Health Programs may restrict the delivery of services to such Indians and tribal members.

`(4) DEFINITIONS- For purposes of this subsection:

`(A) INDIAN HEALTH CARE PROVIDER- The term `Indian health care provider' means an Indian Health Program or an Urban Indian Organization.

`(B) INDIAN MEDICAID MANAGED CARE ENTITY- The term `Indian Medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C)) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization, or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

`(C) NON-INDIAN MEDICAID MANAGED CARE ENTITY- The term `non-Indian Medicaid managed care entity' means a managed care entity that is not an Indian Medicaid managed care entity.

`(D) COVERED MEDICAID MANAGED CARE SERVICES- The term `covered Medicaid managed care services' means, with respect to an individual enrolled with a managed care entity, items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

`(E) MEDICAID MANAGED CARE PROGRAM- The term `Medicaid managed care program' means a program under sections 1903(m), 1905(t), and 1932 and includes a managed care program operating under a waiver under section 1915(b) or 1115 or otherwise.'.

(b) Application to CHIP- Subject to section X013(d), section 2107(e)(1) of such Act (42 U.S.C. 1397gg(1)) is amended by adding at the end the following new subparagraph:

`(E) Subsections (a)(2)(C) and (h) of section 1932.'.

SEC. 3303. CONSULTATION ON MEDICAID, CHIP, AND OTHER HEALTH CARE PROGRAMS FUNDED UNDER THE SOCIAL SECURITY ACT INVOLVING INDIAN HEALTH PROGRAMS AND URBAN INDIAN ORGANIZATIONS.

(a) Consultation With Tribal Technical Advisory Group (TTAG)- The Secretary of Health and Human Services shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group (TTAG), which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary of Health and Human Services shall include in such Group a representative of a national urban Indian health organization and a representative of the Indian Health Service. The inclusion of a representative of a national urban Indian health organization in such Group shall not affect the nonapplication of the Federal Advisory Committee Act (5 U.S.C. App.) to such Group.

(b) Solicitation of Advice Under Medicaid and CHIP-

(1) MEDICAID STATE PLAN AMENDMENT- Subject to subsection (d), section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended--

(A) in paragraph (70), by striking `and' at the end;

(B) in paragraph (71), by striking the period at the end and inserting `; and'; and

(C) by inserting after paragraph (71), the following new paragraph:

`(72) in the case of any State in which 1 or more Indian Health Programs or Urban Indian Organizations furnishes health care services, provide for a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of this title that are likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations and that--

`(A) shall include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations; and

`(B) may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its State plan under this title.'.

(2) APPLICATION TO CHIP- Subject to subsection (d), section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)), as amended by section 3302(b)(2), is amended--

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraph:

`(B) Section 1902(a)(72) (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).'.

(c) Rule of Construction- Nothing in the amendments made by this section shall be construed as superseding existing advisory committees, working groups, guidance, or other advisory procedures established by the Secretary of Health and Human Services or by any State with respect to the provision of health care to Indians.

(d) Contingency Rule- If the Children's Health Insurance Program Reauthorization Act of 2009 (in this subsection referred to as `CHIPRA') has been enacted as of the date of enactment of this Act, the following shall apply:

(1) Subparagraph (I) of section 2107(e) of the Social Security Act (as redesignated by CHIPRA) is redesignated as subparagraph (K) and the subparagraph (E) added to section 2107(e) of the Social Security Act by section X013(b) is redesignated as subparagraph (J).

(2) Subparagraphs (D) through (H) of section 2107(e) of the Social Security Act (as added and redesignated by CHIPRA) are redesignated as subparagraphs (E) through (I), respectively and the subparagraph (B) of section 2107(e) of the Social Security Act added by subsection (b)(2) of this section is redesignated as subparagraph (D) and amended by striking `1902(a)(72)' and inserting `1902(a)(73)'.

(3) Section 1902(a) of the Social Security Act (as amended by CHIPRA) is amended by striking `and' at the end of paragraph (71), by striking the period at the end of the paragraph (72) added by CHIPRA and inserting `; and' and by redesignating the paragraph (72) added to such section by subsection (b)(1) of this section as paragraph (73).

SEC. 3304. APPLICATION OF PROMPT PAY REQUIREMENTS TO NURSING FACILITIES.

Section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) is amended by inserting `, or by nursing facilities,' after `health facilities'

SEC. 3305. PERIOD OF APPLICATION; SUNSET.

This subtitle and the amendments made by this subtitle shall be in effect only during the period that begins on April 1, 2009, and ends on December 31, 2010. On and after January 1, 2011, the Social Security Act shall be applied as if this subtitle and the amendments made by this subtitle had not been enacted.

TITLE IV--HEALTH INFORMATION TECHNOLOGY

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

(a) Short Title- This title may be cited as the `Health Information Technology for Economic and Clinical Health Act' or the `HITECH Act'.

(b) Table of Contents of Title- The table of contents for this title is as follows:

TITLE IV--HEALTH INFORMATION TECHNOLOGY

Sec. 4001. Short title; table of contents of title.

Subtitle A--Promotion of Health Information Technology

Sec. 4101. ONCHIT; standards development and adoption.

`Sec. 3000. Definitions.

`Sec. 3001. Office of the National Coordinator for Health Information Technology.

`Sec. 3002. HIT Policy Committee.

`Sec. 3003. HIT Standards Committee.

`Sec. 3004. Process for adoption of endorsed recommendations; adoption of initial set of standards, implementation specifications, and certification criteria.

`Sec. 3005. Transitions.

Subtitle B--Incentives for the Use of Health Information Technology

PART I--Medicare Program

Sec. 4201. Incentives for eligible professionals.

Sec. 4202. Incentives for hospitals.

Sec. 4203. Premium hold harmless and implementation funding.

Sec. 4204. Non-application of phased-out indirect medical education (IME) adjustment factor for fiscal year 2009.

Sec. 4205. Study on application of EHR payment incentives for providers not receiving other incentive payments.

Sec. 4206. Study on availability of open source health information technology systems.

PART II--Medicaid Funding

Sec. 4211. Medicaid provider EHR adoption and operation payments; implementation funding.

Subtitle A--Promotion of Health Information Technology

SEC. 4101. ONCHIT; STANDARDS DEVELOPMENT AND ADOPTION.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

‘TITLE XXX--HEALTH INFORMATION TECHNOLOGY AND QUALITY

‘SEC. 3000. DEFINITIONS.

‘In this title:

‘(1) **CERTIFIED EHR TECHNOLOGY**- The term ‘certified EHR technology’ means a qualified electronic health record that is certified pursuant to section 3001(c)(5) as meeting standards adopted under section 3004 that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

‘(2) **ENTERPRISE INTEGRATION**- The term ‘enterprise integration’ means the electronic linkage of health care providers, health plans, the government, and other interested parties, to enable the electronic exchange and use of health information among all the components in the health care infrastructure in accordance with applicable law, and such term includes related application protocols and other related standards.

‘(3) **HEALTH CARE PROVIDER**- The term ‘health care provider’ means a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, health care clinic, Federally qualified health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, a physician (as defined in section 1861(r) of the Social Security Act), a practitioner (as described in section 1842(b)(18)(C) of the Social Security Act), a provider operated by, or under contract with, the Indian Health Service or by an Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act), tribal organization, or urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act), a rural health clinic, a covered entity under section 340B, and any other category of facility or clinician determined appropriate by the Secretary.

‘(4) **HEALTH INFORMATION**- The term ‘health information’ has the meaning given such term in section 1171(4) of the Social Security Act.

‘(5) **HEALTH INFORMATION TECHNOLOGY**- The term ‘health information technology’ means hardware, software, integrated technologies and related licenses, intellectual property, upgrades, and packaged solutions sold as services that are specifically designed for use by health care entities for the electronic creation, maintenance, or exchange of health information.

‘(6) **HEALTH PLAN**- The term ‘health plan’ has the meaning given such term in section 1171(5) of the Social Security Act.

‘(7) **HIT POLICY COMMITTEE**- The term ‘HIT Policy Committee’ means such Committee established under section 3002(a).

‘(8) **HIT STANDARDS COMMITTEE**- The term ‘HIT Standards Committee’ means such Committee established under section 3003(a).

‘(9) **INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION**- The term ‘individually identifiable health information’ has the meaning given such term in section 1171(6) of the Social Security Act.

‘(10) **LABORATORY**- The term ‘laboratory’ has the meaning given such term in section 353(a).

‘(11) **NATIONAL COORDINATOR**- The term ‘National Coordinator’ means the head of the Office of the National Coordinator for Health Information Technology established under section 3001(a).

‘(12) **PHARMACIST**- The term ‘pharmacist’ has the meaning given such term in section 804(2) of the Federal Food, Drug, and Cosmetic Act.

