United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, TUESDAY, SEPTEMBER 13, 2011 No. 135

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, who fulfills the desires of those who have reverence for Your Name, let Your will be done today on Capitol Hill. Give our Senators a clear understanding of Your providential purposes, so that they will not deviate from Your desired plan. Inspire them to seek Your guidance and depend on You to bring them through the myriad challenges of our time. Lord, infuse them with a spirit of reconciliation that will break down divisive walls, bringing harmony and cooperation. Strengthen them for this day's journey, as Your spirit empowers them to faithfully honor You in their thoughts, words, and deeds.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 13, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Madam President, I would note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will be in a period of morning business for 1 hour. The majority will control the first half and the Republicans will control the final half. Following morning business, the Senate will resume consideration of the motion to proceed to H.J. Res. 66. This legislation is the vehicle we need to do the FEMA funding. The Senate will recess, as we always do on Tuesdays, from 12:30 to 2:15 for our weekly caucus meetings.

FEMA FUNDING

Mr. REID. Madam President, this week the Republicans sent a message to victims of the devastating hurricanes, wildfires, and tornados. That message was ''tough luck.''

Last night, we tried to move forward on a measure that would grant the Federal Emergency Management Agency additional funding to help communities devastated by natural disasters. This ought to be the least political issue we have, whether to reach out a helping hand to our friends and neighbors in a time of need.

These unfortunate people have lost friends and loved ones. They have lost their homes, businesses, and livelihoods. They have been destroyed by acts of God. I went over this with my wife last night, and she said: Why would you use a term like that? Well, in the law, that is what these floods, these terrible windstorms, and these fires are—they are acts of God. We can't plan for them; they just happen. In the law, that is the term of art we use.

These people have lost loved ones and friends, and their property is underwater or literally reduced to rubble. It is in our power to help them. It is an obligation we have to help them. Last night, Republicans overwhelmingly voted to prevent us from coming to their aid. They prevented us from getting disaster aid to American families and businesses that need it now. These unfortunate people, I repeat, don't need the help next week or next month or 6 months from now, they need it now, today. It is unthinkable that Republicans would waste time catering to the radical tea party while innocent victims of devastating disasters bide their time. One of the leaders of the tea party, a Member of the House of Representatives, has said very publicly that we should get rid of FEMA. But this is not a nation that stands idly by while our fellow Americans suffer. We are a nation of action. That is what we have always been. When it is in our power to aid a fellow citizen, we have always done what it takes. We have done it without politics, without pandering, without a moment's delay—until today.

This year the United States has dealt with more than its usual share of terrible natural disasters. Hurricane Irene

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

is estimated to be one of the most costly disasters ever to hit this country. It caused flooding and wind damage from Florida to Maine. That is a long ways. It is a huge coastline. But its damage was not only to the coastline. Interior States such as Vermont suffered terrible damage, hundreds of bridges in Vermont, and scores of bridges in the State of the Presiding Officer, the State of New Hampshire. Crops were drowned all over the Northeast. It is rarely that this has ever happened.

Just a few short weeks ago an earthquake such as we have not had in this part of the country for 65 years occurred. The epicenter was in Virginia. It was felt by tens of millions of people in every corner of the Eastern United States. It damaged buildings in Richmond and closed the Washington Monument. The National Cathedral had some of its spires damaged. It is closed now. The 9/11 celebration was to take place there. They had to move it to the Kennedy Center. Some of the spires were knocked off the Mormon Temple that we see as we drive down the beltway. There was record flooding on the Mississippi and Missouri that cost lives and devastated farmland.

To get a picture of the devastation, 3 million acres of farmland is underwater now. This is not rice that grows there, these are crops that need to be away from that much water. It is devastating to farmland in that part of the country.

In February a massive blizzard buried the Midwest and Northeast with as much as 3 feet of snow, paralyzing the city of Chicago, and 36 people died. Even now, firefighters are battling terrible wildfires that have ravaged for weeks and weeks across central Texas. Those fires have killed people and driven residents from their homes, homes they will never see again. In Texas, 2,000 homes have been burned to the ground. Since January, Texas has reported—this is not a misstatement—20,000 fires. Some of the small fires developed into big fires, burning almost 4 million acres of land. The State Forest Service in Texas responded to 19 new fires on Sunday alone, in 24 hours—almost a new fire an hour in Texas.

This year President Obama has issued disaster declarations in 48 States, and it is only September. Some States have had multiple disasters. The United States has had $10 billion worth of disasters already this year. It is no wonder there are limited moneys left in FEMA's Disaster Relief Fund. FEMA has spent about $400 million in the last 2 weeks alone making whole American families, victims of Irene and Lee, a tropical storm and a hurricane.

In short, FEMA is running out of money. They are almost broke. Funds are so low FEMA stopped rebuilding Joplin, MO, where more than 150 people died in that terrible tornado. FEMA has programs where they were rebuilding the schools and some of the public services that were so necessary. But they wanted to have enough money to supply the food, water, and emergency housing for victims of Hurricane Irene, so they pulled out of Joplin, MO.

We have seen the pictures. It is hard to comprehend what winds blowing almost 300 miles an hour do. They just eliminate everything on the ground. Any structure was eliminated.

This is not some Democratic idea that has come about, that we need to fund FEMA. Republican Governors are desperate for money. They have seen the destruction firsthand. I will pick just two: the Governor in New Jersey, Governor Christie, said this:

> Our people are suffering now and they need support now.

Governor McDonald of Virginia said this:

> My concern is that we help people in need.

He responded in that way because the Republican majority leader of the House said what we need to do is make sure these emergencies are paid for by taking money from programs that are now in existence.

We cannot be held hostage on that issue to appease the tea party. Hundreds of millions of dollars in disaster recovery projects are on hold. I mentioned Joplin, MO, as just one example. No matter how often we wish for a crystal ball, the process of guessing how much money we will need for natural disasters is not perfect. We have tried, but this has been a very devastating year. Each year Congress estimates how much it will cost this country to recover from inevitable storms and fires and floods, and then it reacts to what Mother Nature sends our way.

Now is the time to react. It is time to show Americans, as we did in the wake of September 11, that when disaster strikes the Federal Government will be there to help rebuild.

These are very hard personal issues. Here in a Virginia suburb, a 12-year-old boy was out watching it rain. He was swept off his back step, and he is dead. Scores of people have been killed just in Lee and Irene. It is time for Republicans to prove that this Congress, for the first time, is willing to put politics aside for the good of the American people.

FEMA is an issue that is bipartisan in nature. Those storms don't just hit Republicans; they don't just hit Democrats; they don't just hit Independents; they hit us all. That is why we have to react to help people in America because they have been hurt.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

THE JOBS PLAN

Mr. MCCONNELL. Madam President, last week President Obama came up to Capitol Hill to unveil a stimulus bill he is calling a jobs plan, and yesterday the White House explained how they would like to pay for it. The first thing to say about this plan is that it is now obvious why the President left out the specifics last week. Not only does it reveal the political nature of this bill, it also reinforces the growing perception that this administration is not all that interested in economic policies that will actually work.

But none of this is news. Over the past few days, press reports have made it perfectly clear that this legislation is more of a reelection plan than a jobs plan. It is an open secret which Democrats all over Washington have been acknowledging to reporters since the moment the President revealed it. They have said that despite the President's calls to pass this bill immediately, the real plan is to let it hang out there for a while so Democrats can use it as an issue on the campaign trail. What is more, the President knew as well as I did when he unveiled this plan that Democrats in the Senate had already scheduled a full slate of legislative business for the next few weeks. So unless the White House wants to admit that it has no regard for its own party's legislative business in Congress, the President's call for immediate action was clearly little more than a rhetorical flourish.

But the specifics we got yesterday only reinforced the impression that this was largely a political exercise. For one, they undermined the President's claim that it is a bipartisan proposal because much of what he is proposing has already been rejected on a bipartisan basis. The $½ trillion tax hike the White House proposed yesterday will not only face a tough road in Congress among Republicans but from Democrats too.

The central tax hike included in this bill, capping deductions for individuals and small businesses, was already dismissed by a filibuster-proof, Democratic-controlled Senate in 2009. Another idea floated by the White House yesterday, a tax on investment income, has been vehemently opposed by the No. 3 Democrat in the Senate, among others. A proposal to raise taxes on the oil and gas industry was rejected as a job-destroying tax hike by both Democrats and Republicans just a few months ago, and for good reason, since the nonpartisan Congressional Research Service tells us it would not only raise gas prices but, in addition to raising gas prices, would move jobs overseas. So claiming this bill is bipartisan may sound good if you are out there on the campaign trail, but surely the President could come up with some proposals that both sides had not already rejected.

Here is how one prominent left-leaning analyst put it yesterday: ''These aren't new policy ideas,'' he wrote. ''The Obama administration has been looking to cap itemized deductions since the 2009 budget. Nor are they bipartisan policy ideas. . . . ''

The specifics we got yesterday were disappointing for another reason as

well. Not only have they failed to attract wide bipartisan support in the past, even if they did enjoy bipartisan support they wouldn't create any jobs. The President knows raising taxes is the last thing you want to do to spur job creation. He said so himself. Yet that is basically all he is proposing: temporary stimulus to be paid for later by permanent tax hikes so that when the dust clears and the economy is no better off than it was after the first stimulus folks find themselves with an even bigger tax bill than today.

The President can call this bill whatever he wants, but in reality all he is doing is proposing a hodgepodge of retread ideas aimed at convincing people that a temporary fix is permanent and that it will create permanent jobs, and then daring Republicans to vote against it.

I think most people see through all of this. I think most Americans are smarter than that. I think they know our economic challenges are more serious than this and that they require serious long-term solutions. I think the American people realize we can do a lot better.

I have talked with a lot of job creators over the past few weeks, including many in my own State. It is no secret that they need to create jobs. Every one of them says the same thing. Yet the President refuses to do any of it.

If the President is truly interested in growing the economy and putting Americans back to work, then he will leave the temporary proposals and the half measures and the tax hikes aside. He will consult with both parties and work with us on a plan that indicates he has learned something from the failures of the past 2 years and which actually has a chance of attracting bipartisan support.

He could start with a permanent reform of our broken tax system, reducing out-of-control Federal regulations, and by passing the trade bills that have been sitting on his desk since Inauguration Day 2009. All of this is doable, all of it should attract bipartisan support, and all of it would actually create jobs. That would be a jobs plan worthy of the seriousness of the moment.

But make no mistake, what the President proposed so far is not serious, and it is not a jobs plan. After what we learned yesterday that should be clear to everyone.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Illinois.

THE PRESIDENT'S JOBS SPEECH

Mr. DURBIN. Madam President, I listened carefully to the statement made by the Republican leader. I noticed that for the last few days the Republicans have been very quiet and calm and circumspect in their reaction to the President's speech to a joint session of Congress last Thursday night. The President, of course, came to us and said this economy needs a helping hand; we have to step in and do something. We have to act and act now. He came up with a list of proposals Thursday night that I think really do address what America needs: First and foremost, to create jobs—that is the No. 1 priority. The President says we will do this by creating tax incentives for small businesses in particular to hire people who have been unemployed and to give raises to those who currently work.

He knows families are struggling across America, working families, middle-class families. Many of them are living paycheck to paycheck. A recent poll asked working families in America how many could come up with $2,000 in 30 days, either from savings or borrowing, to meet a medical emergency, for example. It turns out barely half of the working American families polled can do so. Barely half of them could come up with $2,000. It is a reminder to many of us who have a comfortable life that the vast majority of working families struggle every single month to make ends meet. President Obama understands that, and that is why he has proposed a payroll tax cut that will put more money in the hands of working families. In Illinois, it will be an average of about $1,400 a year. I wish it were more, but it is a recognition by the President that to get this economy moving again, people have to have more confidence in their own situation at home and more confidence in the future. Giving working families this spending power can make that difference.

The President also understands and I am sure the Presiding Officer understands as well that many of the families who are unemployed now are desperate. I visited with many of them during the August recess, going to the Elgin Work Center and to others in McHenry County. I sat down with these people who have been out of work for months—some even years—and asked them: What is your day like? They come to these job centers, they sit down, and they work on their resumes. They pore through all of the want ads, they pore through all of the information about people seeking new employees, and they send out their resumes as quickly as possible. Of course, very few of them get any response at all.

It is a desperate situation. Some of them have lost their homes. Some of them are seeing their kids returning from college, unable to continue their studies because Dad is out of work. Some of the marriages that have been involved have been strained and some have failed because of this economic hardship. The President understands that, and I hope we do too.

Unemployment compensation is absolutely essential as a lifeline to these families, and the President makes that part of his package.

When I hear the Republican leader call these suggestions a hodgepodge, I don't think he is fair and I don't think he is just. Take a look at the specifics: incentives for businesses to hire new workers, payroll tax cuts for working families for more spending money in hand, unemployment compensation for those who are out of work so they can survive.

The President also focuses on critical people. How many of us in the last 48 hours have given a speech somewhere at home or here talking about the great first responders of 9/11? The policemen, the firefighters, the medical professionals who literally risked and some even gave their lives in response to that national emergency. We know what is happening across America. Many of these policemen and firefighters are losing their jobs, along with teachers. The President understands that, and he puts resources into saving some of those jobs so that we can have the protection we need in our communities and the teachers we need for the next generation of workers.

President Obama believes, and I agree, that we need to invest in America. When we build the infrastructure in America that will serve us in the 21st century, we create good-paying jobs right here at home. These are not jobs you can ship overseas. President Obama understands that. That is why that is a major part of his proposal. We are talking about highways and bridges and airports and ports and waterways and schools. The President understands that investment in America not only helps us today in invigorating the economy but will pay off for generations to come.

There were very few lines the President gave at his speech that drew standing applause from the Republican side. I felt at one point that the temperature of the Republican side of the aisle in the House Chamber was 40 degrees below that on the Democratic side. It was cold over there. There was one line they finally acknowledged, and that was when the President said: For goodness' sake, we owe it to our veterans who have come home to put them to work. To know that 10 percent of those people who risked their lives for America are now back home and in unemployment lines is absolutely unacceptable, and President Obama recognizes that in what he has called for to get this economy moving forward.

I don't think the Republican leader is fair in calling this a hodgepodge. It is

a carefully constructed plan to get this economy moving forward. What really troubles the Republican leader—and I know he said as much this morning—is that President Obama pays for it. Over and over, we hear from the Republican side: Don't add to the deficit. Pay for what you do.

The President came out yesterday with his proposal of how to pay for it. How does he pay for it? For one, he takes away the subsidy to the oil companies. There is a Federal subsidy that comes out of the Treasury and goes to oil companies across America, raises gasoline prices through the roof, making them able to enjoy the biggest business profits in the history of the United States. Isn't it time to cut back on that subsidy and use those resources for the President's plan to get the economy moving forward?

The President limits the tax deductions and credits for those in higher income categories. I find it hard to understand why the Republican position is that we cannot ask those who are well off, the most comfortable people in America, to pay one penny more in taxes. Their position is absolute: not one penny more in taxes for the wealthiest in America. I think it is fair to limit the tax cuts to the wealthiest so that we can provide tax cuts for working families. That is sensible. It is not only morally right, it is economically right, and it troubles me when I hear the Republican leader reject that out of hand.

It appears that the warmth of the August Sun is cooling now in September, and those who went home and heard how unhappy America is with congressional roadblocks and obstruction have forgotten that lesson. They have forgotten what they heard. They are coming back now and saying that once again we are going to have a face-off and a confrontation.

DISASTER RELIEF

Mr. DURBIN. There is one other area I wish to speak to. I know my colleague from New York is going to be on the floor shortly. The area I wish to speak to is disaster relief.

I strongly support the disaster relief funding bill. As Americans undertake the physically and emotionally difficult task of rebuilding, cleaning up, and recovering from hurricanes and flooding and even earthquakes, we must see that the Disaster Relief Fund is there so they can get back to their own lives as quickly as possible.

The year 2011 has been a record year when it comes to natural disasters. The cost of recovery from Hurricane Irene alone could reach $1.5 billion. We have seen it this year in Illinois. It has been tough from Chicago to Cairo in the southern portion of our State. We have had blizzards and floods and tornadoes and troubles all around. Our State, like most other States, has seen the damage and has felt it personally. People are trying to put their homes back together again.

Here is a photo—I saw this in person when I visited the State earlier this spring—around Cairo in the southern part of the State. It was an awful situation. We had flooding along the Ohio River that troubled and bothered the folks who live in southern Illinois as well as Kentucky and adjoining States, Missouri. Some of our towns, such as Cairo, were literally threatened with being inundated. They had to blow levees, which basically means to open up a place for the river water to flow. That flooded farmland in Missouri and Illinois, and we have to be sensitive to the fact that there were real losses there that need to be paid for. That record flooding really slammed the southern part of our State. The devastation was felt in the entire region.

The damage was not just there. I hear from people throughout the southern part of the State who are still struggling today because of this flooding. Anthony Miles in Urbandale, IL, is an example. Flooding from the Ohio River rose so high that he could not even find his lawnmower in the front yard. All he could see was the river water. In Metropolis, IL, my friend Mayor Billy McDaniel said that people are still trying to get the floodwater damage repaired in that town months later. Harrah's casino in Metropolis, which is a major employer and source of revenue in that area, was completely inundated with water, and hundreds of thousands of dollars in repairs need to be done.

Some argue when it comes to these disasters that we cannot afford to help people in America. It appears to me that the guiding principle and motto of the tea party in America is this: Just remember we are all in this alone. That is what we hear over and over from them. Whenever we have a problem facing us in America where we come together as a family to solve it, the tea party stands on the sidelines and says: Don't do it. Let them fail.

This morning, Senator REID quoted a leading tea party advocate in the House who said: The Federal Emergency Management Agency should be put out of business.

I wonder where he lives. I wonder if his home has been spared. I wonder if he has seen people who through no fault of their own have lost everything because of a disaster. When that happens in America, we step in and help one another. We don't get tied up in some political debate. We don't find ourselves completely stopped from stepping forward and doing what is right, and we can't let it happen this time either.

Those who say we have to cut other government programs and education, medical research, for example, to pay for the devastation, whether from Hurricane Irene or flooding or earthquakes or tornadoes, I just don't think they understand there are critical areas of government spending that have been cut back already, and to cut them even further would jeopardize the future of this country and the well-being of many families.

I wanted to show a chart here which demonstrates the amount requested by the administration over the years by different Presidents for the Disaster Relief Fund. In each and every one of these cases, regardless of whether it was a Democratic or Republican administration, how much of these funds do you think were offset with funds from other accounts in the Federal budget? None. Zero. In 2000, when more than $3.5 billion was appropriated for disaster recovery, how much was offset? None. In 2005 and 2006, when communities all over the South were recovering from Hurricane Katrina and more than $2 billion was appropriated each of these 2 years for recovery, how much of that was offset? None. Under Republican Presidents, such as President Bush, as well as Democratic Presidents, such as Presidents Clinton and Obama, we have not required offsets in the rest of the budget when we have literally faced a disaster. We have stepped up, provided the money, and moved forward.

The number and cost of disasters have grown dramatically over the past few years. I do not want to engage the Senate in the debate about climate change because I know people get red in the face and want to come to the floor and tell us their political views of the science of this question. But I will tell you this: The property and casualty insurance industry of America testified before my committee recently and said they see what is coming—more disasters and more costs than we ever imagined. One of the experts said to be prepared to say every summer of your life from this point forward: This is the hottest summer I can ever remember. That is what the future is going to hold.

As these temperature swings get worse and worse, they precipitate these terrible storms. I am not an expert on much, but I am perhaps a little bit of an expert after almost 30 years of flying 48 roundtrips a year between Illinois and Washington, flying on commercial airplanes. I think I know a little bit about that, maybe even a little more than most. This is one of the roughest periods I can remember. For the last several months, the storms and turbulence have been greater than I can ever recall. I hope it is an anomaly. I hope it never happens again. We are told by the experts it is likely to continue. It means more storms, more damage, more disasters, and we do not have the funding here in Washington waiting to pay for it.

We have to step forward as the need arises and meet our obligations to the families and businesses that have been negatively affected. We know that this damage which I showed in the southern part of my State reaches all over the State. This is an area of Galena, IL, the home of General Grant, the President, Ulysses S. Grant, and this area in the northwest part of my State also

has been flooded, causing extreme damage to the people in the area. It is just another example of what we have been through.

If we freeze the money for disaster relief, as some have suggested, it would mean the repairs being made to recover from floods and storms from April and May will not be reimbursed. From Metropolis, IL, and southern Illinois, they are facing damage there that needs to be repaired—the city of Carmi as well.

On Friday, President Obama requested $5 billion in new disaster funding, $500 million in supplemental money for fiscal year 2011. The President recognizes 2011 has been an exceptional year for natural disasters and that the recovery from Hurricane Irene alone could tax FEMA beyond what it is capable of providing.

This money is desperately needed for the families and businesses trying to clean up and put themselves back on track. I strongly support the supplemental appropriations for the disaster relief fund. Let's help our fellow Americans get back on their feet.

Madam President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHANNS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

STAFF SERGEANT PATRICK HAMBURGER

Mr. JOHANNS. Madam President, I rise today to honor a fallen hero, Nebraska Army National Guard Staff Sergeant Patrick Hamburger, a native of Lincoln who later settled in Grand Island, Nebraska.

Staff Sergeant Hamburger served his country as a flight engineer while mobilized with the Nebraska Army National Guard's Company B, 2nd Battalion 135th General Support Aviation, based in Grand Island. Staff Sergeant Hamburger and 29 fellow soldiers paid the ultimate price in support of Operation Enduring Freedom on August 6, 2011. He was the crew chief on the Chinook helicopter downed by enemy fire in Afghanistan. It is through extraordinary sacrifices such as his that we are able to enjoy the freedoms we have today.

Staff Sergeant Hamburger's unfaltering devotion to duty and pride in his country went beyond the time he spent in uniform. Patrick lived to help others. From his childhood in Lincoln, to mentoring fellow soldiers, those who knew him recall that he was always looking out for others. Patrick's brother Chris remembers his kind spirit by stating:

He didn't worry about himself half as much as he worried about everyone else. You could have been a complete stranger and if he could have helped you, he would have done it.

Thirteen years ago, that mentality and sense of patriotism led a young high school senior to take an oath to support and defend the Constitution of the United States and the State of Nebraska against all enemies, foreign and domestic. That oath brought opportunities for Staff Sergeant Hamburger to share his mechanical talent with his fellow soldiers.

Those closest to him will tell us his pride and joy were his family, his friends, and the ''V-Day Express,'' the Chinook helicopter he maintained. He loved being a soldier, and he took great pride in his service.

The decorations and badges earned during his 13 years of distinguished service speak to his dedication and to his skill: the Bronze Star, the Purple Heart, the Army Reserve Component Achievement Medal (4th Award), the National Defense Medal, the Afghanistan Campaign Medal, the Global War on Terrorism Service Medal, the Armed Forces Reserve Medal (with 10 year device), Armed Forces Reserve Medal (with Mobilization Device), the Noncommissioned Officer Professional Development Ribbon, the Army Service Ribbon, the NATO Medal, the Combat Action Badge, the Senior Aviation Badge, the Nebraska National Guard Homeland Defense Ribbon (with M device), the Nebraska National Guard Emergency Service Medal, the Nebraska National Guard Service Medal (10 year device), and the California National Guard Commendation Medal.

These medals, as well as Sergeant Hamburger's willingness to serve others in need, speak clearly to his commitment to upholding the values and ideals that all Nebraskans hold dear. We are proud of his character and the ways in which he represented Nebraska. I am confident that in the coming months, Nebraskans will surround and uplift his family and friends as they mourn the loss of a truly remarkable son, brother, and friend.

Today, as we bow our heads with the Hamburger family, I ask that God protect our servicemembers, both here and overseas.

We are truly grateful for the service and sacrifice made by those in uniform and their families.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.J. Res. 66, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the joint resolution (H.J. Res. 66) approving the renewal of the import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

The PRESIDING OFFICER. The Senator from Vermont.

DESTRUCTION FROM HURRICANE IRENE

Mr. LEAHY. Mr. President, I have spoken to so many of my colleagues—I know I have with my good friend, a distinguished Member of this body, the Senator from Montana, and others—about what has happened in Vermont. We are a little State. We are 660,000 people. We are a State that has sent volunteers all over the country where people have been hit by earthquakes, tornadoes, hurricanes, and flooding, but now Vermont has been hit.

I was born in Vermont. My family came to Vermont in the 1800s. The only thing that could even begin to match what we have seen were the horrible floods of 1927. I was not alive then, but I remember the stories my parents told me. Certainly in my lifetime we have never seen anything like this. Vermont continues to grapple with the aftermath of Tropical Storm Irene. It does not make a difference if you are a Republican or a Democrat, all Vermonters are joined together to rebuild after this disaster.

I wish to call the Senate's attention today to the severe and extensive damage done to our State's transportation infrastructure and to how the washed out roads and bridges are affecting the lives of all Vermonters.

Here are a few of the scenes of the destruction. This was a main highway. You can see one lane here. Look what happened. The road does not begin to pick up again until we get over here. That was a highway that had been used for decades. It is Route 100, south of Plymouth.

Plymouth, VT, is where Calvin Coolidge was born. He was spending time there with his father when he got news that he had suddenly become President and was sworn in by his father, who was the justice of the peace. The deputy sheriff thought they may need security so he stood there with a pitchfork in one hand and a lantern in the other.

But this photo shows you what has happened. They tried to build a temporary bridge up there. As you know, being from a northern State, Mr. President, we are going to have snow in Vermont in a matter of weeks and, of course, companies stop making asphalt in early November.

This is a photo I took of U.S. Route 4. I took it from a helicopter when Governor Shumlin and I toured the State

immediately after Irene. It is a major east-west route across Vermont. Again, look at this. We can't see one of the lanes of the road. It would have gone just like this, but it is gone, and look how deep it is. That is because this river moved from where it had never been before and tore it out.

Governor Shumlin, the Governor of our State, General Michael Dubie, the head of our National Guard, and I toured the damage around Vermont by helicopter immediately after the storm. We actually needed the helicopter because many of the places we went were unreachable on the ground.

This third one is the New England Central Rail Line in central Vermont that hosts Amtrak's Vermonter train. One can actually get on the Vermonter here in Washington and take it to New York and go up through New England to Vermont, which I have done a number of times. Economic Recovery Act funds had just repaired this line to nearly mint condition. Look at it now. We couldn't take a train across it. It has sunk out from underneath the track. That is a pretty horrific situation.

This shot was taken along Vermont Route 30 in Jamaica, VT, or what is left of it. This is while rains from the remnants of Hurricane Lee fell on Vermont. We just got hit and hit and hit up there. We can see work crews trying desperately to stay ahead of the rising water and some of them, frankly, risking their lives to do that.

I might say, in that regard, we have had people come in to help out. I told the two Senators from Maine yesterday, we had highway construction people from Maine—crews, some on vacation—who came down and helped. In response, when we thanked them, they said: You helped us; we will help you. The Presiding Officer knows rural America. He knows we pitch in to try to help each other.

Unfortunately, this is just the tip of the iceberg. Roads, bridges, and rail lines all over the State have been wiped out. I apologize to my colleagues for being emotional, but this is my State. This is my home. It is the home of my ancestors. We have seen flooding close more than 300 town and State roads and damage more than 30 bridges, stranding people in more than one dozen towns for days. Damage to the State's Federal aid roads and bridges will exceed $½ billion in our little State. It is going to take years and years to recover.

It has been extremely difficult to move emergency supplies and building materials around. Some of the washed-out roads have gaping gullies in the middle that are 30 feet or more deep. One can't drive a truck over that. Some of the reopened roads and bridges are not yet recommended for heavy traffic.

The consequences have been harsh. Residents are forced to make a 30-mile-plus detour to the nearest grocery store or doctor on mountain roads, many of them dirt roads. Businesses are struggling to reopen, rehire their people, and then to find new customers. Schools have been forced to remain closed until repairs are made, and children are wondering—adding to the trauma of what they have seen—when they are going back to the normalcy of going to school. Tourists are worrying about traveling to Vermont this fall to see the foliage or this winter to do some skiing. These are major industries in our State.

The end of construction season in Vermont is fast approaching. As I mentioned earlier, by November, it will be too cold to lay asphalt. By December, snow and ice will cover the mountains, leaving many towns dangerously isolated. My home was safe, but I live on a dead-end dirt road. It is 2 miles to the nearest paved road. I know how easily these dirt roads can be disrupted.

I applaud the Vermont Agency of Transportation and the Vermont National Guard—along with the work crews and Guardsmen from States all around the country—because they are moving quickly to make emergency road repairs and install temporary bridges. Governor Shumlin, General Dubie, and I had to helicopter into one town because it was the only way to get there. At least now it has a temporary road. But these are lifelines to the hardest hit communities. We need to make more permanent repairs as soon as possible or future rains and the fall's freeze-thaw cycle will further deterioration of our roads and make them all but impassable in the winter and cut off major parts of my State.

Given the breadth and depth of Irene's destruction, on top of the disasters already declared in all 50 States, we have to ensure that FEMA and the Department of Transportation have all the resources they need to help our citizens in their desperate time of need.

The other night the President addressed the Congress and the Nation from the floor of the House of Representatives. On his way in, he leaned over and said to me: I am thinking of your people in Vermont. That means a lot. I applaud him for issuing the emergency declaration very quickly and then making adjustments when we needed them.

We have to replenish the FEMA disaster relief fund and the Federal highway emergency road fund, both of which are at dangerously low levels right now, not just for Vermont but for every other State that has been hit with the same kind of problems. Without supplemental funding to these and the other emergency accounts, Vermont and all the other 49 States with ongoing Federal disasters are not going to have the resources to rebuild.

Americans should be worried about Americans. The kind of money we are talking about we throw away in Iraq and Afghanistan in 1 week's time and we do it on a credit card and we say we don't have to pay for it. Now we have some say: If we are going to help Americans, we better find out some way we can pay for it. What can we take away from other Americans to help these Americans? Can we take away from education, medical research, housing?

Let's start thinking about America. We have seen the billions, eventually trillions, we have spent trying to rebuild Iraq and Afghanistan, and we know how much that is appreciated. These are Americans who do appreciate and need the help.

Let us come home. Let us take care of the needs in America. There is so much on the line, so starkly for so many, it would be horrible and unseemly to play politics with disaster relief. We have never done this before.