‘(13) **QUALIFIED ELECTRONIC HEALTH RECORD**- The term ‘qualified electronic health record’ means an electronic record of health-related information on an individual that--

‘(A) includes patient demographic and clinical health information, such as medical history and problem lists; and

‘(B) has the capacity--

- `(i) to provide clinical decision support;
- `(ii) to support physician order entry;
- `(iii) to capture and query information relevant to health care quality; and
- `(iv) to exchange electronic health information with, and integrate such information from other sources.

`(14) STATE- The term `State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

`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, and advances the delivery of patient-centered medical care;
- `(3) reduces health care costs resulting from inefficiency, medical errors, inappropriate care, duplicative care, and incomplete information;
- `(4) provides appropriate information to help guide medical decisions at the time and place of care;
- `(5) ensures the inclusion of meaningful public input in such development of such infrastructure;
- `(6) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information;
- `(7) improves public health activities and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;
- `(8) facilitates health and clinical research and health care quality;
- `(9) promotes prevention of chronic diseases;
- `(10) promotes a more effective marketplace, greater competition, greater systems analysis, increased consumer choice, and improved outcomes in health care services; and
- `(11) improves efforts to reduce health disparities.

`(c) Duties of the National Coordinator-

`(1) STANDARDS- The National Coordinator shall review and determine whether to endorse each standard, implementation specification, and certification criterion for the electronic exchange and use of health information that is recommended by the HIT Standards Committee under section 3003 for purposes of adoption under section 3004. The Coordinator shall make such determination, and report to the Secretary such determination, not later than 45 days after the date the recommendation is received by the Coordinator.

`(2) HIT POLICY COORDINATION-

`(A) IN GENERAL- The National Coordinator shall coordinate health information technology policy and programs of the Department with those of other relevant executive branch agencies with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability and in a manner towards a coordinated national goal.

`(B) HIT POLICY AND STANDARDS COMMITTEES- The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.

`(3) STRATEGIC PLAN-

`(A) IN GENERAL- The National Coordinator shall, in consultation with other appropriate Federal agencies (including the National Institute of Standards and Technology), update the Federal Health IT Strategic Plan (developed as of June 3, 2008) to include specific objectives, milestones, and metrics with respect to the following:

- `(i) The electronic exchange and use of health information and the enterprise integration of such information.
- `(ii) The utilization of an electronic health record for each person in the United States by 2014.
- `(iii) The incorporation of privacy and security protections for the electronic exchange of an individual's individually identifiable health information.

- (iv) Ensuring security methods to ensure appropriate authorization and electronic authentication of health information and specifying technologies or methodologies for rendering health information unusable, unreadable, or indecipherable.
 - (v) Specifying a framework for coordination and flow of recommendations and policies under this title among the Secretary, the National Coordinator, the HIT Policy Committee, the HIT Standards Committee, and other health information exchanges and other relevant entities.
 - (vi) Methods to foster the public understanding of health information technology.
 - (vii) Strategies to enhance the use of health information technology in improving the quality of health care, reducing medical errors, reducing health disparities, improving public health, and improving the continuity of care among health care settings.
 - (B) COLLABORATION- The strategic plan shall be updated through collaboration of public and private entities.
 - (C) MEASURABLE OUTCOME GOALS- The strategic plan update shall include measurable outcome goals.
 - (D) PUBLICATION- The National Coordinator shall republish the strategic plan, including all updates.
 - (4) WEBSITE- The National Coordinator shall maintain and frequently update an Internet website on which there is posted information on the work, schedules, reports, recommendations, and other information to ensure transparency in promotion of a nationwide health information technology infrastructure.
 - (5) CERTIFICATION-
 - (A) IN GENERAL- The National Coordinator, in consultation with the Director of the National Institute of Standards and Technology, shall develop a program (either directly or by contract) for the voluntary certification of health information technology as being in compliance with applicable certification criteria adopted under this title.
 - (B) CERTIFICATION CRITERIA DESCRIBED- In this title, the term 'certification criteria' means, with respect to standards and implementation specifications for health information technology, criteria to establish that the technology meets such standards and implementation specifications.
 - (6) REPORTS AND PUBLICATIONS-
 - (A) REPORT ON ADDITIONAL FUNDING OR AUTHORITY NEEDED- Not later than 12 months after the date of the enactment of this title, the National Coordinator shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on any additional funding or authority the Coordinator or the HIT Policy Committee or HIT Standards Committee requires to evaluate and develop standards, implementation specifications, and certification criteria, or to achieve full participation of stakeholders in the adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.
 - (B) IMPLEMENTATION REPORT- The National Coordinator shall prepare a report that identifies lessons learned from major public and private health care systems in their implementation of health information technology, including information on whether the technologies and practices developed by such systems may be applicable to and usable in whole or in part by other health care providers.
 - (C) ASSESSMENT OF IMPACT OF HIT ON COMMUNITIES WITH HEALTH DISPARITIES AND UNINSURED, UNDERINSURED, AND MEDICALLY UNDERSERVED AREAS- The National Coordinator shall assess and publish the impact of health information technology in communities with health disparities and in areas with a high proportion of individuals who are uninsured, underinsured, and medically underserved individuals (including urban and rural areas) and identify practices to increase the adoption of such technology by health care providers in such communities.
 - (D) EVALUATION OF BENEFITS AND COSTS OF THE ELECTRONIC USE AND EXCHANGE OF HEALTH INFORMATION- The National Coordinator shall evaluate and publish evidence on the benefits and costs of the electronic use and exchange of health information and assess to whom these benefits and costs accrue.
 - (E) RESOURCE REQUIREMENTS- The National Coordinator shall estimate and publish resources required annually to reach the goal of utilization of an electronic health record for each person in the United States by 2014, including the required level of Federal funding, expectations for regional, State, and private investment, and the expected contributions by volunteers to activities for the utilization of such records.
 - (7) ASSISTANCE- The National Coordinator may provide financial assistance to consumer advocacy groups and not-for-profit entities that work in the public interest for purposes of defraying the cost to such groups and entities to participate under, whether in whole or in part, the National Technology Transfer Act of 1995 (15 U.S.C. 272 note).
 - (8) GOVERNANCE FOR NATIONWIDE HEALTH INFORMATION NETWORK- The National Coordinator shall establish a governance mechanism for the nationwide health information network.
- (d) Detail of Federal Employees-

`(1) IN GENERAL- Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

`(2) EFFECT OF DETAIL- Any detail of personnel under paragraph (1) shall--

 `(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

 `(B) be in addition to any other staff of the Department employed by the National Coordinator.

`(3) ACCEPTANCE OF DETAILEES- Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

`(e) Chief Privacy Officer of the Office of the National Coordinator- Not later than 12 months after the date of the enactment of this title, the Secretary shall appoint a Chief Privacy Officer of the Office of the National Coordinator, whose duty it shall be to advise the National Coordinator on privacy, security, and data stewardship of electronic health information and to coordinate with other Federal agencies (and similar privacy officers in such agencies), with State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

`SEC. 3002. HIT POLICY COMMITTEE.

`(a) Establishment- There is established a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementation of the strategic plan described in section 3001(c)(3).

`(b) Duties-

 `(1) RECOMMENDATIONS ON HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE- The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Committee shall update such recommendations and make new recommendations as appropriate.

 `(2) SPECIFIC AREAS OF STANDARD DEVELOPMENT-

 `(A) IN GENERAL- The HIT Policy Committee shall recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information for purposes of adoption under section 3004 and shall recommend an order of priority for the development, harmonization, and recognition of such standards, specifications, and certification criteria among the areas so recommended. Such standards and implementation specifications shall include named standards, architectures, and software schemes for the authentication and security of individually identifiable health information and other information as needed to ensure the reproducible development of common solutions across disparate entities.

 `(B) AREAS REQUIRED FOR CONSIDERATION- For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas:

 `(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law, and for the use and disclosure of limited data sets of such information.

 `(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.

 `(iii) The utilization of a certified electronic health record for each person in the United States by 2014.

 `(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

 `(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, and by advancing research and education.

`(C) OTHER AREAS FOR CONSIDERATION- In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

`(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of--

`(I) the collection of quality data and public reporting;

`(II) biosurveillance and public health;

`(III) medical and clinical research; and

`(IV) drug safety.

`(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

`(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

`(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

`(v) Technologies that help reduce medical errors.

`(vi) Technologies that facilitate the continuity of care among health settings.

`(vii) Technologies that meet the needs of diverse populations.

`(viii) Any other technology that the HIT Policy Committee finds to be among the technologies with the greatest potential to improve the quality and efficiency of health care.

`(3) FORUM- The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

`(c) Membership and Operations-

`(1) IN GENERAL- The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

`(2) MEMBERSHIP- The membership of the HIT Policy Committee shall at least reflect providers, ancillary health care workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

`(3) CONSIDERATION- The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

`(d) Application of FACA- The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

`(e) Publication- The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

`SEC. 3003. HIT STANDARDS COMMITTEE.

`(a) Establishment- There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

`(b) Duties-

`(1) STANDARD 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(b)(2). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

`(B) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS- In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications.