I was heartened, as I came into one, badly damaged town and I got an e-mail from a very conservative Republican Senator who said: PAT, you helped us when our State was hit. What can we do to help your State? That is the kind of bipartisanship, Republicans and Democrats, have displayed in the past to come together.

Thousands of American families and businesses have been devastated by an unprecedented series of floods, tornadoes, hurricanes, and wildfires—look at the pictures out of Texas—and other disasters over these years. The people are hurting out there. They are not thinking about Democrats versus Republicans or red States versus blue States. They are saying: We are Americans. We help everybody else; we can at least help ourselves. People are desperate for a helping hand from their fellow Americans. We are one Nation. We have traditionally come to the aid of our fellow Americans in times of need.

In my 37 years in the Senate, we have always dealt with disaster bills together. We haven't cared whether it was a Republican State or a Democratic State or Democratic or Republican President. We have worked across the aisle, in the spirit of bipartisanship, in the best interests of America and in the best tradition of our country. As a nation, can we afford to toss that tradition and cooperation overboard? It is unconscionable that a small number decided to inject politics and political point-scoring into a situation that already is so difficult and so laden with grim realities for so many of our fellow citizens. Go and talk to a farmer who has seen his herd decimated and tell him that. Go and see a small business owner who is a major employer in a small town who is saying: I don't know how I can keep hiring these people. Go and tell a child who has asked their parents when the road will be done so we can go to school or visit grandma. Tell them. Tell them.

Leader REID is right to bring an emergency disaster relief package to the floor that will give aid to all 50 States suffering from the effects of unprecedented natural disasters. I state the obvious when I say we need Republican cooperation to get this urgent job

done. I encourage my colleagues to end this shameful filibuster of the disaster relief bill. Let us proceed to a full debate on how to help our fellow Americans—our fellow Americans—as quickly as we can.

I have taken a lot of time of the Senate. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:41 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

APPROVING THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I rise today to talk about the urgent need for FEMA disaster funds, which is under this Burma joint resolution. I was very concerned when I heard some of my colleagues in the House of Representatives demanding that spending cuts be in exchange for supplemental disaster relief funds. Last night, we could not even pass a procedural vote to proceed to a bill that would provide this needed relief. This raises the question, What kind of country are we? Are we a country that takes care of the victims of disasters without hesitation or reluctance or are we a country that engages in misguided debates in the midst of a disaster when our citizens need us the most?

My State of Minnesota has seen its fair share of natural disasters over the last few years. In the past year and a half, President Obama has declared seven Federal disasters in my State. I have seen the devastation Mother Nature can cause. I have seen communities that desperately need Federal assistance to recover. Northwest Minnesota has seen the phenomenon of 100-year floods turn into nearly annual events. Every spring, towns in the Red River Valley of the north hope that this year will not see another record-setting flood.

This spring, I visited Georgetown, MN, and watched as they built emergency earthen levees to protect their town. The town had run out of the clay needed to build their levee, and the only choice left for them was to dig up their baseball field—their park, the diamond and the rest of the park. I watched as they dug up the heart of their community to protect their homes and businesses.

That same day, I visited Oslo, MN. Flooding in the Red River turns Oslo into an island town. Residents are cut off from the rest of Minnesota for weeks as the Red River floods all of the surrounding roads. That night, as I left, I was one of the last cars to make it out of town before all the roads were closed, and its residents prayed that the temporary levees would hold.

The residents of Georgetown and Oslo were doing what they could do to protect themselves, but not all disasters can be anticipated. On June 17 of last year, storms brought 39 tornadoes, 26 funnel clouds, and 69 reports of hail in Minnesota. Three Minnesotans died.

The town of Wadena was hit the hardest; 234 homes were damaged. The roof was torn off the high school, and the county fairgrounds and community center were destroyed.

After a disaster, Minnesotans have enough to worry about. It would be terribly unfair to pile politics on top of their worries. Natural disasters just happen. They are acts of God, and they happen without warning. Minnesotans need to know, when their State and local governments are overwhelmed, that their Federal Government will be there to help them recover. Every State needs to know that; we are one country. And they need to know we will not play politics with their lives and their livelihood.

Many of the same people who are demanding that we offset the costs of natural disasters have voted year after year to fund our wars in Afghanistan and Iraq without paying for them. Some have done this for nearly 10 years now. They have passed on well over $1 trillion in debt to our children to finance wars that have not been a surprise and that we could have and should have been budgeting for from the beginning.

For the last 10 years, we have paid for wars by borrowing from countries such as China willing to finance our debt and by giant emergency spending bills, as they are called. That is unusual in American history, where wars usually prompt reevaluations of our fiscal policy.

This spring, I introduced my Pay for War resolution to address this fiscal irresponsibility. My resolution would simply require that war spending be offset in the future. To be sure, there can be real emergencies that require the immediate exercise of military force with its attendant costs. That is why my resolution allows the offset requirement to be waived in such emergencies. But when you know year-in and year-out that you are going to be at war, you should budget for that and not just pass the costs on to your children.

Iraq and Afghanistan have cost us well over $1 trillion, and we will be paying for years to care for the veterans who came back with the wounds of war. That did not singlehandedly create our deficit problem, but it sure made it a lot worse. Yet many of the same people who now demand that we must offset disaster spending for Americans who have lost their homes or are suffering otherwise have been fine with spending staggering sums of money on our wars—without offsetting them. Doesn't that seem just a little hypocritical? I wonder, what kind of mindset does it take to conclude that it is OK to pass on to your children the costs of war. Yet, when Americans have lost their homes or had their communities destroyed, it is not OK to respond to that emergency in an appropriate way? It just does not make sense to me.

When Congress plans its spending, it can and should be accounted for through a budget. But when emergencies arise—and natural disasters are the quintessential emergency—we should not hesitate to act for the good of the American people. I believe the United States of America is a country that protects its citizens when they are at their most vulnerable. I hope this Congress will confirm that conviction by voting for emergency aid to the communities across this Nation that have been devastated by natural disasters.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, as you no doubt know, the State of Vermont has been hit very hard by Hurricane Irene. The storm caused widespread flooding, resulting in a number of deaths, the loss of many homes and businesses, and hundreds of millions of dollars in damage to our property and our infrastructure. I have visited many of the most hard hit towns, and I was shocked and moved by the extent of the damage. Many of these towns still today have very limited access because the roads and bridges that link them to the outside world have been destroyed. Irene will go down in history as one of the very worst natural disasters ever to hit the State of Vermont.

Let me take this opportunity again to thank everybody who has lent a hand to help their friends and neighbors stricken by this disaster. I especially wish to commend and thank our emergency responders—they did a fantastic job—the Vermont National Guard and our local officials for all they are doing to assist communities and individuals in getting back on their feet.

We still do not know the cost of this disaster, but let me share with you just a few preliminary figures, and really this is quite remarkable, remembering that Vermont is a State of about 630,000 people, with approximately 200,000 households.

Today, already more than 4,200 Vermonters—and by and large, those are households—have registered with FEMA. With 200,000 households, we have over 4,000 that have already registered with FEMA.

To date, there have been more than 700 homes confirmed as severely damaged or totally destroyed. Again, we have about 200,000 households and 700 homes have been confirmed as severely damaged or completely destroyed.

More than 72,000 homes across the State were left without electricity.

That is about one-third of the total. Thousands lost phone service. And in some areas, these services have still not been restored.

The storm knocked out 135 segments of the State highway system as well as 33 State bridges. Thirteen communities were completely isolated for days. Thirty-five roads and bridges are still shut down, while many others are only open for emergency services.

Hundreds of farms and businesses have been destroyed, undermining the fabric of our rural economy.

Our Amtrak and freight rail services were completely suspended, as tracks literally washed into rivers. One of our two Amtrak lines is still down today.

The State's largest office complex—we have a very large office complex in Waterbury, VT, near our State capital, in which 1,600 State employees go to work every day. It is the nerve center of the entire State. That complex was flooded. Those 1,600 workers have not been able to return to their offices, disrupting the ability of the State to deliver critical State functions.

At least 90 public schools were either directly damaged or inaccessible because roads washed out and could not be opened on time. Five public schools remain closed until further notice.

This is but a short list of the devastation experienced by the State of Vermont as a result of Hurricane Irene. I know that, as in times past, we will pick up the pieces and restore our homes and businesses. That is what Vermonters will do. Vermont communities stick together in hard times, and it has been absolutely amazing to see the volunteer efforts taking place from one end of the State to the other. What comes to mind now: police officers from the northern part of the State relieving their brothers and sisters in the southern part of the State who are under stress. We are seeing that in almost every area—strangers coming to help people whose homes and businesses were flooded. But the simple fact is, Vermont can not do it alone, nor can any other State hard hit by disasters. The scale of what Hurricane Irene did is overwhelming for a State of our size. The Federal Government has an important role to play in disaster relief and recovery. Historically it has, and today it has.

When our fellow citizens in Louisiana—and I see the Senator from Louisiana here—suffered the devastation of Hurricane Katrina, people in Vermont, in a very deep sense, were there for them. When the citizens of Joplin, MO, were hit by the deadly tornadoes, people on the west coast were there for them. When terrorists attacked on 9/11, everybody in America was there for New York City. That is what being a nation is about.

The name of our country is the United—U-n-i-t-e-d—States of America, and if that name means anything, it means that when disaster strikes one part of the country, we rally as a nation to support our brothers and sisters.

I would like to thank, in that context, Majority Leader REID and Senator LANDRIEU for their commitment to drafting a disaster relief supplemental appropriations bill to provide $6.9 billion in disaster relief funding.

At a time when funding is tight and every appropriation is subjected to even more intense scrutiny, the majority leader and Senator LANDRIEU are doing exactly the right thing in addressing these needs now. Senator REID has my full support.

While it is imperative for Congress to adequately fund FEMA's Disaster Relief Fund, the Federal response, in my view, should be more comprehensive, as it has been for past disasters of this scale.

In particular, it is imperative to address the severe damage to roads and bridges by providing funding for the Federal Highway Administration's Emergency Relief Program. In Vermont alone, preliminary estimates to the federal-aid highway system are well in excess of $500 million and likely will be much more. That is an incredible amount of money for a small State such as Vermont. For a State that receives a total Federal apportionment of $210 million annually, the scale of damage relative to our State's ability to pay for it cannot be overstated.

Similarly, it is important to provide sufficient emergency funding for programs such as community development block grants, the Economic Development Administration, the Emergency Conservation and Emergency Watershed Protection Programs at the Department of Agriculture, and the Disaster Loan Program at the Small Business Administration.

Additionally, given the significant impact of the floods on the stock of affordable housing, it is very important to include an appropriation for the HOME program, as well as an additional disaster allocation of low-income housing tax credits. In Vermont, more than 350 mobile homes were destroyed or severely damaged, and many trailer parks will never reopen. In other words, we are going to have to make up for a lot of lost affordable and lower income housing.

Let me conclude by saying this country has its problems. We all know that. But if we forsake the essence of what we are as a nation—and that is standing together when disaster strikes—if we forgo that and no longer live up to that, I worry very much about the future of America as a great nation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I wish to support the remarks of the Senator from Minnesota, Mr. FRANKEN, and the Senator from Vermont, Mr. SANDERS, who have described beautifully several different aspects of this debate. Senator FRANKEN said: How is it that so many on the other side rush to support funding for wars and rebuilding in Afghanistan and Iraq and never ask for one dime to be offset, and yet at a time when Americans need help, they are not, let's say, leaning forward?

I think there are a lot of Americans, not only from around the country but from their own States, who might be very puzzled by this sudden commitment to find offsets when it comes to rebuilding neighborhoods in Minnesota or Vermont or neighborhoods in Virginia or in Massachusetts or in other States, such as New York, which have been so hard hit. I think they will have some explaining to do, which is why I hope today, when we retake this vote, many of my friends on the other side will consider the leadership shown last night by Senators BLUNT, BROWN, COATS, COLLINS, HELLER, and SNOWE. These six Senators voted yes to move forward to try to find a way to find the political will to provide funding for disaster victims now, not wait but send them a powerful and strong and clear and unambiguous signal that the Senate and the Congress hear their cry. We know of their anxiousness and distress and we will respond and we will fight about how to pay for this later—but not now.

They need to hear from us now that help is on the way. What they need to hear is that the fund will be replenished. What they need to hear—the mayors, county commissioners, and Governors, Republicans and Democrats, from Governor Christie in New Jersey to Governor McDonnell in Virginia, who have given their support for funding disasters now—what they need to do is not worry about us because they have enough to worry about. They have roads to rebuild and neighborhoods to rebuild and rivers to get in their banks.

I heard today from Senator SCHUMER that in one of the canals—I think the Erie Canal—the lock is no longer connected to the canal. That is how powerful the water was. There is a lock and a canal, but they are not together. That is a problem not just for New York but for the entire northeastern transportation infrastructure, which affects us all.

As a Senator from Louisiana, I, of course, feel particularly strong about this because many of these Senators, Republicans and Democrats, came to our aid 6 years ago when Katrina hit—the worst natural and manmade disaster because, as you know, it wasn't just the hurricane that did us in down there on the gulf coast, it was the collapse of a Federal levee system that should have held and didn't and breached or broke or evaporated in 52 places and left a major metropolitan, internationally famed city underwater and literally fighting for its very survival—a metropolitan area of over 1.5 million people.

This country rallied, after a lot of push from me and others and the private sector stood up and the nonprofit community was terrific. We still have literally thousands of volunteers still

coming. It is so heartwarming. They are coming to Louisiana and to Mississippi to help us rebuild. I just drove the gulf coast 3 weeks ago—my husband and I. We said, let's go see the coast of Waveland and the coast of Mississippi and how it is coming along. I visit our neighborhoods regularly in south Louisiana to see how they are coming along. Still, 6 years later, they are struggling. I don't think there is 1 house up for every 10 destroyed in Waveland today.

That is how hard this work is. It doesn't happen automatically. Mississippi is working hard and Louisiana is working hard. I can only imagine how other States feel, such as Joplin, MO, which was hit by a tornado with winds that might have exceeded 250 miles an hour. That is unheard of.

This is not time for my friends on the other side to sit on their hands or take out their green eyeshade and pencil and figure out how we are going to pay for it this week. We have all year to discuss that. We need to send them emergency funding now and learn how to pay for it later.

This is what our map looks like. Green is too pleasant a color for this map. This indicates the destruction—or the number of disasters that have been declared by the President. For the first time, I believe, in our Nation's history, a disaster has been declared in every State but two—Michigan and West Virginia. Michigan technically could be declared a disaster because it has been under an economic disaster for several years but not a natural weather event. They most certainly are having very tough economic times in Michigan. West Virginia always has tough times as one of our poorest States. The whole country is in need.

Why would the other side sit when America is lit up with disasters? We have to ask them to reconsider and move forward with the $7 billion help now. Not only is it the right thing to do and the moral thing to do and what Americans do for each other and what we should do, but it is all about—besides the moral aspect, which is obviously the most important—there being a real immediate economic benefit to this. If there was ever a jobs bill, this is it. I can promise you, having lived through this disaster recovery, it is like a shot in the arm for these communities. Literally, every single dollar that leaves our hands and goes to theirs will be spent immediately on food, clothes, and building materials. This is the most direct stimulative job creation we could do, and we need to do it now, this week, and send a strong signal to the House of Representatives: Don't fool around with disasters, and let's get this job done.