`(C) CONSISTENCY- The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

`(2) FORUM- The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

`(3) SCHEDULE- Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under section 3002. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

`(4) PUBLIC INPUT- The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

`(c) Membership and Operations-

`(1) IN GENERAL- The National Coordinator shall provide leadership in the establishment and operations of the HIT Standards Committee.

`(2) MEMBERSHIP- The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

`(3) CONSIDERATION- The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

`(4) ASSISTANCE- For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

`(d) Application of FACA- The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

`(e) Publication- The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

`SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS; ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.

`(a) Process for Adoption of Endorsed Recommendations-

`(1) REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

`(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- If the Secretary determines--

`(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

`(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

`(3) PUBLICATION- The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

`(b) Adoption of Initial Set of Standards, Implementation Specifications, and Certification Criteria-

`(1) IN GENERAL- Not later than December 31, 2009, the Secretary shall, through the rulemaking process described in section 3003, adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

`(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- The standards, implementation specifications, and certification criteria adopted

before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

SEC. 3005. TRANSITIONS.

(a) ONCHIT- To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order 13335 or the Office of such National Coordinator on the date before the date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

(b) AHIC-

(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

(2) In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

(c) Rules of Construction-

(1) ONCHIT- Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order 13335 is consistent with the provisions of section 3001.

(2) AHIC- Nothing in sections 3002 or 3003 or subsection (b) shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 in a manner that would permit the Secretary to choose to recognize such Community as the HIT Policy Committee or the HIT Standards Committee.

Subtitle B--Incentives for the Use of Health Information Technology

PART I--MEDICARE PROGRAM

SEC. 4201. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) Incentive Payments- Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

(o) Incentives for Adoption and Meaningful Use of Certified EHR Technology-

(1) INCENTIVE PAYMENTS-

(A) IN GENERAL-

(i) IN GENERAL- Subject to clause (ii) and the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)), from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

(ii) NO INCENTIVE PAYMENTS WITH RESPECT TO YEARS AFTER 2015- No incentive payments may be made under this subsection with respect to a year after 2015.

(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS-

(i) IN GENERAL- In no case shall the amount of the incentive payment provided under this paragraph for an eligible professional for a payment year exceed the applicable amount specified under this subparagraph with respect to such eligible professional and such year.

`(ii) AMOUNT- Subject to clauses (iii) through (v), the applicable amount specified in this subparagraph for an eligible professional is as follows:

`(I) For the first payment year for such professional, \$15,000 (or, if the first payment year for such eligible professional is 2011 or 2012, \$18,000).

`(II) For the second payment year for such professional, \$12,000.

`(III) For the third payment year for such professional, \$8,000.

`(IV) For the fourth payment year for such professional, \$4,000.

`(V) For the fifth payment year for such professional, \$2,000.

`(VI) For any succeeding payment year for such professional, \$0.

`(iii) PHASE DOWN FOR ELIGIBLE PROFESSIONALS FIRST ADOPTING EHR IN 2014- If the first payment year for an eligible professional is 2014, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013.

`(iv) INCREASE FOR CERTAIN RURAL ELIGIBLE PROFESSIONALS- In the case of an eligible professional who predominantly furnishes services under this part in a rural area that is designated by the Secretary (under section 332(a)(1)(A) of the Public Health Service Act) as a health professional shortage area, the amount that would otherwise apply for a payment year for such professional under subclauses (I) through (V) of clause (ii) shall be increased by 25 percent. In implementing the preceding sentence, the Secretary may, as determined appropriate, apply provisions of subsections (m) and (u) of section 1833 in a similar manner as such provisions apply under such subsection.

`(v) NO INCENTIVE PAYMENT IF FIRST ADOPTING AFTER 2014- If the first payment year for an eligible professional is after 2014 then the applicable amount specified in this subparagraph for such professional for such year and any subsequent year shall be \$0.

`(C) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS-

`(i) IN GENERAL- No incentive payment may be made under this paragraph in the case of a hospital-based eligible professional.

`(ii) HOSPITAL-BASED ELIGIBLE PROFESSIONAL- For purposes of clause (i), the term 'hospital-based eligible professional' means, with respect to covered professional services furnished by an eligible professional during the reporting period for a payment year, an eligible professional, such as a pathologist, anesthesiologist, or emergency physician, who furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital.

`(D) PAYMENT-

`(i) FORM OF PAYMENT- The payment under this paragraph may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

`(ii) COORDINATION OF APPLICATION OF LIMITATION FOR PROFESSIONALS IN DIFFERENT PRACTICES- In the case of an eligible professional furnishing covered professional services in more than one practice (as specified by the Secretary), the Secretary shall establish rules to coordinate the incentive payments, including the application of the limitation on amounts of such incentive payments under this paragraph, among such practices.

`(iii) COORDINATION WITH MEDICAID- The Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XIX. In doing so, the Secretary may deem satisfaction of State requirements for such meaningful use for a payment year under title XIX to be sufficient to qualify as meaningful use under this subsection and subsection (a)(7) and vice versa. The Secretary may also adjust the reporting periods under such title and such subsections in order to carry out this clause.

`(E) PAYMENT YEAR DEFINED-

`(i) IN GENERAL- For purposes of this subsection, the term 'payment year' means a year beginning with 2011.

`(ii) FIRST, SECOND, ETC. PAYMENT YEAR- The term 'first payment year' means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms 'second payment year', 'third payment year', 'fourth payment year', and 'fifth payment year' mean, with respect to covered professional services furnished by such eligible professional, each successive year immediately following the first payment year for such professional.

`(2) MEANINGFUL EHR USER-

`(A) IN GENERAL- For purposes of paragraph (1), an eligible professional shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (a)(7), for a reporting period under such subsection for a year) if each of the following requirements is met:

`(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY- The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary.

`(ii) INFORMATION EXCHANGE- The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

`(iii) REPORTING ON MEASURES USING EHR- Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible professional submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary may provide for the use of alternative means for meeting the requirements of clauses (i), (ii), and (iii) in the case of an eligible professional furnishing covered professional services in a group practice (as defined by the Secretary). The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

`(B) REPORTING ON MEASURES-

`(i) SELECTION- The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

`(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

`(II) Prior to any measure being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

`(ii) LIMITATION- The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

`(iii) COORDINATION OF REPORTING OF INFORMATION- In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting otherwise required, including reporting under subsection (k)(2)(C).

`(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE-

`(i) IN GENERAL- A professional may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include--

`(I) an attestation;

`(II) the submission of claims with appropriate coding (such as a code indicating that a patient encounter was documented using certified EHR technology);

`(III) a survey response;

`(IV) reporting under subparagraph (A)(iii); and

`(V) other means specified by the Secretary.

`(ii) USE OF PART D DATA- Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of subparagraph (A).

`(3) APPLICATION-

`(A) PHYSICIAN REPORTING SYSTEM RULES- Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

`(B) COORDINATION WITH OTHER PAYMENTS- The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

`(C) LIMITATIONS ON REVIEW- There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (a)(7), including the determination of a meaningful EHR user under paragraph (2), a limitation under paragraph (1)(B), and the exception under subsection (a)(7)(B).

`(D) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of the eligible professionals who are meaningful EHR users and, as determined appropriate by the Secretary, of group practices receiving incentive payments under paragraph (1).

`(4) CERTIFIED EHR TECHNOLOGY DEFINED- For purposes of this section, the term 'certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

`(5) DEFINITIONS- For purposes of this subsection:

`(A) COVERED PROFESSIONAL SERVICES- The term 'covered professional services' has the meaning given such term in subsection (k)(3).

`(B) ELIGIBLE PROFESSIONAL- The term 'eligible professional' means a physician, as defined in section 1861(r).

`(C) REPORTING PERIOD- The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.'

(b) Incentive Payment Adjustment- Section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

`(7) INCENTIVES FOR MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY-

`(A) ADJUSTMENT-

`(i) IN GENERAL- Subject to subparagraphs (B) and (D), with respect to covered professional services furnished by an eligible professional during 2015 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for a reporting period for the year, the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

`(ii) APPLICABLE PERCENT- Subject to clause (iii), for purposes of clause (i), the term 'applicable percent' means--

`(I) for 2015, 99 percent (or, in the case of an eligible professional who was subject to the application of the payment adjustment under section 1848(a)(5) for 2014, 98 percent);

`(II) for 2016, 98 percent; and

`(III) for 2017 and each subsequent year, 97 percent.

`(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2018 AND SUBSEQUENT YEARS- For 2018 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

`(B) SIGNIFICANT HARDSHIP EXCEPTION- The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

`(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES- Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

`(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS- No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

`(E) DEFINITIONS- For purposes of this paragraph:

`(i) COVERED PROFESSIONAL SERVICES- The term `covered professional services' has the meaning given such term in subsection (k)(3).

`(ii) ELIGIBLE PROFESSIONAL- The term `eligible professional' means a physician, as defined in section 1861(r).

`(iii) REPORTING PERIOD- The term `reporting period' means, with respect to a year, a period specified by the Secretary.'

(c) Application to Certain MA-Affiliated Eligible Professionals- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended by adding at the end the following new subsection:

`(l) Application of Eligible Professional Incentives for Certain MA Organizations for Adoption and Meaningful Use of Certified EHR Technology-

`(1) IN GENERAL- Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

`(2) ELIGIBLE PROFESSIONAL DESCRIBED- With respect to a qualifying MA organization, an eligible professional described in this paragraph is an eligible professional (as defined for purposes of section 1848(o)) who-

`(A)(i) is employed by the organization; or

`(ii)(I) is employed by, or is a partner of, an entity that through contract with the organization furnishes at least 80 percent of the entity's patient care services to enrollees of such organization; and

`(II) furnishes at least 75 percent of the professional services of the eligible professional to enrollees of the organization; and

`(B) furnishes, on average, at least 20 hours per week of patient care services.

`(3) ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS-

`(A) IN GENERAL- In applying section 1848(o) under paragraph (1), instead of the additional payment amount under section 1848(o)(1)(A) and subject to subparagraph (B), the Secretary may substitute an amount determined by the Secretary to the extent feasible and practical to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such professionals was payable under part B instead of this part.

`(B) AVOIDING DUPLICATION OF PAYMENTS-

`(i) IN GENERAL- If an eligible professional described in paragraph (2) is eligible for the maximum incentive payment under section 1848(o)(1)(A) for the same payment period, the payment incentive shall be made only under such section and not under this subsection.

`(ii) METHODS- In the case of an eligible professional described in paragraph (2) who is eligible for an incentive payment under section 1848(o)(1)(A) but is not described in clause (i) for the same payment period, the Secretary shall develop a process--

`(I) to ensure that duplicate payments are not made with respect to an eligible professional both under this subsection and under section 1848(o)(1)(A); and

`(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

`(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS- In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

`(D) CAP FOR ECONOMIES OF SCALE- In no case may an incentive payment be made under this subsection, including under subparagraph (A), to a qualifying MA organization with respect to more than 5,000 eligible professionals of the organization.

`(4) PAYMENT ADJUSTMENT-

`(A) IN GENERAL- In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph (D), the payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

`(B) SPECIFIED PERCENT- The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of--

`(i) a percentage equal to 100 percent reduced by the applicable percent (under section 1848(a)(7)(A)(ii)) for the year; and

(ii) a percentage equal to the Secretary's estimate of the proportion for the year, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

(C) APPLICATION OF PAYMENT ADJUSTMENT- In the case that a qualifying MA organization attests that not all eligible professionals of the organization are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of all eligible professionals of the organization that are not meaningful EHR users for such year. If the number of eligible professionals of the organization that are not meaningful EHR users for such year exceeds 5,000, such number shall be reduced to 5,000 for purposes of determining the proportion under the preceding sentence.

(5) QUALIFYING MA ORGANIZATION DEFINED- In this subsection and subsection (m), the term 'qualifying MA organization' means a Medicare Advantage organization that is organized as a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act).

(6) MEANINGFUL EHR USER ATTESTATION- For purposes of this subsection and subsection (m), a qualifying MA organization shall submit an attestation, in a form and manner specified by the Secretary which may include the submission of such attestation as part of submission of the initial bid under section 1854(a)(1)(A)(iv), identifying--

(A) whether each eligible professional described in paragraph (2), with respect to such organization is a meaningful EHR user (as defined in section 1848(o)(2)) for a year specified by the Secretary; and

(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.

(7) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of--

(A) each qualifying MA organization receiving an incentive payment under this subsection for eligible professionals of the organization; and

(B) the eligible professionals of such organization for which such incentive payment is based.'

(d) Conforming Amendments- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended--

(1) in subsection (a)(1)(A), by striking 'and (i)' and inserting '(i), and (I)';

(2) in subsection (c)--

(A) in paragraph (1)(D)(i), by striking 'section 1886(h)' and inserting 'sections 1848(o) and 1886(h)'; and

(B) in paragraph (6)(A), by inserting after 'under part B,' the following: 'excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,'; and

(3) in subsection (f), by inserting 'and for payments under subsection (l)' after 'with the organization'.

(e) Conforming Amendments to e-Prescribing-

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w-4(a)(5)(A)) is amended--

(A) in clause (i), by striking 'or any subsequent year' and inserting ', 2013, or 2014'; and

(B) in clause (ii), by striking 'and each subsequent year'.

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w-4(m)(2)) is amended--

(A) in subparagraph (A), by striking 'For 2009' and inserting 'Subject to subparagraph (D), for 2009'; and

(B) by adding at the end the following new subparagraph:

(D) LIMITATION WITH RESPECT TO EHR INCENTIVE PAYMENTS- The provisions of this paragraph shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period the eligible professional (or group practice) receives an incentive payment under subsection (o)(1)(A) with respect to a certified EHR technology (as defined in subsection (o)(4)) that has the capability of electronic prescribing.'

(f) Providing Assistance to Eligible Professionals and Certain Hospitals-

(1) IN GENERAL- The Secretary of Health and Human Services shall provide assistance to eligible professionals (as defined in section 1848(o)(5), as added by subsection (a)), Medicaid providers (as defined in section 1903(t)(2) of such Act, as added by section 4211(a)), and eligible hospitals (as defined in section 1886(n)(6)(A) of such Act, as added by section 4202(a)) located in rural or other medically underserved areas to successfully choose, implement, and use certified EHR technology (as defined in section 1848(o)(4) of the Social Security Act, as added by section 4201(a)).

(2) USE OF ENTITIES WITH EXPERTISE- To the extent practicable, the Secretary shall provide such assistance through entities that have expertise in the choice, implementation, and use of such certified EHR technology.

SEC. 4202. INCENTIVES FOR HOSPITALS.

(a) Incentive Payment- Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

`(n) Incentives for Adoption and Meaningful Use of Certified EHR Technology-

`(1) IN GENERAL- Subject to the succeeding provisions of this subsection, with respect to inpatient hospital services furnished by an eligible hospital during a payment year (as defined in paragraph (2)(G)), if the eligible hospital is a meaningful EHR user (as determined under paragraph (3)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this section, there also shall be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable amount specified in paragraph (2)(A) for the hospital for such payment year.

`(2) PAYMENT AMOUNT-

`(A) IN GENERAL- Subject to the succeeding subparagraphs of this paragraph, the applicable amount specified in this subparagraph for an eligible hospital for a payment year is equal to the product of the following:

`(i) INITIAL AMOUNT- The sum of--

`(I) the base amount specified in subparagraph (B); plus

`(II) the discharge related amount specified in subparagraph (C) for a 12-month period selected by the Secretary with respect to such payment year.

`(ii) MEDICARE SHARE- The Medicare share as specified in subparagraph (D) for the hospital for a period selected by the Secretary with respect to such payment year.

`(iii) TRANSITION FACTOR- The transition factor specified in subparagraph (E) for the hospital for the payment year.

`(B) BASE AMOUNT- The base amount specified in this subparagraph is \$2,000,000.

`(C) DISCHARGE RELATED AMOUNT- The discharge related amount specified in this subparagraph for a 12-month period selected by the Secretary shall be determined as the sum of the amount, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

`(i) For the 1,150th through the 9,200th discharge, \$200.

`(ii) For the 9,201st through the 13,800th discharge, 50 percent of the amount specified in clause (i).

`(iii) For the 13,801st through the 23,000th discharge, 30 percent of the amount specified in clause (i).

`(D) MEDICARE SHARE- The Medicare share specified under this subparagraph for a hospital for a period selected by the Secretary for a payment year is equal to the fraction--

`(i) the numerator of which is the sum (for such period and with respect to the hospital) of--

`(I) the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and

`(II) the number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and

`(ii) the denominator of which is the product of--

`(I) the total number of inpatient-bed-days with respect to the hospital during such period; and

`(II) the total amount of the hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the total amount of the hospital's charges during such period.

Insofar as the Secretary determines that data are not available on charity care necessary to calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

`(E) TRANSITION FACTOR SPECIFIED-

`(i) IN GENERAL- Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

`(I) For the first payment year for such hospital, 1.

`(II) For the second payment year for such hospital, 3/4 .

`(III) For the third payment year for such hospital, 1/2 .

`(IV) For the fourth payment year for such hospital, 1/4 .

`(V) For any succeeding payment year for such hospital, 0.

`(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013- If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

`(F) FORM OF PAYMENT- The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

`(G) PAYMENT YEAR DEFINED-

`(i) IN GENERAL- For purposes of this subsection, the term `payment year' means a fiscal year beginning with fiscal year 2011.

`(ii) FIRST, SECOND, ETC. PAYMENT YEAR- The term `first payment year' means, with respect to inpatient hospital services furnished by an eligible hospital, the first fiscal year for which an incentive payment is made for such services under this subsection. The terms `second payment year', `third payment year', and `fourth payment year' mean, with respect to an eligible hospital, each successive year immediately following the first payment year for that hospital.

`(3) MEANINGFUL EHR USER-

`(A) IN GENERAL- For purposes of paragraph (1), an eligible hospital shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for a reporting period under such subsection for a fiscal year) if each of the following requirements are met:

`(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY- The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the hospital is using certified EHR technology in a meaningful manner.