Let me just show you that when people say you haven't provided funding for disasters, we have provided funding in our base bill for disasters. I see the Senator from California, and I will be just 2 minutes more. I want people to know we have budgeted for disasters. I chair the Homeland Security appropriations bill. It is about a $42 billion bill. As we know from marking the 9/11 anniversary this past Sunday, that department was created after 9/11 to respond to new threats. We pulled disparate agencies together—tried to pull them together. That is still a work in progress. We have $42 billion. So we budgeted for FEMA in that budget, in 2003, $800 million. It was obviously not enough. So then we went up because disasters were increasing to 128. In 2005, Katrina hit and completely shattered the model. The expenses of Katrina, Rita, and Wilma exceeded the entire budget of Homeland Security. It was $43 billion just for Katrina, Rita, and Wilma. The whole budget is only $42 billion.

When people say pay for it out of our budget, we cannot do that. In some cases, it exceeds the entire budget of the country. It is not right to pay for past disasters with money we use to prepare for future disasters. We have beefed up base funding, but we don't have the level of base funding that potentially may be necessary. Now is not the time—we can see—now is not the time to keep the east coast waiting and Missouri waiting and the floods along the Mississippi River waiting and some people in California waiting. Texas, might I say, has had 20,000 fires. This is not the time to keep the people of Texas waiting while we figure this out. Eventually, we are going to have to figure it out, but we don't have to do it this week.

I see the Senator from California. I will yield to her, and then I will be happy to add a few more comments to the record.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the motion to proceed to the motion to reconsider the vote by which cloture was not agreed to on the motion to proceed to H.J. Res. 66 be agreed to; that the motion to reconsider be agreed to; that the time until 4:15 p.m. be equally divided between the two leaders or their designees; and that at 4:15 p.m., the Senate proceed to a vote on the motion to invoke cloture on the motion to proceed to H.J. Res. 66.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, there are a lot of things going on on Capitol Hill this afternoon. We will make sure people have ample time to vote, as long as somebody doesn't carry it to extremes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask the majority leader, before he leaves, I didn't hear all he said. Is this the fact that we are going to vote again on proceeding to a bill that will allow us to take up this emergency FEMA funding?

Mr. REID. My friend is absolutely right. We need to do this. During the caucus that was completed, the Senators from New York indicated, for example, that the Mohawk River because of the storms changed course. The Erie Canal lock doesn't work. They are going to have to spend lots of resources to get the Erie Canal back, which handles commerce in that part of the State. That is just one thing.

So the answer to my friend from California is, yes, we need to get people help now. People are desperate.

Mrs. BOXER. Mr. President, taking back my time, I am very pleased we are having another chance at this because—just for the information of the public—we fell short of the votes required to take up this emergency bill. I just looked up the meaning of ''emergency'' in the dictionary. It says:

A serious situation or occurrence that happens unexpectedly and demands immediate attention.

That was Webster's dictionary—no, it was dictionary.com. They have the best definition, and I want to repeat it. An emergency is a serious situation or occurrence that happens unexpectedly and demands immediate action.

That isn't a Democratic definition or a Republican definition or an Independent Party definition. That is what an emergency is. To anyone who says don't worry; if an emergency happens we can take care of it just from our existing funds, that is not true.

Senator LANDRIEU is our leader in the Appropriations Committee, and what she told us in a meeting we just had a few minutes ago is that there is support in her committee to fund FEMA—the Federal Emergency Management Agency. They are the ones, as everyone knows, who gets out there.

I will never forget the wonderful James Lee Witt who headed FEMA during the days of Bill Clinton. He was out there with Senator FEINSTEIN and myself when we had earthquakes, floods, fires, and everything. There wasn't even a question. He knew we would rebuild. He knew he could make those commitments.

I will just say this: Senator LANDRIEU held up a map that shows 48 States having been hit by horrible emergencies, some that we never anticipated, such as a terrible earthquake right here in this area, floods that had not been experienced since the 1920s in Vermont, and California has had some horrible problems, and we have had some terrible emergencies. The President worked with the Governor, and we have these disaster declarations. But now, because the funds we set aside just weren't enough—and that isn't anybody's fault, it is an emergency, a serious situation that happens unexpectedly—we have to move.

I have heard one of the Republican leaders in the House say we have to cut spending to pay for this emergency. He has recommended a place to cut that will cut jobs. It will cut jobs and it will stop us from being able to reinvigorate our manufacturing sector. That is ridiculous, unnecessary, and unwarranted. We all know we are going to do

deficit reduction. We all know there is a smart way to do it. We did it when Bill Clinton was President. We stopped spending on things we didn't need, we invested in the things we knew would create jobs, and we asked the billionaires to pay their fair share—thank you very much.

So let's not get this mixed up with deficit reduction. We are on a path to cut the deficit. We will cut the deficit. We know how to cut the deficit. We did it under Bill Clinton. We balanced the budget, we created surpluses, and we had the debt on the downswing. But don't confuse that with making sure our communities are OK.

The Senators from Vermont spoke today at our luncheon, and one of them had tears coming down his face talking about a woman who was very ill in one of their communities who had to go to chemotherapy. It used to be a 5-minute drive in her car. Now she has to drive an hour and a half in order to get her treatment. So please don't talk about making someone like that suffer even more. Talk about what we can do as a nation when we pull together as Democrats, Republicans, and Independents.

I spoke at a memorial in my hometown on September 11, and when I put together my remarks, I kept harping on the unity we had then.

Well, we need to be true to ourselves and to our constituencies and to our beliefs, but there are moments in time when we come together as Americans. I don't know the party affiliation of that woman in Vermont, and I could care less. We need to help people who get stuck in these fires, in these disasters—in earthquakes, floods, and droughts. I do not believe the American people think when we have that kind of act of God—and that is the legal term as well as a true term—they are on their own.

Last night, our leader tried to move to a bill that would allow us to take up assistance to these people in desperate need and keep our promises to those who were the victims of disaster in my home State and other States. I believe I am correct that Senator LANDRIEU told us we have 48 States since January 1. So I don't know, but I think my caucus is going to stand on its feet until this is done. We are not going to back off.

This is one Nation under God, indivisible, with liberty and justice for all. I want to give justice to the people who are struggling, who are suffering, and who pay their taxes. I want to help the small businesses that are underwater. There is no liberty if someone is trapped in a house somewhere that is cut off because the road went out. The Senators from Vermont talked about the roads that are impassable—impassable.

So last night we had a bad vote. We didn't have enough votes. We need 60 votes. I hope anyone listening to the sound of my voice will call their Senator and double-check how he or she voted because Hurricane Irene could cost more than $10 billion. It would make it 1 of the 10 most costly disasters in U.S. history. We have seen record flooding on the Mississippi and Missouri Rivers, and we have seen lives lost and farmland devastated.

Senators spoke in our caucus about what happened to their farmers. They do not have crop insurance for all these crops. These particular crops were not covered. One of our colleagues said: It is bad enough we have to import oil from other countries; do we want to start importing our food from China and be reliant on other countries for our food supply?

Right now, as I stand here, we have brave heroes—our firefighters—battling wildfires in California and Texas. Here is a picture, because a picture is worth a lot of words—here is a picture of a fire raging out of control. The firefighters are as close as they can get to the flames. This one shows the Comanche Fire in Kern County. It has burned more than 29,000 acres and is threatening 2,300 homes in Stallion Springs, CA.

The firefighters have gotten this fire 60 percent under control because they have had help from FEMA. They have been able to get help from the Federal Government. But the fire season in California has just begun. A lot of people don't realize that in our State September and October are the driest and the hottest months. So every wildfire threatens our communities just as this one. Right now FEMA barely has enough funds to get through the next couple of months. FEMA is running low on resources, and funds are so low they can't provide assistance for communities that are rebuilding from past disasters let alone respond to what is happening right now on the ground as we speak.

I heard the Lieutenant Governor of Texas complaining—complaining—about the situation in Texas, that they need more Federal help. Well, fine. He ought to call up his Senators and tell them to vote with us today to get that Federal help.

We have more than $380 million in disaster recovery projects on hold—several in California. We had a tsunami March 11, 2011. We need the $5.3 million that has been promised to help communities in Del Norte, Monterey, and Santa Cruz, CA. This tsunami did damage.

Let me show a picture from the 2010 mud slide. In January and February of 2010 in California we were hit by severe winter storms, with flooding and mud slides. You can see a very important road has been blocked, again, shutting off people. We have a lot of mountains, so we have to cut through those mountains. Calaveras, Imperial, Los Angeles County, Riverside, San Bernardino, and Siskiyou Counties were hit, and FEMA promised them funding. They met the criteria, they had the level of damage, and they are waiting. Right now they can't proceed without the $3.5 million they need to recover.

So that is what this impasse is about. This isn't about make-believe. This is about real people who are cut off, shut off, businesses shut down, people laid off, and suffering. So let's not have a political spat around here. This isn't a partisan issue. When your neighbor's house is on fire, you don't haggle over the price of a garden hose. You get the hose out, connect it, and put the fire out.

The good news is we have people from both parties who are starting to realize we have to do this. We have to send a message to the House. An emergency is an emergency. We have to put aside politics for the good of our country.

So I will close where I started, with the dictionary definition of ''emergency'': a serious situation or occurrence that happens unexpectedly and demands immediate action.

We all agree we have serious situations in our great land. We all agree we didn't expect all of this. Although, if I might say with a different hat on—my hat as the chairman of the Environment and Public Works Committee—we better understand that climate change is coming. We better understand what we are seeing now is going to be a new normal. It pains me to say we have done nothing in terms of addressing some of the causes. But guess what. Regardless of our views, as my kids would say, we are where we are, and it is what it is, and this is what it looks like in too many parts of our great Nation.

So an emergency is a serious situation or occurrence that happens unexpectedly and demands immediate action, and I echo the call by our Democratic leader for immediate action at 4:15. I hope the phones will light up and everyone will call their Senators. It is time to vote yes on our vote at 4:15 and get on with this so people will know we stand with them in this greatest of nations; that we don't walk away from our people when they are suffering like this.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from California for her poignant, eloquent, and appropriate words. I thank the chair of our Homeland Security Subcommittee which handles FEMA disasters for the great work she has done.

Mr. President, I spent several days, both this week and last week, visiting the places in upstate New York that were so badly damaged. Upstate New York is a large community. Without New York City and the suburbs we would still be about the eighth or ninth largest State, and the eastern half of upstate New York has been unexpectedly devastated not once but twice—first by Irene and then by Lee.

It comes on top of an awful season. Because we have had so much rain and the ground has been so wet when these

torrential rains occur—one a hurricane, one a tropical storm—no groundwater could be absorbed and it made things worse. Let me tell you a few of the things I have seen, just to share with my colleagues.

We went to a small village in Schoharie County. Schoharie County is a beautiful agricultural, dairy county, and it is dotted by small towns like much of upstate New York. We have the third largest rural population in the country. Only Pennsylvania and North Carolina have larger rural populations than New York. We went down a beautiful street, a nice typical street. It could be a street you might see on an Ozzie and Harriet-type TV series. Every single house, street after street, had all its belongings piled in front. The water from Schoharie Creek had so overflowed its banks that the entire town was flooded, not by a foot of water but by 3, 4, 5, 6 feet of water. Out front you see the lives of the people whose lives have been so turned inside out by the torrent of water. They have lost thousands of dollars worth, each family, at a time they can ill afford it, but it is beyond that. It is the picture of grandma and grandpa at their wedding, the only one left. That is gone. It is the chair dad loved and sat in every night when he came home from work. It is their lives wiped out in a few sheer moments.

In this town in Schoharie County and in most of New York State, almost all, the evacuation plans were amazing. We lost very few lives. In some counties, with huge amounts of devastation, no lives were lost in most. That is because of the great emergency work of our relief workers. As bad as Schoharie County was, because years ago FEMA had installed their warning system and warning sirens, people were able to get out of their homes and avoid being drowned. A dam that again we had provided some dollars for, Federal dollars, didn't break. Had it, it would have been even worse. But FEMA money to prevent disaster has helped strengthen the Gilboa Dam. So the creek went over it and around it but not through it, and that saved lives.

I visited a place in Ulster County. These are vignettes. The town of Shandaken is beautiful, in the foothills of the Catskills. There is a major road that connects one part of Shandaken to the other, a county road. As you are driving along, it is newly paved macadam. All of a sudden you see the yellow strips to prevent you from going further and there is a 30-foot gash in the road, totally gone—30 feet. But what is astounding is it is 20 feet deep. At Esopus Creek, the waterway there changed its course, went through not just the macadam, not just the underlay that holds the road, not just the dirt fill of a foot or two, but through the bedrock, through 10 feet of bedrock. It will take years to bring this road back, and it is a cost the town of Shandaken can't afford. Our little towns, our little villages, our cities, even our counties of some significant population, can't absorb the millions and millions of dollars of damage. The total estimate by our Governor is we have suffered more than $1 billion of damage from Irene alone, and of course Lee moved slightly further west than Irene.

I visited a lock in the Mohawk Valley and the city of Amsterdam. It had been very damaged. On a dam that a bridge went over, the metal of the bridge, the steel girders were twisted out of shape. But locks 9 and 10 a little further downriver are no longer functioning because the torrent of rain created such swells that the Mohawk changed its course. So the locks are here and the river is here.

The Erie Canal, one of our great pieces of history, is damaged so that it can't function. It won't function for quite a long time, even with Federal assistance—I don't know without Federal assistance what would happen—for months and even years.

Then I went to Binghamton. Maybe that was the saddest of all. Binghamton is a city that has struggled. It had IBM in its early days. IBM was founded there. Nothing is left of IBM there, and the city is struggling. It is at the confluence of two river valleys, the Susquehanna and the Shenango, and it had been terribly flooded in 2006. Senator Clinton and I visited. It was awful—hundreds of homes, the sewage plant, the hospital, Lourdes Hospital. Incidentally, Lourdes Hospital wasn't damaged because, again, FEMA, with remediation money after 2006 helped supply some of the money for a wall that prevented the Shenango River from damaging the hospital. So it, thank God, is functioning.

But then we went to the shelter, with 500, 600 people who had been there for days and have nowhere to go because they lived in rental apartments in downtown Binghamton, which was totally flooded. Every hotel and motel room in Binghamton is taken. There are very few rental apartments. They have nowhere to go—nowhere to go. Maybe FEMA will come in and bring trailers, as they did for your great State of Louisiana, Madam President. But without FEMA, I don't know what these people will do.

They have food. The Red Cross is doing a great job. But they have nothing else. Their homes are gone, their belongings are gone, their clothes are gone. One gentleman came over to me and said, I would just like to try to get to my bank—which is closed and flooded—so I can take a few dollars out so I can buy some slippers. It is awful.

What does this mean policywise? It means America cannot ignore these people. The people of New York, when Louisiana had trouble, didn't say: Our tax dollars shouldn't go to Louisiana. The people of New York did not say, when there were terrible tornados in Joplin: Our tax dollars should not go to Joplin. And I hope that the people in the rest of the country, represented by so many here on both sides of the aisle, will not say we are not going to step to the plate. America has always stood for disaster relief—always—because we are one Nation. We all have known that when God-given disasters, way beyond the powers of mankind, come, no single community can take care of it themselves, and that is why the Federal Government has traditionally stepped in and regarded it as an emergency and we have stepped in. We haven't had strings attached or conditions, or: Put it in this bill and we will give you a little money now and we will see what you need later.