`(ii) INFORMATION EXCHANGE- The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

`(iii) REPORTING ON MEASURES USING EHR- Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

`(B) REPORTING ON MEASURES-

`(i) SELECTION- The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

`(I) The Secretary shall provide preference to clinical quality measures that have been selected for purposes of applying subsection (b)(3)(B)(viii) or that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

`(II) Prior to any measure (other than a clinical quality measure that has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

`(ii) LIMITATIONS- The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

`(iii) COORDINATION OF REPORTING OF INFORMATION- In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

`(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE-

`(i) IN GENERAL- A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include--

`(I) an attestation;

- `(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);
- `(III) a survey response;
- `(IV) reporting under subparagraph (A)(iii); and
- `(V) other means specified by the Secretary.

`(ii) USE OF PART D DATA- Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of subparagraph (A).

`(4) APPLICATION-

`(A) LIMITATIONS ON REVIEW- There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (b)(3)(B)(ix), including the determination of a meaningful EHR user under paragraph (3), determination of measures applicable to services furnished by eligible hospitals under this subsection, and the exception under subsection (b)(3)(B)(ix)(II).

`(B) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the eligible hospitals that are meaningful EHR users under this subsection or subsection (b)(3)(B)(ix) and other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that a hospital has the opportunity to review the other relevant data that are to be made public with respect to the hospital prior to such data being made public.

`(5) CERTIFIED EHR TECHNOLOGY DEFINED- The term 'certified EHR technology' has the meaning given such term in section 1848(o)(4).

`(6) DEFINITIONS- For purposes of this subsection:

`(A) ELIGIBLE HOSPITAL- The term 'eligible hospital' means--

- `(i) a subsection (d) hospital; and
- `(ii) a critical access hospital (as defined in section 1861(mm)(1)).

`(B) REPORTING PERIOD- The term 'reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.'

(b) Incentive Market Basket Adjustment-

(1) IN GENERAL- Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended--

(A) in clause (viii)(I), by inserting '(or, beginning with fiscal year 2016, by one-quarter)' after '2.0 percentage points'; and

(B) by adding at the end the following new clause:

`(ix)(I) For purposes of clause (i) for fiscal year 2015 and each subsequent fiscal year, in the case of an eligible hospital (as defined in subsection (n)(6)(A)) that is not a meaningful EHR user (as defined in subsection (n)(3)) for the reporting period for such fiscal year, three-quarters of the applicable percentage increase otherwise applicable under clause (i) for such fiscal year shall be reduced by 33 1/3 percent for fiscal year 2015, 66 2/3 percent for fiscal year 2016, and 100 percent for fiscal year 2017 and each subsequent fiscal year. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year.

`(II) The Secretary may, on a case-by-case basis, exempt a subsection (d) hospital from the application of subclause (I) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subclause for more than 5 years.

`(III) For fiscal year 2015 and each subsequent fiscal year, a State in which hospitals are paid for services under section 1814(b)(3) shall adjust the payments to each subsection (d) hospital in the State that is not a meaningful EHR user (as defined in subsection (n)(3)) in a manner that is designed to result in an aggregate reduction in payments to hospitals in the State that is equivalent to the aggregate reduction that would have occurred if payments had been reduced to each subsection (d) hospital in the State in a manner comparable to the reduction under the previous provisions of this clause. The State shall report to the Secretary the methodology it will use to make the payment adjustment under the previous sentence.

`(IV) For purposes of this clause, the term 'reporting period' means, with respect to a fiscal year, any period (or periods), with respect to the fiscal year, as specified by the Secretary.'

(2) CRITICAL ACCESS HOSPITALS- Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(l)) is amended-

- (A) in subparagraph (1), by striking 'paragraph (2)' and inserting 'paragraphs (2) and (3)'; and
- (B) by adding at the end the following new paragraph:

`(3)(A) Subject to subparagraph (B), for fiscal year 2015 and each subsequent fiscal year, in the case of a critical access hospital that is not a meaningful EHR user (as defined in section 1886(n)(3)) for the reporting period for such fiscal year, paragraph (1) shall be applied by substituting the applicable percent under subparagraph (C) for the percent described in such paragraph (1).

`(B) The Secretary may, on a case-by-case basis, exempt a critical access hospital from the application of subparagraph (A) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subparagraph for more than 5 years.

`(C) The percent described in this subparagraph is--

`(i) for fiscal year 2015, 100.66 percent;

`(ii) for fiscal year 2016, 100.33 percent; and

`(iii) for fiscal year 2017 and each subsequent fiscal year, 100 percent.'

(c) Application to Certain MA-Affiliated Eligible Hospitals- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23), as amended by section 4201(c), is further amended by adding at the end the following new subsection:

`(m) Application of Eligible Hospital Incentives for Certain MA Organizations for Adoption and Meaningful Use of Certified EHR Technology-

`(1) APPLICATION- Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1814(l)(3), 1886(n), and 1886(b)(3)(B)(ix) shall apply with respect to eligible hospitals described in paragraph (2) of the organization which the organization attests under subsection (l)(6) to be meaningful EHR users in a similar manner as they apply to eligible hospitals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

`(2) ELIGIBLE HOSPITAL DESCRIBED- With respect to a qualifying MA organization, an eligible hospital described in this paragraph is an eligible hospital (as defined in section 1886(n)(6)(A)) that is under common corporate governance with such organization and serves individuals enrolled under an MA plan offered by such organization.

`(3) ELIGIBLE HOSPITAL INCENTIVE PAYMENTS-

`(A) IN GENERAL- In applying section 1886(n)(2) under paragraph (1), instead of the additional payment amount under section 1886(n)(2), there shall be substituted an amount determined by the Secretary to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such hospitals was payable under part A instead of this part. In implementing the previous sentence, the Secretary--

`(i) shall, insofar as data to determine the discharge related amount under section 1886(n)(2)(C) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such discharge related amount as the Secretary determines appropriate; and

`(ii) shall, insofar as data to determine the medicare share described in section 1886(n)(2)(D) for an eligible hospital are not available to the Secretary, use such alternative data and methodology to estimate such share, which data and methodology may include use of the inpatient bed days (or discharges) with respect to an eligible hospital during the appropriate period which are attributable to both individuals for whom payment may be made under part A or individuals enrolled in an MA plan under a Medicare Advantage organization under this part as a proportion of the total number of patient-bed-days (or discharges) with respect to such hospital during such period.

`(B) AVOIDING DUPLICATION OF PAYMENTS-

`(i) IN GENERAL- In the case of a hospital that for a payment year is an eligible hospital described in paragraph (2) and for which at least one-third of their discharges (or bed-days) of Medicare patients for the year are covered under part A, payment for the payment year shall be made only under section 1886(n) and not under this subsection.

`(ii) METHODS- In the case of a hospital that is an eligible hospital described in paragraph (2) and also is eligible for an incentive payment under section 1886(n) but is not described in clause (i) for the same payment period, the Secretary shall develop a process--

`(I) to ensure that duplicate payments are not made with respect to an eligible hospital both under this subsection and under section 1886(n); and

`(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

`(4) PAYMENT ADJUSTMENT-

`(A) Subject to paragraph (3), in the case of a qualifying MA organization (as defined in section 1853(l)(5)), if, according to the attestation of the organization submitted under subsection (l)(6) for an

applicable period, one or more eligible hospitals (as defined in section 1886(n)(6)(A)) that are under common corporate governance with such organization and that serve individuals enrolled under a plan offered by such organization are not meaningful EHR users (as defined in section 1886(n)(3)) with respect to a period, the payment amount payable under this section for such organization for such period shall be the percent specified in subparagraph (B) for such period of the payment amount otherwise provided under this section for such period.

`(B) SPECIFIED PERCENT- The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of--

`(i) the number of the percentage point reduction effected under section 1886(b)(3)(B)(ix)(I) for the period; and

`(ii) the Medicare hospital expenditure proportion specified in subparagraph (C) for the year.

`(C) MEDICARE HOSPITAL EXPENDITURE PROPORTION- The Medicare hospital expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for inpatient hospital services.

`(D) APPLICATION OF PAYMENT ADJUSTMENT- In the case that a qualifying MA organization attests that not all eligible hospitals are meaningful EHR users with respect to an applicable period, the Secretary shall apply the payment adjustment under this paragraph based on a methodology specified by the Secretary, taking into account the proportion of such eligible hospitals, or discharges from such hospitals, that are not meaningful EHR users for such period.

`(5) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, --

`(A) a list of the names, business addresses, and business phone numbers of each qualifying MA organization receiving an incentive payment under this subsection for eligible hospitals described in paragraph (2); and

`(B) a list of the names of the eligible hospitals for which such incentive payment is based.'.

(d) Conforming Amendments-

(1) Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended--

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting `, subject to section 1886(d)(3)(B)(ix)(III),' after `then'; and

(B) by adding at the end the following: `For purposes of applying paragraph (3), there shall be taken into account incentive payments, and payment adjustments under subsection (b)(3)(B)(ix) or (n) of section 1886.'.

(2) Section 1851(i)(1) of the Social Security Act (42 U.S.C. 1395w-21(i)(1)) is amended by striking `and 1886(h)(3)(D)' and inserting `1886(h)(3)(D), and 1853(m)'.

(3) Section 1853 of the Social Security Act (42 U.S.C. 1395w-23), as amended by section 4311(d)(1), is amended--

(A) in subsection (c)--

(i) in paragraph (1)(D)(i), by striking `1848(o)' and inserting `, 1848(o), and 1886(n)'; and

(ii) in paragraph (6)(A), by inserting `and subsections (b)(3)(B)(ix) and (n) of section 1886' after `section 1848'; and

(B) in subsection (f), by inserting `and subsection (m)' after `under subsection (l)'.

SEC. 4203. PREMIUM HOLD HARMLESS AND IMPLEMENTATION FUNDING.

(a) Premium Hold Harmless-

(1) IN GENERAL- Section 1839(a)(1) of the Social Security Act (42 U.S.C. 1395r(a)(1)) is amended by adding at the end the following: `In applying this paragraph there shall not be taken into account additional payments under section 1848(o) and section 1853(l)(3) and the Government contribution under section 1844(a)(3).'.

(2) PAYMENT- Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended--

(A) in paragraph (2), by striking the period at the end and inserting `; plus'; and

(B) by adding at the end the following new paragraph:

`(3) a Government contribution equal to the amount of payment incentives payable under sections 1848(o) and 1853(l)(3).'.

(b) Implementation Funding- In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, \$100,000,000 for each of fiscal years 2009 through 2015 and \$45,000,000 for each succeeding fiscal year through fiscal year 2018, which shall be available for purposes of carrying out the provisions of (and

amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

SEC. 4204. NON-APPLICATION OF PHASED-OUT INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT FACTOR FOR FISCAL YEAR 2009.

(a) In General- Section 412.322 of title 42, Code of Federal Regulations, shall be applied without regard to paragraph (c) of such section, and the Secretary of Health and Human Services shall recompute payments for discharges occurring on or after October 1, 2008, as if such paragraph had never been in effect.

(b) No Effect on Subsequent Years- Nothing in subsection (a) shall be construed as having any effect on the application of paragraph (d) of section 412.322 of title 42, Code of Federal Regulations.

SEC. 4205. STUDY ON APPLICATION OF EHR PAYMENT INCENTIVES FOR PROVIDERS NOT RECEIVING OTHER INCENTIVE PAYMENTS.

(a) Study-

(1) IN GENERAL- The Secretary of Health and Human Services shall conduct a study to determine the extent to which and manner in which payment incentives (such as under title XVIII or XIX of the Social Security Act) and other funding for purposes of implementing and using certified EHR technology (as defined in section 1848(o)(4) of the Social Security Act, as added by section 4311(a)) should be made available to health care providers who are receiving minimal or no payment incentives or other funding under this Act, under title XVIII or XIX of such Act, or otherwise, for such purposes.

(2) DETAILS OF STUDY- Such study shall include an examination of--

(A) the adoption rates of certified EHR technology (as so defined) by such health care providers;

(B) the clinical utility of such technology by such health care providers;

(C) whether the services furnished by such health care providers are appropriate for or would benefit from the use of such technology;

(D) the extent to which such health care providers work in settings that might otherwise receive an incentive payment or other funding under this Act, title XVIII or XIX of the Social Security Act, or otherwise;

(E) the potential costs and the potential benefits of making payment incentives and other funding available to such health care providers; and

(F) any other issues the Secretary deems to be appropriate.

(b) Report- Not later than June 30, 2010, the Secretary shall submit to Congress a report on the findings and conclusions of the study conducted under subsection (a).

SEC. 4206. STUDY ON AVAILABILITY OF OPEN SOURCE HEALTH INFORMATION TECHNOLOGY SYSTEMS.

(a) In General-

(1) STUDY- The Secretary of Health and Human Services shall, in consultation with the Under Secretary for Health of the Veterans Health Administration, the Director of the Indian Health Service, the Secretary of Defense, the Director of the Agency for Healthcare Research and Quality, the Administrator of the Health Resources and Services Administration, and the Chairman of the Federal Communications Commission, conduct a study on--

(A) the current availability of open source health information technology systems to Federal safety net providers (including small, rural providers);

(B) the total cost of ownership of such systems in comparison to the cost of proprietary commercial products available;

(C) the ability of such systems to respond to the needs of, and be applied to, various populations (including children and disabled individuals); and

(D) the capacity of such systems to facilitate interoperability.

(2) CONSIDERATIONS- In conducting the study under paragraph (1), the Secretary of Health and Human Services shall take into account the circumstances of smaller health care providers, health care providers located in rural or other medically underserved areas, and safety net providers that deliver a significant level of health care to uninsured individuals, Medicaid beneficiaries, SCHIP beneficiaries, and other vulnerable individuals.

(b) Report- Not later than October 1, 2010, the Secretary of Health and Human Services shall submit to Congress a report on the findings and the conclusions of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

PART II--MEDICAID FUNDING

SEC. 4211. MEDICAID PROVIDER EHR ADOPTION AND OPERATION PAYMENTS; IMPLEMENTATION FUNDING.

(a) In General- Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended--

(1) in subsection (a)(3)--

(A) by striking `and' at the end of subparagraph (D);

(B) by striking `plus' at the end of subparagraph (E) and inserting `and'; and

(C) by adding at the end the following new subparagraph:

`(F)(i) 100 percent of so much of the sums expended during such quarter as are attributable to payments for certified EHR technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) by Medicaid providers described in subsection (t)(1); and

`(ii) 90 percent of so much of the sums expended during such quarter as are attributable to payments for reasonable administrative expenses related to the administration of payments described in clause (i) if the State meets the condition described in subsection (t)(9); plus'; and

(2) by inserting after subsection (s) the following new subsection:

`(t)(1)(A) For purposes of subsection (a)(3)(F), the payments for certified EHR technology (and support services including maintenance that is for, or is necessary for the operation of, such technology) by Medicaid providers described in this paragraph are payments made by the State in accordance with this subsection of the applicable percent of the net allowable costs of Medicaid providers (as defined in paragraph (2)) for such technology (and support services).

`(B) For purposes of subparagraph (A), the term `applicable percent' means--

`(i) in the case of a Medicaid provider described in paragraph (2)(A), 85 percent;

`(ii) in the case of a Medicaid provider described in clause (i) or (ii) of paragraph (2)(B), 100 percent; and

`(iii) in the case of a Medicaid provider described in clause (iii) of paragraph (2)(B), a percent specified by the Secretary, but not less than 85 percent.

`(2) In this subsection and subsection (a)(3)(F), the term `Medicaid provider' means--

`(A) an eligible professional (as defined in paragraph (3)(B)) who is not hospital-based and has at least 30 percent of the professional's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title; and

`(B)(i) a children's hospital,

`(ii) an acute-care hospital that is not described in clause (i) and that has at least 10 percent of the hospital's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title, or

`(iii) Federally-qualified health center or rural health clinic that has at least 30 percent of the center's or clinic's patient volume (as estimated in accordance with standards established by the Secretary) attributable to individuals who are receiving medical assistance under this title.

An eligible professional shall not qualify as a Medicaid provider under this subsection unless the professional has waived, in a manner specified by the Secretary, any right to payment under section 1848(o) with respect to the adoption or support of certified EHR technology by the eligible professional. In applying clauses (ii) and (iii) of subparagraph (B), the standards established by the Secretary for patient volume shall include individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

`(3) In this subsection and subsection (a)(3)(F):

`(A) The term `certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

`(B) The term `eligible professional' means a physician as defined in paragraphs (1) and (2) of section 1861(r), and includes a nurse mid-wife and a nurse practitioner.

`(C) The term `hospital-based' means, with respect to an eligible professional, a professional (such as a pathologist, anesthesiologist, or emergency physician) who furnishes substantially all of the individual's professional services in

a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including qualified electronic health records, of the hospital.

`(4)(A) The term `allowable costs' means, with respect to certified EHR technology of a Medicaid provider, costs of such technology (and support services including maintenance and training that is for, or is necessary for the adoption and operation of, such technology) as determined by the Secretary to be reasonable.

`(B) The term `net allowable costs' means allowable costs reduced by any payment that is made to the Medicaid provider involved from any other source that is directly attributable to payment for certified EHR technology or services described in subparagraph (A).