FEMA, by the way, has done a great job. I want to tip my hat to the people of FEMA who did such a wonderful job. But they are basically out of money. Right now in Missouri, none of the relief work continues despite the devastation in Joplin, because they only have money to deal with the immediate emergency of Lee and of Irene that hit New York State. The FEMA workers are doing great, and the people, the volunteers I saw everywhere, everyone is pulling together. Why can't this Senate and this Congress pull together the way the people of our communities pull together when a disaster hits?

We had one gentleman whose house was gone but he hadn't even been able to tend to it because he was a skilled worker and he was tending to the homes of others for 5 days. I saw him and his sisters, and they even had some humor about it. They were wearing shirts, ''Goodnight, Irene.''

We have to pull together. We pay on an emergency basis, without looking for setoffs, for the war in Iraq and the war in Afghanistan. We build bridges there, we build roads there, we give aid there. Now we are saying, When it comes to our American citizens, we are not going to do that any longer? What is going on?

This afternoon we will vote simply on a resolution. To those of you not schooled in the arcane ways of the Senate, it is called a motion to proceed. It simply allows us to put legislation on the floor so we can aid these victims. And it can be amended. If some of our colleagues think this is wrong or that is wrong, they can debate it. But today's vote will say whether we should even begin to move to cover this, and we are getting it blocked. On last night's vote, six of our colleagues from the other side of the aisle joined us, but not enough.

And so here it is. This is not me speaking, this is the AP, almost universally regarded as a nonbiased news source: Republicans block Senate disaster aid bill.

What is going on? They don't block bridges and money for the war in Afghanistan and Iraq, to help rehabilitate those communities, and they are blocking this, for help in Missouri and Louisiana and New York and Vermont and the Missouri River Valley up through the Dakotas, the State of Missouri?

What is going on here? This has never been a partisan issue.

Republican Governors whose States have been hard hit have called for help. Chris Christie, hardly a wallflower, hardly someone who doesn't relish a partisan battle when he thinks it is right, but to his credit, when he thinks it is wrong:

Our people are suffering now and they need support now. And they, Congress, can all go down there and get back to work and figure out the budget cuts later.

That is Governor Christie.

Governor Bob McDonnell, a well-known conservative:

My concern is that we help people in need. I don't think it's the time to get into the deficit debate.

Are my colleagues on the other side of the aisle listening? Let us begin to debate this bill. Let us move forward, and let us fund FEMA fully. Let's not put something in the CR and say, Well, in a month from now we will debate it. We all know CRs get tied up. FEMA has run out of money now—now. So this vote will be a vote that determines whether we keep the American tradition of helping one another in a time of disaster here in America; and a vote no says, no, I don't want to do it. A vote no says I am not going to proceed to even debate the bill. A vote no is against the greatness of America, in my opinion, because we always have stood for helping people, being one Nation, under God, indivisible. When a part of the country desperately needs help, we all pull together to help them, knowing that if, God forbid, it happens to us down the road, the Nation will be there for us.

I was just at the 9/11 memorial service, the tenth anniversary. It was a time when we all pulled together. George Bush did not ask, when we were in the Oval Office and said New York desperately needed $20 billion, Is it a blue State? How are we going to pay for it? He stepped to the plate. He was a patriot and he said: This is what America must do.

That was a manmade disaster, an awful disaster. Far more lives were lost than now. But it is not a different issue. This is a disaster, and people are hurting and people need help. The attitude of President George Bush hopefully will be the attitude of our colleagues across the aisle, that they won't block the bill, that they won't find seven excuses, or say, We will give you a little of the money a month from now in a continuing resolution, when the money is desperately needed now.

In conclusion, this vote is a crucial vote that says: Are we the same American people we have always been, who look out for one another, who help one another in a time of need, regardless of party and regardless of bickering and everything else? This vote will determine it. I urge a strong bipartisan vote for the resolution that we will vote on in an hour.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator from New York for those very descriptive and moving comments about his State, and particularly the part of his State that we don't hear a lot about. That is why we depend on the Senators to speak the truth about what is going on and what they are seeing. I know the Senator from New Jersey is here to speak, but pictures are worth a thousand words and I wanted to put this chart up. I hope the cameras can grasp the horror of all four of these pictures. What is I think most telling about them is they are all from a different State in a different part of the country.

This picture is of Joplin, MO. I haven't myself personally been to Joplin, but before the year is out I will go, and I think other Senators should go see what has happened in one of the great tornado disasters in the history of our country.

This picture, which almost brings tears to my eyes because it looks exactly as Lake Pontchartrain looked in the city of New Orleans, I believe is from Irene, from North Carolina. It is heartbreaking. I am sure this is a family who was on the coast, and everything they had is destroyed. It really is quite moving.

This is a picture on the Mississippi River, I am not sure in what county. But when our Senators come to the floor to talk about rural areas and the devastation, at least in Missouri, you can walk down the street and find a neighbor whose home was equally destroyed and at least get a hug. Out here in these rural areas, you are by yourself. It could be miles between your house and your neighbor's home. You cannot even find the church where you worshipped together on Sunday.

Here is Texas. We prayed for the rain last week to go west to Texas. It hit Louisiana again. They are the ones who need it, but they cannot get it. There were 20,000 fires in Texas. There were thousands of homes burned up.

Before everybody starts to think, what is the great help—yes, FEMA is a great help. But let me put this in perspective. You get $2,000 a family—$2,000—to help buy a toothbrush, maybe a few pieces of clothing, some initial toiletries, et cetera, and you get $30,000 for some immediate needs. It is not as if we are trying to send people $1 million a house. How can people stand in the way of $2,000 for immediate needs and $30,000? If you had a house that was worth $150,000 and you ran a little printing business and you lost both, the most you could get out of this bill is $30,000. Do they think we are being too generous? It is minimum support. I want to make that clear—minimum support.

Some people are lucky enough to have insurance. If the insurance company steps up and does not try to pull out the fine print, as they did in Katrina, and come up with 100,000 excuses why they can't fund the homes, maybe they will get homes. This isn't us just trying to dump millions of dollars on people who do not deserve it.

That is what I wanted to say. I will have more to say, but I think these pictures speak 1,000 words. Again, FEMA is out of money. I don't want anybody coming here to vote to say: I didn't vote because FEMA has money. They are out of money. They are stopping projects all over the country because all they can basically do is have enough money to pay those immediate needs on the east coast. Joplin, MO, has been told: No, you have to wait. Louisiana, on the gulf coast, has been told: No, you have to wait. We are happy to wait a few weeks. We understand the dilemma. But this cannot go on week after week, month after month. We have to pass a bill for an entire year and not have to come back to it.

I see the Senator from New Jersey on the floor, so I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I appreciate the passion of the Senator from Louisiana and her personal experience from Louisiana on the consequences of disaster. She speaks from firsthand knowledge and speaks for all of us in this respect.

I rise today because we as a nation have always come together to help each other in times of crisis without question, without politics. In my 20 years between the House and the Senate, I never questioned, in the midst of a disaster somewhere in the country—which, fortunately, for the most part has not been New Jersey—casting my vote to support those fellow Americans who found themselves in urgent need because of natural disasters having nothing to do with any control they had whatsoever.

This is not the time to politicize disaster aid. It is not who we are or what we expect this Nation to be. Our goal when disaster strikes is to unleash the full force of the Federal Government to help families in trouble and communities in ruin, not to score some political points by slowing relief and calling it responsible fiscal policy. In the wake of a storm, when the floodwaters rise, when the winds blow, when the storm surge rushes in, we should not be rallying our political base; we should be rallying the full force of emergency responders to help.

In the last few weeks, the east coast has suffered an earthquake, a hurricane, and some of the worst flooding my State has seen in years—a 100-year flood. I received a letter from a constituent in Moors Landing, in Monmouth County, who wrote:

Dear Senator MENENDEZ,

I live in Moors Landing, a development of homes in Howell Township, Monmouth County, New Jersey. Our community is in great need of assistance. One section of our community was devastated by flooding from an overflow of the Manasquan inlet on August 20 and 21. Homes and property were destroyed, and the families and lives of those homeowners were terribly disrupted.

Then, after the first calamity, Hurricane Irene brought further destruction to this

same section of our community. But in addition to that repeated damage, Irene brought damage to a second section of our community.

Hurricane Irene, in addition to the added homes and property damage, forced many of our residents to be evacuated in order to avoid drowning in the rushing flood waters. This second catastrophe added to the misery and hardship suffered from our affected homeowners who lost their furniture, their carpets and flooring and everything in the first floor of their homes, their furnaces and air conditioning units, and all of them have to tear down their water damaged walls to avoid mold and dry out their homes.

All of this devastation and loss comes at a time when our people already are finding it difficult to make ends meet. These people have no money to take on the added costs of repair; and now there is no one who would even buy their homes. So they are stuck with a true nightmare scenario—no money to fix things and no way to sell the homes. We need your help. I understand Federal funding from FEMA is available, and we urgently need your assistance in securing these funds for our neighbors so that these people can move on with their lives.

That constituent, a fellow American, deserves to know that her government will be there to help, that relief is on the way, not held up in Congress to satisfy some ideology or political agenda.

When disaster strikes, Americans come together. We do not hesitate. We do not ask why. We do not wait. We rush to our neighbors and do all we can to help them rebuild. After the damage and flooding Irene caused, we came together as we always do—as a community, each of us working together to help others.

I had the opportunity to tour the flooded areas of New Jersey with the Army Corps of Engineers. Then we went to Patterson. This is a picture of Patterson, NJ, and these responders are on a boat, with the President and Governor Christie of my State, to assess that damage.

After 5 days of flooding, there were still those who were homeless, trying to put the pieces of their lives back together. As we flew over the area with the President that day, we could see mud lines on homes indicating how high the floodwaters had reached. Then, tragically, we saw home after home where everything, up and down some streets—all the personal belongings of residents had been put out as trash, cherished pieces of their lives lost, ruined.

Paterson was particularly hard hit. Ironically, the river that once fueled the economy of Paterson washed out bridges, dams along the river were badly damaged, and power was knocked out for days. With the latest rains, flooding again took place even after Hurricane Irene. So the water may have receded, but the consequences have not.

We have been very pleased with the Federal response so far, a response that should have nothing to do with politics, nothing to do with political budget debates in Washington, and everything to do with the real needs of families in Paterson, in Lincoln Park, in Wayne, and in so many other places in New Jersey and across this country. Some of these people have to start over, start their lives over.

FEMA, along with other Federal, State, and local officials, needs the resources necessary not only to move in as quickly as possible to deal with the crisis but the resources necessary to deal with the aftermath—politics notwithstanding—because when one community is in trouble, we are all in trouble, and we pull together.

Frankly, I cannot believe there are those in this Chamber and in the other body who see this as a political opportunity, those who would focus on the politics of relief even in the face of families who have watched their lives wash away, their property in ruins, and their communities devastated.

New Jersey suffered severe damages and left families, already struggling, with another challenge. It is up to all of us to help them. Irene was a powerful storm, but what we have learned is that there is nothing more powerful than what unites us as a community. It is in times such as these, when families and small businesses are trying to recover, that we appreciate the role of professional, well-equipped, well-trained local, State, and Federal boots on the ground.

In my view, one of the most legitimate and nondebatable roles of government—clearly, I have heard many of my colleagues refer to this in a different context—is the security of our people. If you are homeless as a result of a disaster, you have a security problem. In my view, one of the most legitimate and nondebatable roles of government is to provide a helping hand to a citizen when there is nowhere else to turn. Yes, we have to do all we can to keep our economy moving, create jobs, and reduce the deficit. We have to make cuts where we can. But in the face of disasters, we cannot say no to families who have lost everything. We cannot say no when floodwaters are rising, homes are lost, possessions are piled in the streets, and families are picking through the mud to put whatever pieces of their lives they can find together once again. We are not a nation that ties helping them recover to the politics of the moment. We are not a nation that leaves our neighbors alone in the time of tragedy. We do not stand down in times of crisis, we step up.

We in New Jersey are grateful to the President for coming to Paterson and to Wayne and for the rapid and effective response of FEMA and State and local officials, after Irene, to families who have lost so much. But any attempt to slow relief to these families is, in my view and in the view of Governor Christie of my State—any attempt to politicize this disaster to advance an ideology at the expense of all we stand for as a nation is not acceptable.

The President said we will do what is necessary to respond. Senator LAUTENBERG and I took the same view, and Governor Christie took the same view. We don't want to get into the politics of budget debates or whether this should be offset later on. That is a question for later on. The question right now for people who find themselves without a home so we can knock on that door is, Is the Federal Government—the one I pay my taxes to, the one I swear an oath of allegiance to every day—is it going to respond to me now?

I did not question the need to respond to tornadoes in Joplin, floods in the Dakotas, or the terrible consequences of the hurricane in Louisiana or any other place in this country, and I do not expect that my colleagues now will say no to their fellow Americans who need help now in New Jersey and in other States along the east coast. It is simply not the American way to not support the funds necessary and deal with the challenges these families have now.

Let's keep our eye on the ball. There are families in real need, really struggling in ways we cannot imagine. We have a real ability to put politics aside and do what is right. We will have that opportunity very shortly. Let's do what is right. Let's get this money to the Federal agencies that can help turn around these people's lives. That is the American way. That is the vote we will have later today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator from New Jersey for adding his strong and powerful voice to this. I wished to clarify a few points that I think are important for people to understand.

First, for those who might be engaging in or listening to this debate, we are going to have a vote in about an hour or so, and if we do not get 60 votes, we will likely not be able to replenish the FEMA coffers that are virtually empty. The Federal fiscal year, to remind everyone, does not start January 1. It starts October 1. We run on a fiscal year, not a calendar year. We are coming to the end of our year in September, this month. FEMA has run out of money in the last 11 days. I wish to submit for the RECORD—this is just an 11-day count, $387 million worth of projects that have been halted because FEMA is stretching the few dollars it has have left to cover the emergency needs, literally, of meals and shelter for the people on the east coast.

In other parts of the country where there are jobs underway, rebuilding highways, rebuilding libraries, rebuilding schools, rebuilding sewer systems, water systems, et cetera, those projects have been sent a pink slip, basically, from Washington saying cease and desist. You know what the worst thing about that is, it is not necessary if we would immediately act and refill this coffer so these projects can get started immediately. What is very bad about this pink slip is that this $387

million worth of projects, many of these projects have already been done by small businesses, private sector contractors. This is not money owed to the government. This is money, in large measure, owed to private small business people or medium-sized business people or, in some cases, large businesses that are in the process of fixing the library. In the last 11 days, because of some ideology here, some sort of political party agenda, they have received a pink slip that says: Stop work.

If these companies that have already purchased the lumber or purchased the concrete or purchased the pipe to build the project do not get paid soon, they will go bankrupt. Believe me, I have companies in my State that have gone bankrupt because the Federal Government is a notoriously late payer even under good conditions. This is not what I would describe as a good condition. This is a terrible condition. So the other side needs to think about the politics of this. This is not just a moral question, it is a business question.

There are many dimensions to this question. We have basically sent a cease-and-desist order to $387 million worth of contractors and businesses that might not be in New Jersey or affected in Vermont but are working on a project. They have a work order from the Federal Government, only to find out, sorry, Congress cannot decide how to pay, so good luck trying to make your payroll on Friday. This is wrong.