`(C) In no case shall--

`(i) the aggregate allowable costs under this subsection (covering one or more years) with respect to a Medicaid provider described in paragraph (2)(A) for purchase and initial implementation of certified EHR technology (and services described in subparagraph (A)) exceed \$25,000 or include costs over a period of longer than 5 years;

`(ii) for costs not described in clause (i) relating to the operation, maintenance, or use of certified EHR technology, the annual allowable costs under this subsection with respect to such a Medicaid provider for costs not described in clause (i) for any year exceed \$10,000;

`(iii) payment described in paragraph (1) for costs described in clause (ii) be made with respect to such a Medicaid provider over a period of more than 5 years;

`(iv) the aggregate allowable costs under this subsection with respect to such a Medicaid provider for all costs exceed \$75,000; or

`(v) the allowable costs, whether for purchase and initial implementation, maintenance, or otherwise, for a Medicaid provider described in paragraph (2)(B)(iii) exceed such aggregate or annual limitation as the Secretary shall establish, based on an amount determined by the Secretary as being adequate to adopt and maintain certified EHR technology, consistent with paragraph (6).

`(5) Payments described in paragraph (1) are not in accordance with this subsection unless the following requirements are met:

`(A) The State provides assurances satisfactory to the Secretary that amounts received under subsection (a)(3)(F) with respect to costs of a Medicaid provider are paid directly to such provider without any deduction or rebate.

`(B) Such Medicaid provider is responsible for payment of the costs described in such paragraph that are not provided under this title.

`(C) With respect to payments to such Medicaid provider for costs other than costs related to the initial adoption of certified EHR technology, the Medicaid provider demonstrates meaningful use of certified EHR technology through a means that is approved by the State and acceptable to the Secretary, and that may be based upon the methodologies applied under section 1848(o) or 1886(n). In establishing such means, which may include the reporting of clinical quality measures to the State, the State shall ensure that populations with unique needs, such as children, are appropriately addressed.

`(D) To the extent specified by the Secretary, the certified EHR technology is compatible with State or Federal administrative management systems.

`(6)(A) In no case shall the payments described in paragraph (1), with respect to a hospital, exceed in the aggregate the product of--

`(i) the overall hospital EHR amount for the hospital computed under subparagraph (B); and

`(ii) the Medicaid share for such hospital computed under subparagraph (C).

`(B) For purposes of this paragraph, the overall hospital EHR amount, with respect to a hospital, is the sum of the applicable amounts specified in section 1886(n)(2)(A) for such hospital for the first 4 payment years (as estimated by the Secretary) determined as if the Medicare share specified in clause (ii) of such section were 1. The Secretary shall publish in the Federal Register the overall hospital EHR amount for each hospital eligible for payments under this subsection. In computing amounts under clause (ii) for payment years after the first payment year, the Secretary shall assume that in subsequent payment years discharges increase at the average annual rate of growth of the most recent three years for which discharge data are available.

`(C) The Medicaid share computed under this subparagraph, for a hospital for a period specified by the Secretary, shall be calculated in the same manner as the Medicare share under section 1886(n)(2)(D) for such a hospital and period, except that there shall be substituted for the numerator under clause (i) of such section the amount that is equal to the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals who are receiving medical assistance under this title and who are not described in section 1886(n)(2)(D)(i). In computing inpatient-bed-days under the previous sentence, the Secretary shall take into account inpatient-bed-days attributable to inpatient-bed-days that are paid for individuals enrolled in a Medicaid managed care plan (under section 1903(m) or section 1932).

`(7) With respect to health care providers other than hospitals, the Secretary shall establish and implement a detailed process to ensure coordination of the different programs for payment of such health care providers for adoption or use of health information technology (including certified EHR technology), as well as payments for such health care providers provided

under this title or title XVIII, to assure no duplication of funding. The Secretary shall promulgate regulations to carry out the preceding sentence.

(8) In carrying out paragraph (5)(C), the State and Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XVIII. In doing so, the Secretary may deem satisfaction of requirements for such meaningful use for a payment year under title XVIII to be sufficient to qualify as meaningful use under this subsection. The Secretary may also specify the reporting periods under this subsection in order to carry out this paragraph.

(9) In order to be provided Federal financial participation under subsection (a)(3)(F)(ii), a State must demonstrate to the satisfaction of the Secretary, that the State--

(A) is using the funds provided for the purposes of administering payments under this subsection, including tracking of meaningful use by Medicaid providers;

(B) is conducting adequate oversight of the program under this subsection, including routine tracking of meaningful use attestations and reporting mechanisms; and

(C) is pursuing initiatives to encourage the adoption of certified EHR technology to promote health care quality and the exchange of health care information under this title, subject to applicable laws and regulations governing such exchange.

(10) The Secretary shall periodically submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on status, progress, and oversight of payments under paragraph (1).

(b) Implementation Funding- In addition to funds otherwise available, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services for the Center for Medicare & Medicaid Services Program Management Account, \$40,000,000 for each of fiscal years 2009 through 2015 and \$20,000,000 for each succeeding fiscal year through fiscal year 2018, which shall be available for purposes of carrying out the provisions of (and the amendments made by) this part. Amounts appropriated under this subsection for a fiscal year shall be available until expended.

(c) HHS Report on Implementation of Detailed Process To Assure No Duplication of Funding- Not later than July 1, 2012, the Secretary of Health and Human Services shall submit to Congress a report on the establishment and implementation of the detailed process under section 1903(t)(7) of the Social Security Act, as added by subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

TITLE V--STATE FISCAL RELIEF

SEC. 5000. PURPOSES; TABLE OF CONTENTS.

(a) Purposes- The purposes of this title are as follows:

(1) To provide fiscal relief to States in a period of economic downturn.

(2) To protect and maintain State Medicaid programs during a period of economic downturn, including by helping to avert cuts to provider payment rates and benefits or services, and to prevent constrictions of income eligibility requirements for such programs, but not to promote increases in such requirements.

(b) Table of Contents- The table of contents for this title is as follows:

TITLE V--STATE FISCAL RELIEF

Sec. 5000. Purposes; table of contents.

Sec. 5001. Temporary increase of Medicaid FMAP.

Sec. 5002. Extension and update of special rule for increase of Medicaid DSH allotments for low DSH States.

Sec. 5003. Payment of Medicare liability to States as a result of the Special Disability Workload Project.

Sec. 5004. Funding for the Department of Health and Human Services Office of the Inspector General.

Sec. 5005. GAO study and report regarding State needs during periods of national economic downturn.

SEC. 5001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) Permitting Maintenance of Fmap- Subject to subsections (e), (f), and (g), if the FMAP determined without regard to this section for a State for--

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

(2) fiscal year 2010 is less than the FMAP as so determined for fiscal year 2008 or fiscal year 2009 (after the application of paragraph (1)), the greater of such FMAP for the State for fiscal year 2008 or fiscal year 2009 shall be substituted for the State's FMAP for fiscal year 2010, before the application of this section; and

(3) fiscal year 2011 is less than the FMAP as so determined for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), or fiscal year 2010 (after the application of paragraph (2)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, or fiscal year 2010 shall be substituted for the State's FMAP for fiscal year 2011, before the application of this section, but only for the first calendar quarter in fiscal year 2011.

(b) General 7.6 Percentage Point Increase- Subject to subsections (e), (f), and (g), for each State for calendar quarters during the recession adjustment period (as defined in subsection (h)(2)), the FMAP (after the application of subsection (a)) shall be increased (without regard to any limitation otherwise specified in section 1905(b) of the Social Security Act) by 7.6 percentage points.

(c) Additional Relief Based on Increase in Unemployment-

(1) IN GENERAL- Subject to subsections (e), (f), and (g), if a State is a qualifying State under paragraph (2) for a calendar quarter occurring during the recession adjustment period, the FMAP for the State shall be further increased by the number of percentage points equal to the product of the State percentage applicable for the State under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) after the application of subsections (a) and (b) and the applicable percent determined in paragraph (3) for the calendar quarter (or, if greater, for a previous such calendar quarter, subject to paragraph (4)).

(2) QUALIFYING CRITERIA-

(A) IN GENERAL- For purposes of paragraph (1), a State qualifies for additional relief under this subsection for a calendar quarter occurring during the recession adjustment period if the State is 1 of the 50 States or the District of Columbia and the State satisfies any of the following criteria for the quarter:

(i) An increase of at least 1.5 percentage points, but less than 2.5 percentage points, in the average monthly unemployment rate, seasonally adjusted, for the State or District, as determined by comparing months in the most recent previous 3-consecutive-month period for which data are available for the State or District to the lowest average monthly unemployment rate, seasonally adjusted, for the State or District for any 3-consecutive-month period preceding that period and beginning on or after January 1, 2006 (based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor).

(ii) An increase of at least 2.5 percentage points, but less than 3.5 percentage points, in the average monthly unemployment rate, seasonally adjusted, for the State or District (as so determined).

(iii) An increase of at least 3.5 percentage points for the State or District, in the average monthly unemployment rate, seasonally adjusted, for the State or District (as so determined).

(B) MAINTENANCE OF STATUS- If a State qualifies for additional relief under this subsection for a calendar quarter, it shall be deemed to have qualified for such relief for each subsequent calendar quarter ending before July 1, 2010.