The second argument I would like to make to the other side when they are considering this important and significant vote is, when the other side says to me: Well, we need to budget for it, I would like to budget for it, but I do not have a crystal ball. I think I am a pretty good Senator, but one thing I do not do very well is predict the future. I sometimes have instincts about it, but I am not a fortune teller, and one would have to be a fortune teller to see what is happening.

This is not MARY LANDRIEU's opinion. These are the facts. In 2003, we needed less than $1 billion to fund all disasters. It was a relatively mild year. Had we put $2 billion in the budget, we would have had $1 billion extra. The next year it jumped to $5 billion. The next year it went up to $45 billion. It broke all records. The next year it went down to $12 billion. The next year it fell to $8 billion. How are we on the Appropriations Committee—DANNY INOUYE is a fabulous chairman from Hawaii and THAD COCHRAN is a terrific Senator from Mississippi, but neither THAD COCHRAN nor DANIEL INOUYE can predict a year and a half out what the disasters are going to be and budget accordingly.

Even if you can't motivate yourself—some people here—to vote for people because they need help, just look at the argument on the finances. We do not know in advance. We could set aside some money, maybe more than the $1.8 billion we have. I do not disagree there, but we still would have missed it every year except for 2 years. Even if we had put $5 billion in the base budget, we would have still missed it. We cannot predict it. Should we set aside $25 billion every year?

The point is, when disasters happen, just fund what we have committed to, which is a base benefit package to people. As I said, no one is going to get rich off $2,000 and $30,000 to help people get themselves started. Hopefully, their insurance comes in, nonprofits step up to help. They can maybe dig into a little bit of their savings.

This is as much a jobs bill, it is as much a business bill as it is a bill that is the right moral thing to do for people. It is not because Democrats do not know how to budget. I am so tired of being lectured on the other side about Democrats don't know how to budget. I would like to remind everyone the last time this budget was balanced, we had a Democratic President. Democrats can balance budgets. I was a State treasurer for 8 years, and I did a lot to help my State get back on a strong financial footing. I am proud of my record and so is every Democrat here. It is impossible to predict in advance.

What we could do is what we always do, send help. Help these companies and help these people get jobs, put people to work in America. Do the right thing. Over the course of the next 6 months, as our big committee is working and trying to figure out lots of big problems we have—and this is one of them—we can have time to sit down and figure out, based on this reality, what we should do. If anyone has a suggestion, please come to the floor now.

My committee has been talking about this for 6 months, and I wish to say thanks to my cochair, Senator COATS, who serves with me on the Homeland Security Appropriations Committee. We have been thinking about this for 6 months. He voted yes yesterday because he knows there are not many good options out there. Can we find a way? Yes. Can we find it this week? No. We might not even be able to find it in the next 30 days, but I am confident that over the course of the next month and year we will find a way to pay for it.

Right now people in New Jersey and Vermont and Louisiana and Missouri and Minnesota and North Dakota do not want to listen to this. They want to tell their kids: Yes, we are going to rebuild. They want to tell their employees: Yes, we are going to put our business back. They do not need to listen to this and they should not have to.

I am urging a strong vote at 4:15. Again, we have, in the last 11 days, $387 million in projects that have been stopped.

I ask unanimous consent to have printed in the RECORD the summary of projects on hold due to the immediate needs financing decision as of September 9, 2011.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROJECTS ON HOLD DUE TO IMMEDIATE NEEDS FINANCING DECISION AS OF SEPTEMBER 9, 2011

Alaska	$378,971
Alabama	7,378,107
Arkansas	3,659,364
Arizona	464,032
California	9,357,469
Connecticut	176,225
Florida	*65,879,997
Georgia	2,698,257
Guam	2,205,346
Hawaii	322,892
Iowa	*67,500,580
Illinois	2,930,339
Indiana	1,173,802
Kansas	1,596,523
Kentucky	3,405,166
Louisiana	*55,534,418
Massachusetts	256,659
Maine	73,640
Minnesota	7,334
Missouri	4,259,033
Mississippi	*69,992,729
Montana	4,093,487
North Carolina	92,517
North Dakota	*17,596,388
Nebraska	1,373,076
New Hampshire	129,251
New Jersey	1,293,220
New Mexico	88,333
New York	3,343,581
Ohio	286,364
Oklahoma	10,947,565
Oregon	8,831
Pennsylyania	577,858
Puerto Rico	1,952,676
Rhode Island	80,300
South Dakota	470,895
Tennessee	*37,277,063
Texas	5,153,160
Utah	765,107
Virgin Islands	220,229
Vermont	734,275
Washington	1,028,188
West Virginia	477,992
Total	$387,241,239

*Small business.

Ms. LANDRIEU. Every day this list is going to get bigger and bigger. All this is is a pink slip to someone unrelated to the current emergency. They are working on emergencies from 3 years ago and now they are being put out of work because of this bullheadedness that is coming from someplace. I hope we can break through on that today.

Again, these pictures are difficult to see, but I think it is worth seeing them again. This is what people look like who are listening to this debate—this family sitting on those steps. Someone, either they or their neighbor, is going to say: Did you hear Senator LANDRIEU on the floor? Did you hear the Senate debate? Why would the Senate of the United States be arguing whether we can get aid? Aren't we building in Afghanistan and Iraq and we are not going to build in North Carolina? I think they are sitting on the Outer Banks of North Carolina thinking: What is going on in the Congress? People are going to be angry, believe me.

I do not know what we are going to tell them. What are we going to tell them if we vote no on this? Are we going to tell them we do not have the money? Are we going to tell them we cannot figure out how to budget it?

We will figure it out later. We have to, eventually. Every bill we enter into

has to be paid for, eventually. You know that, Mr. President. We do not have to decide that this week.

Let's tell them yes. Let's do the right thing and let's get help to Joplin, MO. Let's get help to our rural communities that sometimes get very forgotten. Let's get help to our folks in North Carolina and to our people in Texas who have been suffering terribly over this, and let's do it now.

Let me share another quote that I think is particularly significant. The Senator from New York talked about Gov. Bob McDonald, a conservative Republican from Virginia. He said fund it now. Another Republican Governor, New Jersey Gov. Chris Christie said:

Let's fund it now. It is not a Republican or Democratic issue.

I wish to read what Gov. Tom Ridge, the former Governor of Pennsylvania and the first Secretary of Homeland Security, a staunch Republican, said:

Never in the history of the country have we worried about budget around emergency appropriations for natural disasters, and, frankly, in my view, we shouldn't be worried about it now. We are all in this as a country. And when Mother Nature devastates a community, we may need emergency appropriations and we ought to just deal with it and then deal with the fiscal issues later on.

He is a very influential leader in our country and was the first Secretary of Homeland Security. He ran the FEMA budget. He understands what is at stake.

Please, let's not make this a partisan issue. Let's get a strong bipartisan vote; the Senate can be very proud of that; and then we can negotiate the issues with the House. I will work with the House leadership to say there are several ways we can pay for this. We can debate it over the course of the next several months and maybe come up with a new way. I know one thing we cannot do is take it out of the Department of Homeland Security. Our budget would be devastated, and it wouldn't be fair to all the perimeters and the security and our ports and our firefighters to use their money to pay for past or present disasters. We could potentially find the money somewhere under some new mechanism, but let's not make the people of the east coast, the people of Joplin, MO, and the people of Louisiana, in the floods that we have just gone through ourselves, scapegoats. We will figure out there is time for debate later, but the time for action is now.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I ask unanimous consent to be able to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I listened carefully to our colleague from Louisiana and note a particular distinction that her State brings; that is, the number of natural disaster problems that State has had and how diligently Senator LANDRIEU has fought to make sure that when we have a problem, we ask the government with a clear conscience to do its share in helping us cure the problem we get.

On Sunday just passed, we marked the 10th anniversary of the September 11 terrorist attacks. On that terrible day, 10 years ago, we were reminded that when tragedy strikes one part of our country, Americans pull together to respond. When our enemies and Mother Nature sends us their worst, Americans are at our best.

In the wake of recent storms across the country, including Hurricane Irene in my State of New Jersey, we see this same American spirit of cooperation coming through. Unfortunately, we learned that the spirit of neighbor helping neighbor stops with our Republican colleagues. We saw a shameful display where all but a handful of Republican Senators voted to block consideration of an emergency disaster relief bill. They chose not to let our government do its share in curing a problem that enveloped much of the country. They have chosen to use disaster relief victims as pawns in their political gamesmanship.

Make no mistake. The disaster relief bill is a critical lifeline to the families who are struggling to pick up the pieces of their shattered lives after Hurricane Irene.

Early estimates suggest this violent storm could be 1 of the 10 costliest storms in U.S. history, with damages that exceed $10 billion. This is some of the worst flooding in a century, and it is a serious emergency.

Hurricane Irene produced devastating floods in New Jersey and other States along the east coast. A major tropical storm followed days later causing even more damage. In New Jersey alone at least 11 people were killed, and countless families were displaced after their homes were destroyed.

President Obama has declared the entire State of New Jersey—all 21 counties—a Federal disaster area. Earlier this month, the President came to New Jersey to see firsthand the destruction that Hurricane Irene has caused. I joined him on his tour of Paterson, NJ, my hometown, and one of the cities hit hardest by flooding. We witnessed unforgettable images. The streets and sidewalks were covered in mud, and inside homes—I saw it personally—mud covered the second floor of some. That is how deep the water was. Fourteen-foot crests followed what at times were very tepid streams. Walls were stained by high water marks. This picture shows some of the damage in the city of Paterson. Perhaps it is difficult to see, but what we are looking at is water—water everywhere—and it is entirely enveloping homes and businesses and the community.

Paterson is not alone. This is a scene in Boonton, NJ, where we see the road was washed away and people can't move from one part of the town to the other.

In Cranford, NJ, we see another disaster scene. Here we have what looks like debris piled up. This debris was furniture. It included beds, cribs, and refrigerators. It included all kinds of things—people putting their wares out on the front lawn, furniture never able to be used again, the houses themselves often not being able to be entered again.

This picture shows the damage in Bound Brook, NJ, and the high level of the water as it compares to the buildings constructed there. With Hurricane Irene, we witnessed nature's power to destroy. Now it is time to see the Federal Government's capacity to repair, rebuild, and restore.

Even before this hurricane struck, FEMA's primary source of funding for cleanup and recovery—the Disaster Relief Fund—was barely on life support. The tornadoes and flooding that wreaked havoc across our Midwest and South earlier this year, along with wildfires and other disasters, depleted the funds. That is why, in my role as vice chairman of the Homeland Security Appropriations Subcommittee, I helped to craft a bill to replenish the Disaster Relief Fund.

The Appropriations Committee approved this bill last week, and majority leader HARRY REID understood the urgency of the situation and brought emergency disaster relief legislation to the floor right away for us to consider—putting money into the relief fund so we can deal with the tragedies that have hit so many people in so many places.

What happened in the Senate yesterday? Republicans filibustered our attempts. I think everybody across America has learned about what the word ''filibuster'' means. It means stopping things, blocking things. They blocked our attempts to even allow an emergency disaster relief bill to be considered. What kind of foul play is that? They talk about saving money, and they talk about cuts. It is outrageous.

Some of them have claimed the bill would cost too much. But we all know the widespread damage that occurred demands a strong Federal response. We have to provide FEMA with the resources it needs to help New Jersey's people, businesses, and communities recover and rebuild from this disaster.

This bill also helps disaster victims in all 50 States—not just the States affected by Hurricane Irene. Every State has experienced disaster in recent years, and FEMA is working in every State to help these communities rebuild and recover. So if we fail to pass this bill, every State is going to suffer because if we can't help one State, we can't help any States, and that is an unacceptable condition.

The fact is, the victims of Hurricane Irene and other recent disasters have enough to worry about. They shouldn't have to also wonder if their government is going to stand behind them.

I wish to be clear. The Federal Government plays a critical role in disaster relief efforts, and we have a responsibility to provide funding to help communities rebuild and to make sure the job gets done well.

For decades the Federal Government has had a track record of extending a helping hand to victims of natural disasters. This includes more than $11 billion in emergency funding to help Texas, Alabama, Louisiana, and other States recover from hurricanes or flooding in 2008. Last year we approved more than $5 billion in emergency funding to help States such as Tennessee and Kentucky recover from floods. The people in these States desperately needed our help, and Congress responded. We have to do the same now.

It is hard to understand why people on the Republican side in the House and in the Senate don't step up to their responsibilities. What are those responsibilities? Those responsibilities are to protect and secure the safety of our people. Without that, the country isn't quite what it should be by all measures. We have to do what we have to do, now.

As we fight our way out of a recession, this is no time to play politics and penalize people who are struggling. Moments such as this demand shared sacrifice. We face serious challenges in our country, but we cannot put a price on a human life and say, well, if it costs a lot over there, we are not going to do that to save people. Nothing is more important than keeping our families, our economy, and our communities safe.

So I call on my colleagues to put aside the Republican cloak, put aside the savings we think we can make from avoiding our responsibilities because no money is going to be saved. The costs are going to be there, and the misery is going to be extended.

So I urge us all to join to approve this bill. Few of us, if any, are exempt from the possibility of disaster in our States. So let's put the politics aside and make sure our first priority is helping people—helping individuals, helping families, helping the communities—and keeping functions going to permit our society to work.

With that, I close out my comments with wonderment as to what we have seen with the hard shell, heartless attitude about providing FEMA with the money to repair the results of disaster. It is almost incomprehensible. We heard a cry from one of the leaders on the Republican side in the House to say: Well, we first have to find the money to pay for it.

Like the Devil, we do. We don't do that when we see forests being ravaged by fire. We don't do it when we are attacked by outside enemies. We don't do it those times, and we ought not to do it now.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, I join my colleague, Senator LAUTENBERG, and the others who have come to the Senate floor this afternoon to talk about the importance of getting help for people who have been hit by disasters.

A little more than 2 weeks ago, Tropical Storm Irene came barreling through New Hampshire just as she came barreling through Vermont and New York and New Jersey and North Carolina and so many other States along the east coast. The storm dumped as much as 8 inches of rain in parts of New Hampshire, and the damage to property and infrastructure, especially in the northern part of our State, was significant. The surging waters and high winds destroyed roads and bridges, damaged thousands of homes, left nearly 200,000 without power, devastated businesses, and ruined crops.

While the devastation was terrible, I wish to begin by commending those dedicated first responders and emergency personnel who kept our residents safe and well-informed throughout the storm. I am also grateful for the tireless work of road crews, utility workers, and volunteers from across New Hampshire who began helping families and communities rebuild just as soon as the storm passed. Their hard work and community spirit are deeply appreciated.

For many of the towns hit by Irene, this is the third major flooding event of the year. It is the 7th in the last 2 years. These have been devastating floods.

I have a picture of the town of Plymouth, a beautiful community in northern New Hampshire where Plymouth State University is. What we can barely see in this section of the picture is the new ice hockey arena for Plymouth State that was just completed about a year ago. It is a beautiful, state-of-the-art arena that, unfortunately, was flooded by these floodwaters. Of course, we can see other damage to the town.

Many of the homeowners in the community of Conway, on the other side of the State, are people who suffered some of the worst damage and are elderly and disabled. They are people who are living on fixed incomes, who are least able to recover from this kind of disaster.

Others affected by the disaster are families who are already struggling to cope with difficult economic circumstances. New Hampshire emergency response officials toured Conway today, and they talked to our office and told us about the plight of one young family of three. Sadly, the father was laid off from his job just 3 days before the storm hit, and his wife, who stays at home and takes care of their 3-year-old, doesn't have a job outside the home. So with his layoff, they have lost their entire income, and now their home is so damaged they are worried about being homeless. They have no money to rebuild. Without FEMA assistance, this family could indeed wind up homeless.

Hundreds in the West Lebanon area in the western part of the State across the river from Vermont may be out of work for months. Peg Howard, who owns a boutique gift store in the area, told the Upper Valley News, which is the newspaper that serves Lebanon, that she fears damage from Irene will put her out of business. As a small business owner, she has no parent corporation to help her recover, so assistance from FEMA and other Federal programs may be her only option as she tries to rebuild her business.

Peg and the hundreds of others in New Hampshire and the thousands across the country who have been devastated are taxpayers, and this is their government. They help pay for it. Their tax dollars help fund our government, including FEMA. They have the right to expect that FEMA will be there when they need help.

It is not only sad but it is an outrage that some Members of Congress would deny those people who have been so hard hit by Irene and so many other disasters this year—that Members of Congress would deny them help in their time of need, and for no good reason. The reason is pure partisan politics. It is plain and simple.

Even in the best of circumstances, the costs of Irene would be a significant burden for New Hampshire to shoulder alone. Thankfully, President Obama quickly granted Governor Lynch's request for a major disaster declaration. A number of Federal agencies, including FEMA, are now on the ground providing essential assistance as we begin to restore our State's homes, businesses, roads, and utilities.

But New Hampshire is hardly alone in the need for assistance after Hurricane Irene. Other parts of the country are still rebuilding from disasters earlier this year, such as the devastating tornado in Joplin, MO. Soon FEMA's disaster relief fund, as we have already heard this afternoon, which was already running low prior to the storm, will no longer have the resources needed to continue meeting recovery needs.

In the last 2 weeks, FEMA has spent $300 million providing relief to States hit by Hurricane Irene. Less than $500 million remains, which may not be enough to see us through the end of the month. New Hampshire, and the other States still recovering from disasters would be on their own if that happens. We cannot let that happen. We must act quickly to provide FEMA with the resources it needs to help our citizens and our towns recover.

In northern New England, we have a limited window to rebuild before the onset of winter brings our construction season to a stop. What is more, in New Hampshire, fall is a critical season for

our tourism industry, as thousands of visitors come to take in the beautiful fall foliage. We need to immediately rebuild the bridges Irene destroyed, such as this one in Hart's Location, pictured here. As you can see from this picture, in another couple of weeks, this beautiful mountain, as shown in the background, with all of the green foliage will be turning all sorts of colors because of the fall foliage. If we cannot fix this road and bridges in a number of other places in New Hampshire, we will not be able to have a tourist season that can bring people to the State that can help those people whose jobs depend on that tourism industry. Any delay in FEMA assistance over the next few weeks could have a serious effect on recovery efforts and the hundreds of businesses and their employees who depend on the tourism industry.

Mr. President, I know you agree with me and with the other Senators who have come to the floor this afternoon who believe that natural disasters should be beyond politics and beyond partisanship. The people hurting all across this country are not Democrats or Republicans or Independents. They are citizens. They are taxpayers. Getting them the help they need demands bipartisan cooperation. In the past, we have always been able to come together and get people the help they need. This time should be no different.

I urge all of my colleagues in the Senate to work together to address this emergency and provide FEMA the resources it needs to carry out its mission. This has an immediate, real impact on so many Americans and we cannot delay.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I had to slip away from the floor for a few minutes, and I understand that no one from the other side has come down to speak this afternoon. I cannot say I blame them because it is a very tough position to take.

We are getting ready to take a very important vote in 5 minutes on whether we are going to provide disaster relief for the country, and particularly for the east coast, which has been so terribly hit with Hurricane Irene and then, of course, Tropical Storm Lee that came up through the gulf coast—and you know we have had our share of difficulty—but then it dumped additional rain in an area that was already saturated. We have wildfires raging in Texas. We have the destruction still in Joplin, MO, and other places throughout the Midwest.

The question for Americans in all of these States—Democrats, Republicans, and Independents, and some who are totally unaffiliated with the political process—is: Is Congress going to help? Our answer today needs to be yes. We need to fill the FEMA coffers that are empty. Our fiscal year ends this month. FEMA was given a certain amount of money in the earlier part of this year. The end of the year is coming up, and they are virtually out of money.

I submitted for the RECORD only 30 minutes ago that in the last 11 days $387 million for ongoing construction projects for past disasters have been put on hold so FEMA can stretch those dollars to make sure people can eat in the shelters and at least have one set of clothes to wear in other parts of the country. This is unheard of in our Nation. We have never, ever gotten so low in our disaster account.

There is plenty of money in the account to rebuild Iraq. There is plenty of money in the account to rebuild Afghanistan. There is money in accounts for refugee camps all over the world. But the account for Americans who are homeless, desperate, and without their businesses, their churches and, in some cases, their neighborhoods is empty, and Members are going to come to the floor today and vote no? I strongly suggest a ''yes'' vote.

I said the reason we cannot budget exactly for these disasters is because we, A, do not know when they are going to happen, and we do not even know the amount of the damage. As I have shown in my arguments this afternoon, the amount wildly fluctuates. One year it was zero, over the last 10 years. One year it was zero. The next year it was $5 billion. One year it was $8 billion. The next year it was $43 billion.

So I am saying, no one here—we are all very good, very powerful people, but we are not fortune tellers, and we do not have crystal balls on our desk, so there is no way we can know.

When people say to me: Well, you don't know exactly, but could you budget something, the answer is, yes, we could figure that out, but we do not have to figure that out today. We do not even have to figure that out this month. We have this supercommittee set up to fix every problem in the world, it seems. We will just give them another one to work on because we have been working on this in the Appropriations Committee for some time. The White House is engaged. The Republican leadership, hopefully, will get engaged. The Democratic leadership is engaged. We will figure it out. But now is not the time to have the victims of these disasters and the survivors of these disasters worry about this.

We need to refill FEMA's coffers, refill the Corps of Engineers that are stretched beyond imagination at this time. You can imagine with the Mississippi River. The highest flooding in 50 years occurred this year. Now they have other flash floods all over the country—a bridge here, several bridges there, dams and dikes bursting. One of the Governors, I understand, just shut down a major bridge because they found a structural fault. So the Corps of Engineers has more than they can say grace over. Now is not the time to cut their budget. Now is the time to give them additional funding and do some reform of the Corps of Engineers that my people are crying for in Louisiana.

I think a picture is worth a thousand words. I know we are getting ready to vote, and the leader will come and, I guess, call for the vote. But a picture is worth a thousand words.

These are people who are desperate. I have shown this picture this afternoon. This is Joplin, MO. This is somewhere along the Mississippi River and the great flood. How lonely is this? At least in Joplin you could find a neighbor to talk to or a group of people who worshipped at a church, and you could pray together. This family is isolated, as others are in many rural communities. They need a yes from us this afternoon.

Here is Texas, and this breaks my heart. I think this is North Carolina. How sad are these pictures? They are real. Behind them are thousands of families and businesses.

In addition, if this argument of compassion doesn't move people, maybe the argument of flat business will move people. We are ready for the vote; I think the time has come. I urge my colleagues to please vote yes on this motion to proceed. If we get 60 votes, we can proceed to the disaster bill and figure out how to pay for it sometime in the next month ahead.

I thank the Chair.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant editor of the Daily Digest read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 154, H.J. Res. 66, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

Harry Reid, Richard J. Durbin, Barbara Boxer, Mark R. Warner, Jeff Bingaman, Daniel K. Inouye, Ben Nelson, Patty Murray, Frank R. Lautenberg, Daniel K. Akaka, John F. Kerry, Ron Wyden, Bill Nelson, Jeff Merkley, Sheldon Whitehouse, Max Baucus, Charles E. Schumer.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.J. Res. 66, an act approving the renewal of import restrictions contained in the Burmese Democracy Act of 2003, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Florida (Mr. RUBIO).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 38, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—61

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Heller	Reed
Bennet	Hoeven	Reid
Bingaman	Inouye	Rockefeller
Blumenthal	Johnson (SD)	Sanders
Blunt	Kerry	Schumer
Boxer	Klobuchar	Shaheen
Brown (MA)	Kohl	Snowe
Brown (OH)	Landrieu	Stabenow
Cantwell	Lautenberg	Tester
Cardin	Leahy	Toomey
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Collins	Manchin	Vitter
Conrad	McCaskill	Warner
Coons	Menendez	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murray	
Gillibrand	Nelson (NE)	

NAYS—38

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Boozman	Hatch	Murkowski
Burr	Hutchison	Paul
Chambliss	Inhofe	Portman
Coats	Isakson	Risch
Coburn	Johanns	Roberts
Cochran	Johnson (WI)	Sessions
Corker	Kirk	Shelby
Cornyn	Kyl	Thune
Crapo	Lee	Wicker
DeMint	Lugar	

NOT VOTING—1

Rubio

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 61, the nays are 38. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion, upon reconsideration, is agreed to.

Mr. DURBIN. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. I understand that Senator CONRAD is on the schedule to speak in just a few minutes, but with his permission I just wanted to say thank you to the Members who voted favorably to move forward with the discussion about how to fund disaster relief and to provide this emergency funding.

The leader has laid down a very responsible $6.9 billion emergency bill for victims and survivors of the many disasters with which our country is struggling. These numbers were not pulled from the air. These numbers came through the appropriate appropriations committees. I think it is a solid amount to deal with the emergencies right before us for the next months and perhaps through the coming year. These numbers will be fine-tuned as we move forward. But it was a very powerful ''yes'' vote for thousands, tens of thousands of people who are waiting for us to say yes to move forward, filling the accounts that are now virtually empty, and giving a positive signal to Governors, both Republicans and Democrats; mayors, Republicans and Democrats; county commissioners, Republicans and Democrats, that help is on the way and that the Federal Government is not, and will not, turn its back on them at this time of need. So I thank the Members.

We had a strong vote, 61 votes. We needed 60; we got 61. But it was a strong vote, and I am glad we were joined by several Members from the other side, and I thank those who said yes to move this disaster relief forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Madam President, I come to thank my colleagues as well for this strong vote to move forward on disaster relief. In almost every corner of America we have had unprecedented natural disasters this year, and my State has not been exempt.

I represent North Dakota, and we have had flooding unprecedented since records have been kept on the Souris River that goes through Minot, ND, the Missouri River that goes between Bismarck and Mandan, ND, the place where I come from. We have seen absolute devastation, water levels that changed virtually overnight. I can remember the forecast being raised 10 feet from Minot, ND, in a period of 48 hours, a higher water level than we have seen in over 100 years of recorded history. The same is true in the Missouri Valley Basin, with runoff the highest it has ever been. This has led to incredible flooding.

This is a picture from Minot, ND, where 11,000 people had to evacuate, 4,000 homes flooded. These are middle-class neighborhoods, and virtually no one had flood insurance. There were only 340 or 350 flood insurance contracts in this entire community of over 40,000 people because they had a Corps-certified levee protecting them that was supposed to be good for a 100-year flood. They had new dams that had been constructed in Canada and dams that had been enhanced in North Dakota. We hadn't had a major flood in 40 years.

FEMA is absolutely essential to helping these people get back on their feet. That funding is necessary, but it is not sufficient. Anybody who thinks we are going to get well on just FEMA funding does not understand the FEMA program. FEMA was designed to work in conjunction with insurance—homeowners insurance, flood insurance. But if there is a flood, homeowners insurance doesn't cover it. I can tell you, in a community that didn't have flood insurance—or almost no one did—if all they have is FEMA, it is important, it is essential, but it is not enough.

Nobody knows that better than the Senator from Louisiana, Ms. LANDRIEU.

I don't think in my entire time here I have ever seen anybody fight more doggedly, more persistently, or more effectively for their home State and their home community than MARY LANDRIEU did when they were hit with Katrina. MARY LANDRIEU is a hero because she would not take no for an answer.

I saw it time after time after time in the caucus, on the floor of the Senate, in committees. Do you know what. She delivered something that those people desperately needed. Good for her, and good for the people to have sent somebody here who would fight for them in their time of need.

Madam President, I am here representing a State at its time of need because we had thousands of people desperately affected—not as many as in the State of Louisiana; it is a much bigger population there. But in my State, when 11,000 people are evacuated in one town, that is a big deal. Eleven thousand people were forced out of their homes. They weren't just forced out overnight, they weren't just forced out over a weekend, they weren't just forced out over a couple of weeks, they have been out of their homes for months, and they are not getting back in their homes until sometime next year. Now, that is reality. Talk about a tough reality.

With FEMA they qualify for $30,000—and thank God for it because without it they would have nothing. That is it. That is it. These are people who have lost homes that were worth $150,000, $160,000, and they had a mortgage on them. What do they do? They are going to get $30,000. Do they rehab the home? Do they rebuild the home? What do they do? Thirty thousand dollars when a home has been underwater for 6 weeks, for 8 weeks, thousands of homes that had 10 feet of water in them for weeks and weeks and weeks?

When the water recedes, as it has done now, they are left with a pile of muck. I have been there. I have seen it, I have smelled it, and it is not a happy circumstance. These people deserve some additional help.

Do you know what we did in Louisiana? We passed emergency supplemental appropriations for CDBG. I predict if that is not done now in this disaster, these communities will have a difficult time ever recovering because with homeowners insurance, they are not going to collect on that in a flood. Very few people had flood insurance because they thought they were protected by the dams. They are left with $30,000 to recover. It doesn't add up.

We have to have additional CDBG funding because that is what was used

in the floods of North Dakota in the 1990s that helped us recover. That was what was used in Louisiana to help them recover. That is what is going to be needed here in cases where flooding occurred.

Here is the headline from the Minot Daily News: ''Projection: Devastation.'' When they were told the water level was rising as rapidly as it was, there was no time to defend the town.

They had levees that were supposed to be good for a 100-year flood, but Canada lost control of one of its major dams. Their provincial leadership told our Governor: The floodgates are wide open. We have lost control of the dam, and that wall of water is coming your way. That meant, in a short period of time the projections for the height of the water in Minot, ND, went up 10 feet in 48 hours. There is no way to raise miles and miles of levees 10 feet in 48 hours. That is humanly impossible.

What was the result? Everywhere you look, flooding. The Minot Daily News headline: ''It's a sad day''. Boy, it was a sad day. ''The crest could be 10 feet higher than June 1.''

In just a matter of days that wall of water was headed toward this community, and they had no time to raise their defenses. Here is the predictable result: That is Minot, ND, downtown. Water is everywhere—in every residential community in the valley, the business community. You can see, this water is not like the typical flood where the water comes and goes. Here, the water came and stayed and stayed for days and days and weeks and weeks and months. It wasn't until just recently that the floodwater receded.

This is a picture, again, from that community. In many cases all you can see are the rooftops.

Again, I want to say to those who might be listening because they need to understand, they need to understand: The FEMA assistance that we believe is now going to be on its way—in our case, some of it has already been received and we deeply appreciate it—it is not going to be enough. When someone has lost a $160,000 house, $30,000 is not going to touch the problem.