(3) APPLICABLE PERCENT- For purposes of paragraph (1), the applicable percent is--

(A) 2.5 percent, if the State satisfies the criteria described in paragraph (2)(A)(i) for the calendar quarter;

(B) 4.5 percent if the State satisfies the criteria described in paragraph (2)(A)(ii) for the calendar quarter; and

(C) 6.5 percent if the State satisfies the criteria described in paragraph (2)(A)(iii) for the calendar quarter.

(4) MAINTENANCE OF HIGHER PERCENTAGE REDUCTION FOR PERIOD AFTER LOWER PERCENTAGE DEDUCTION WOULD OTHERWISE TAKE EFFECT-

(A) HOLD HARMLESS PERIOD- If the percentage reduction applied to a State under paragraph (3) for any calendar quarter in the recession adjustment period beginning on or after January 1, 2009, and ending before July 1, 2010, (determined without regard to this paragraph) is less than the percentage reduction applied for the preceding quarter (as so determined), the higher percentage reduction shall continue in effect for each subsequent calendar quarter ending before July 1, 2010.

(B) NOTICE OF DECREASE IN PERCENTAGE REDUCTION- The Secretary shall notify a State at least 3 months prior to applying any lower percentage reduction to the State under paragraph (3).

(d) Increase in Cap on Medicaid Payments to Territories- Subject to subsections (f) and (g), with respect to entire fiscal years occurring during the recession adjustment period and with respect to fiscal years only a portion of which occurs during such period (and in proportion to the portion of the fiscal year that occurs during such period), the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by 15.2 percent.

(e) Scope of Application- The increases in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to--

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

- (2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under subsections (a) and (b) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.);
- (3) payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);
- (4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or
- (5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008.

(f) State Ineligibility-

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS-

(A) IN GENERAL- Subject to subparagraphs (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a), (b), or (c), or an increase in a cap amount under subsection (d), if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED- Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES- A State shall not be ineligible under subparagraph (A)--

(i) for the calendar quarters before July 1, 2009, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to July 1, 2009, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as of July 1, 2008, and would have been in effect as of such date, but for a delay in the request for, and approval of, a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS- No State shall be eligible for an increased FMAP rate as provided under this section for any claim submitted by a provider subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) during any period in which that State has failed to pay claims in accordance with section 1902(a)(37)(A) of such Act. Each State shall report to the Secretary, no later than 30 days following the 1st day of the month, its compliance with the requirements of section 1902(a)(37)(A) of the Social Security Act as they pertain to claims made for covered services during the preceding month.

(3) NO WAIVER AUTHORITY- The Secretary may not waive the application of this subsection or subsection (g) under section 1115 of the Social Security Act or otherwise.

(g) Requirements-

(1) IN GENERAL- A State may not deposit or credit the additional Federal funds paid to the State as a result of this section to any reserve or rainy day fund maintained by the State.

(2) STATE REPORTS- Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2011, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(3) ADDITIONAL REQUIREMENT FOR CERTAIN STATES- In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (b) or (c), or an increase in a cap amount under subsection (d), if it requires that such political subdivisions pay for quarters during the recession adjustment period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(h) Definitions- In this section, except as otherwise provided:

- (1) FMAP- The term `FMAP' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.
- (2) POVERTY LINE- The term `poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.
- (3) RECESSION ADJUSTMENT PERIOD- The term `recession adjustment period' means the period beginning on October 1, 2008, and ending on December 31, 2010.
- (4) SECRETARY- The term `Secretary' means the Secretary of Health and Human Services.
- (5) STATE- The term `State' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(i) Sunset- This section shall not apply to items and services furnished after the end of the recession adjustment period.

SEC. 5002. EXTENSION AND UPDATE OF SPECIAL RULE FOR INCREASE OF MEDICAID DSH ALLOTMENTS FOR LOW DSH STATES.

Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r-4(f)(5)) is amended--

(1) in subparagraph (B)--

(A) in the subparagraph heading, by striking `YEAR 2004 AND SUBSEQUENT FISCAL YEARS' and inserting `YEARS 2004 THROUGH 2008';

(B) in clause (i), by inserting `and' after the semicolon;

(C) in clause (ii), by striking `; and' and inserting a period; and

(D) by striking clause (iii); and

(2) by adding at the end the following subparagraph:

`(C) FOR FISCAL YEAR 2009 AND SUBSEQUENT FISCAL YEARS- In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section for fiscal year 2006, as reported to the Administrator of the Centers for Medicare & Medicaid Services as of August 31, 2009, is greater than 0 but less than 3 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for the State with respect to--

`(i) fiscal year 2009, shall be the DSH allotment for the State for fiscal year 2008 increased by 16 percent;

`(ii) fiscal year 2010, shall be the DSH allotment for the State for fiscal year 2009 increased by 16 percent;

`(iii) fiscal year 2011 for the period ending on December 31, 2010, shall be 1/4 of the DSH allotment for the State for fiscal year 2010 increased by 16 percent;

`(iv) fiscal year 2011 for the period beginning on January 1, 2011, and ending on September 30, 2011, shall be 3/4 of the DSH allotment that would have been determined under this subsection for the State for fiscal year 2010 if this subparagraph had not been enacted;

`(v) fiscal year 2012, shall be the DSH allotment that would have been determined under this subsection for the State for fiscal year 2010 if this subparagraph had not been enacted; and

`(vi) fiscal year 2013 and any subsequent fiscal year, shall be the DSH allotment for the State for the previous fiscal year subject to an increase for inflation as provided in paragraph (3)(A).'

SEC. 5003. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) In General- The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement, not later than 3 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) Payments-

(1) DEADLINE FOR MAKING PAYMENTS- Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION- Out of any money in the Treasury not otherwise appropriated, there is appropriated \$3,000,000,000 for fiscal year 2009 for making payments to States under paragraph (1).

(3) LIMITATIONS- In no case may--

(A) the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed \$3,000,000,000; or

(B) any payments be provided by the Secretary under this section after the first day of the first month that begins 4 months after the date of enactment of this Act.

(c) Requirements- The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS- The amount of the payment under subsection (a) for each State is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the States, determine appropriate.

(2) CONDITIONS FOR PAYMENTS- A State shall not receive a payment under this section unless the State--

(A) waives the right to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project.

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED- No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

(4) INELIGIBLE STATES- No State that is a party to a civil action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(d) Definitions- In this section:

(1) COMMISSIONER- The term 'Commissioner' means the Commissioner of Social Security.

(2) MEDICAID PROGRAM- The term 'Medicaid program' means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1396n) or otherwise.

(3) MEDICARE PROGRAM- The term 'Medicare program' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) SECRETARY- The term 'Secretary' means the Secretary of Health and Human Services.

(5) SDW CASE- The term 'SDW case' means a case in the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which such benefits were not provided to the individual and who was, during all or part of such period, enrolled in a State Medicaid program.

(6) SPECIAL DISABILITY WORKLOAD PROJECT- The term 'Special Disability Workload project' means the project described in the 2008 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

(7) STATE- The term 'State' means each of the 50 States and the District of Columbia.

SEC. 5004. FUNDING FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.

For purposes of ensuring the proper expenditure of Federal funds under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated and without further appropriation, \$31,250,000 for the recession adjustment period (as defined in section 5001(h)(3)). Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes.

SEC. 5005. GAO STUDY AND REPORT REGARDING STATE NEEDS DURING PERIODS OF NATIONAL ECONOMIC DOWNTURN.

(a) In General- The Comptroller General of the United States shall study the period of national economic downturn in effect on the date of enactment of this Act, as well as previous periods of national economic downturn since 1974, for the purpose of developing recommendations for addressing the needs of States during such periods. As part of such analysis, the Comptroller General shall study the past and projected effects of temporary increases in the Federal medical assistance percentage under the Medicaid program with respect to such periods.

(b) Report- Not later than April 1, 2011, the Comptroller General of the United States shall submit a report to the appropriate committees of Congress on the results of the study conducted under paragraph (1). Such report shall include the following:

(1) Such recommendations as the Comptroller General determines appropriate for modifying the national economic downturn assistance formula for temporary adjustment of the Federal medical assistance percentage under Medicaid (also referred to as a `countercyclical FMAP') described in GAO report number GAO-07-97 to improve the effectiveness of the application of such percentage in addressing the needs of States during periods of national economic downturn, including recommendations for--

(A) improvements to the factors that would begin and end the application of such percentage;

(B) how the determination of the amount of such percentage could be adjusted to address State and regional economic variations during such periods; and

(C) how the determination of the amount of such percentage could be adjusted to be more responsive to actual Medicaid costs incurred by States during such periods.

(2) An analysis of the impact on States during such periods of--

(A) declines in private health benefits coverage;

(B) declines in State revenues; and

(C) caseload maintenance and growth under Medicaid, the State Children's Health Insurance Program, or any other publicly funded programs to provide health benefits coverage for State residents.

(3) Identification of, and recommendations for addressing, the effects on States of any other specific economic indicators that the Comptroller General determines appropriate.

Calendar No. 20

111th CONGRESS

1st Session

S. 350

A BILL

To provide for a portion of the economic recovery package relating to revenue measures, unemployment, and health.

January 29, 2009

Read twice and placed on the calendar

END