That is the reality, and the only way they are going to make meaningful inroads on that problem for people who didn't have flood insurance, through no fault of their own because they thought they were protected by new dams, by a levee—but, unfortunately, they faced something that has never been seen in history. It has never been seen in history. These are middle-class families, and they are devastated—there are over 4,000 homes destroyed in a community of 40,000 people.

If we don't get some additional help through additional funding for CDBG, those people's lives will be devastated. That is the reality. We did better for the people in Katrina. We did better for the people who were victims of the floods back in the 1990s because we passed emergency supplementals for CDBG to help people who were devastated, who needed a helping hand. We need to do it again.

I am pleased to say we have circulated a letter—and we have bipartisan signatures on it—to the leadership asking for CDBG funding on an emergency basis for the communities not just in my State but all across the country: the people in Joplin who were devastated by a tornado with wind speeds, I am told now, some of them up to 300 miles an hour; the people who have just been devastated by Irene; others who were affected by Lee; and others whom we can fairly anticipate will be hit as we go through the hurricane season.

We have seen natural disasters I think declared in all the States but two.

Yes, we need to replenish FEMA. We need to do it on an urgent basis. But we also need to add to CDBG funding so that people are not left devastated, with no chance to rebuild their lives.

I end with this headline: ''Swamped.'' That is what happened in Minot, ND. That is what happened in other cities in my State as well—Bismarck, Mandan, my hometown area, and many other communities. Of course, we have the ongoing situation in Devils Lake, ND, where the lake has gone up 30 feet in the last 17 years. That is now three times the size of the District of Columbia and is within 3 feet of going over. That will be a major calamity for all of eastern North Dakota if it is not prevented.

I implore my colleagues: Yes, let's replenish FEMA funds on an emergency basis. That is essential. But let's not stop there. Let's also provide meaningful funding for CDBG because without it, families will have a very difficult time ever recovering from these devastating blows.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMPLOYMENT IMPACT ACT

Mr. BARRASSO. Madam President, last week the President addressed a joint session of Congress. He said he wanted to eliminate regulations—regulations, he said, that put ''unnecessary burden on businesses at a time when they can least afford it.'' We have heard this same message from the White House time and time again. The rhetoric coming out of this White House simply has not matched the reality. In fact, Washington continues to roll out redtape each day, and the redtape makes it harder and more expensive for the private sector to create jobs in this country.

The President also said that his administration has identified over 500 reforms to our regulatory system that would save ''billions of dollars over the next few years.'' I appreciate that the White House has identified wasteful regulations, but it will not really help our economy unless the White House repeals them. Since January, this White House has only repealed one single regulation, and it has to do, actually, with spilt milk. The President's new plan does nothing to fix the regulatory burdens faced by our job creators. It actually adds to the burdens of the job creators of this country.

The President has tried to justify this increasing avalanche of redtape. He said he doesn't want to ''choose between jobs and safety.'' In today's regulatory climate, that choice is a false choice. Washington's wasteful regulations are not keeping Americans safe from dangerous jobs. The American people cannot find jobs because no one is safe from the regulations coming out of Washington. For every step our economy tries to take forward, Washington's regulations continue to stand in the way.

Federal agencies' funding has increased 16 percent over the past 3 years while our economy has only grown 5 percent over these same 3 years. Washington's regulatory burden is literally growing three times faster than our own economy. This massive increase in Washington's power has only made the economy worse.

Americans know that regulating our economy makes it harder and more expensive for the private sector to create jobs. The combined cost of the new regulations being imposed by this administration just last month was over $9 billion. Much of this cost has been borne by America's energy producers and has cost American workers thousands of red, white, and blue jobs.

Those who try to justify these policies claim they will help us create green jobs at some unknown time in the future. Our economy, our job market, is not a seesaw. Pushing one part down doesn't make the other side pop up.

This administration's out-of-control regulation is persistently dragging down large portions of our economy. The President has promised to stop this kind of overreach. Remember, he issued an Executive order at the start of this year that was supposed to slow down Washington's regulation. So what has this administration done about it? In the 7 months since the President issued his Executive order, hundreds of new rules have been either enacted or proposed. For every day that goes by, our job creators face at least one new Washington rule to follow.

When the President announced his Executive order, he said he wanted to promote predictability and reduce uncertainty. These are laudable goals,

but a new rule every day does nothing to promote predictability and is the very definition of uncertainty.

The President talked about uncertainty just recently. The main source of uncertainty in the economy right now is Washington's regulations. Yet there was not a single sentence about regulations in the President's address just this week.

To make things worse, the people most victimized by this uncertainty are the very people the President claims he wants to help. The President said last year that when it comes to job creation, he wants to, as he said, ''start where most new jobs do—with small businesses.'' The sentiment is right, but, again, what has he done about it? According to the U.S. Chamber of Commerce, businesses with fewer than 20 employees incur regulatory costs that are 42 percent higher than larger businesses with up to 500 employees, and that is not counting the avalanche of new regulations that will come down the road. This year, over 50,000 pages of regulations have been added to the *Federal Register* already, and the chamber of commerce has said that the President's new health care law alone will produce ''30,000 pages of new health care regulations, many aimed at small employers.''

The President has said he will keep trying every new idea that works and listen to every good proposal, no matter which party comes up with it. I have a pretty simple idea. If the President wants to know which proposals will work to create jobs, maybe he should require his regulatory agencies to tell him how their own actions will affect the job market.

Congressman LEE TERRY of Nebraska and I have a bill that will do just that. It is called the Employment Impact Act, S. 1219. This bill will force Washington to look before it leaps when it comes to regulation that could hurt America's jobs. Under our bill, every regulatory agency would be required to prepare what is called a jobs impact statement, and this jobs impact statement would need to be prepared with every new rule that is proposed. The statement would include a detailed assessment of the jobs that would be lost or gained or sent overseas by any given rule coming out of Washington. It would consider whether new rules would have a bad impact on our job market in general. This jobs impact statement would also include an analysis of any alternative plans that might be better for the economy. Most importantly, it would require regulatory agencies to look at how new rules might interact with other proposals coming down the road.

The problem with our regulations is not only that they are too sweeping, it is also that there are too many of them, so it makes no sense to look at an individual rule in a vacuum and enacting hundreds of them without knowing their cumulative effect. The effect of all of these together could spell death by a thousand cuts for hardworking Americans who are trying to work and support their families.

Also in keeping with the principles of transparency, this bill would require every jobs impact statement prepared by a Federal agency to be made available to the public. The American people deserve to know what their government is actually doing, and Federal agencies in Washington need to learn to think before they act.

Requiring statements from these agencies on what their regulations will do is nothing new. For 40 years, the Federal Government has always required its bureaucrats to ask the question of whether their actions will impact America's environment. They have to file environmental impact statements. What I am asking for here is a jobs impact statement.

Past generations of legislators rightly recognized the importance of America's land, air, and water, but it is important that we recognize the importance of America's working families as well. America's greatest natural resource is the American people. We are talking about people who want to work, are willing to work, are looking for work, and yet cannot find a job. The Employment Impact Act will force Washington bureaucrats to realize Americans are much more interested in growing our Nation's economy than they are in growing our government.

I am going to continue to fight to see that the Employment Impact Act is passed and signed into law to help get Americans working again.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Madam President, I wish to echo the comments made by my colleague from Wyoming regarding regulations. That is something I hear from small businesses all across South Dakota, traveling my State during the month of August. I toured businesses, and I visited with farmers and ranchers and small businesspeople. That was a recurring theme, one thing people continued to bring up unsolicited. When you asked them questions about what can be done to help create jobs, to get them investing and putting their capital to work, that was the overwhelming response. It came back literally every single time, that businesses are concerned about the overreaching regulations coming out of Washington, DC, and the economic uncertainty that it creates. Part of it just has to do with the predictability that businesses need to make long-term investment decisions. If they do not know what is going to happen next in Washington, DC, it makes it awfully hard for them to plan. So as a consequence of that, we see billions of dollars, trillions of dollars, sitting on the sidelines right now that could be invested and could be put to work, could be getting people back to work in this country.

Last week we all listened with great interest as the President came out to a joint session of Congress and made a speech about a jobs plan. He talked about passing this jobs plan. He has been traveling around the country making that same argument. What was interesting to me about that proposal—and, of course, the speech itself was sufficiently vague. It was very difficult to know exactly what was in that proposal, where more of those details now are coming to light. It sounded eerily similar to the very same proposal we voted on a couple of years ago in the Senate. It ultimately became law. It was called the stimulus bill. It had a pricetag of nearly $1 trillion.

The assertions made at the time were along the lines that if we passed this it would keep unemployment below 8 percent. We know employment is over 9 percent, and since that stimulus bill was passed we have lost 1.7 million jobs in our economy. There are 1.7 million fewer Americans employed today than there were when the stimulus bill passed a couple of years ago. So the question, then, is, Why would we want to go down that same path?

In many respects this proposal is like that one because it consists of more spending and more taxing and more borrowing—all the things we believe are detrimental to the economy in the long run. They do nothing to address the concern that was raised to me by the small businesses across South Dakota and the issue to which the Senator from Wyoming was just speaking; that is, the issue of overregulation that we keep hearing from our businesses across this country, the job creators in our economy.

It strikes me, if the President is serious about actually doing something that would create jobs in this country, it ought to involve putting policies in place that will be conducive toward long-term economic growth to provide the economic certainty these small businesses are asking for.

Right now there is uncertainty with regard to taxes. Tax rates are at least locked in now until the end of 2012, but beyond that it is anybody's guess. There is a concern, of course, that any proposal coming out of Washington right now that deals with deficit reduction might include higher taxes. That certainly is something the President put on the table yet again yesterday as a proposed way to pay for his new stimulus bill.

There is this repeated and consistent assault upon small businesses in the form of more regulations. The President backed off of the ozone regulations, which is something that everybody reacted very favorably toward in the business community and people I

talked to. But there are so many other regulations that are out there: the CO_2 emission regulation, appropriated dust regulation, the change in the classification for coal ash. There are all kinds of regulations—particularly out of the EPA, but not exclusively the EPA—coming out of agencies of this government that are creating greater uncertainty and making it more difficult and more costly for small businesses to create jobs. So why not focus on that issue? Why not focus on getting the free-trade agreements?

There were three free-trade agreements essentially negotiated in the previous administration. They are languishing because they have not been submitted to Congress for ratification. The President talks about free trade and creating jobs through exports. We had three free-trade agreements in 2006 and 2007. Colombia was 2006. Panama and Korea were June of 2007. The President said: I want Congress to approve these free-trade agreements.

We cannot do that until he submits them to the Congress. We would love to approve those free-trade agreements. It would mean thousands of jobs in this economy. We know that. It is low-hanging fruit. It is something we could do today that is something positive to actually create jobs in this country.

Just as an example, in my State of South Dakota in 2008, the top three crops were corn, wheat, and soybeans. In those three commodities we had 81 percent of the market in the country of Colombia. In 2010 that had dropped off to 19 percent. It is a major collapse in our market share in that country simply because we have not ratified this free-trade agreement, and in the interim we have had other countries that have moved in and filled the vacuum.

Most recently the Canadians, on August 15, I think, had their own bilateral trade agreement with Colombia. We may go down to zero market share if we do not act quickly to get the free-trade agreements approved. It is not a function of us wanting to do it; it is a function of the President submitting those agreements to Congress for ratification. We cannot vote on and ratify those trade agreements, put them into effect, and get them implemented absent the President of the United States sending them to Capitol Hill. That is something on which Republicans would love to work with the President.

We would also love to work with the President on a moratorium on regulations. I think it would make perfect sense, given what we know about what small businesses are telling us in terms of creating jobs and hiring people and investing capital, that regulation is a huge impediment to that. So why not—at least for the foreseeable future, until such time as we start getting this unemployment rate down and get people back to work—put a moratorium on all these crazy regulations coming out of Washington, DC?

There are literally millions of jobs that are impacted by these various regulations according to estimates that have been put forward by organizations such as the chamber of commerce and others. There are millions of jobs in this country impacted by the issue of regulation. I would think it would make perfect sense for this President to say to us, as part of his jobs package, his jobs plan: We want to work with you to put a moratorium on regulations for a 2-year period, until the end of his term in office—whatever that period is—but at least some amount of time so businesses know with some certainty that if they invest their dollars, they are not going to be slapped with some new regulation coming out of Washington, DC.

There was a story just this morning about 500 jobs lost in the State of Texas over a new EPA regulation. We have seen examples of that in my State of South Dakota. We have had coal-fired powerplants that have been nixed simply because of this uncertainty that has been created by regulations coming from Washington, DC. That is something that Republicans on Capitol Hill—if the President wants to be proactive in terms of job creation and actually having a forward-looking proposal and plan for job creation, he would certainly get cooperation from lots of folks on our side of the aisle when it comes to the issue of regulations.

Another thing we would be more than happy to work with the President on is broad-based and comprehensive tax reform. We all talk about it, and nobody seems to be willing, at least from the President's perspective, to put forward a proposal that would actually broaden the tax base in this country, lower the rates on businesses and individuals. I think it would lead to an enormous amount of economic growth. Most people and businesses I talk to suggest that right now in America the complexity in the Tax Code, the rates in our Tax Code, make us anticompetitive.

We lose jobs every single day to other countries around the world that have lower tax rates. Businesses are taking their capital and investing it overseas, creating jobs overseas, and are opposed to putting it in our country because our rates are not competitive. Our corporate tax rate at 35 percent is the second highest in the world. We are second only to Japan, and they were going to lower theirs prior to the tsunami.

The fact is, we have tax rates in America today that are making it very difficult for our businesses to compete and to keep those jobs and keep that investment in this country.

What can we do about that? Well, if we had broad-based tax reductions on individuals and small businesses in this country, lowered taxes on investment, I think we would see an explosion of economic growth and get these businesses—provided that there is enough certainty associated with that. In other words, we don't do it for a short period of time, we do it for a long period of time. If we do that, we will see businesses pick up on that signal from Washington, DC, and begin to invest again and get a rate structure that is competitive with other countries around the world.

Tax reform regulations, regulatory reform, a moratorium on regulations, trade, those are all issues that we are more than willing to work with this President on if he is willing to work with us because those are policies proven over time that actually will create jobs. Again, they are the things we consistently hear.

I dare to say that my colleagues on the other side of the aisle are hearing the same thing I am hearing. I hear it from colleagues on my side who are repeatedly visited by small businesses in their travels in their individual States, and when they go to make contact with their small businesses they hear this over and over. These are the issues the American business communities are saying we need to address to get people back to work in this country.

I am certainly hopeful the President will change directions away from what he is proposing to do now, which is a very similar path to what was done 2 years ago, which we all know has been unsuccessful. If we look at it based upon the metrics—and, again, I am talking about job creation. If we look at it based upon the employment rate, the unemployment rate has gone up. The number of jobs lost has gone up. The amount of our debt has gone up by $4 trillion. We have borrowed more, we are spending more, and we are getting nothing in return—in fact, the very opposite of what we hope to get; that is, job creation. That approach has not worked.

Let's not double down on that and go back and try the same failed policies again. Let's change direction. Let's go in a different direction for this country, and I would hope the President would do that.

The other thing that I think is particularly troubling about his proposal—not to mention some of the things that he put out in his speech last week that give me a good amount of heartburn in terms of the direction he is headed—is how he proposes to pay for that. It was indicated yesterday that 90 percent of the cost of this stimulus bill would be paid for by allowing or preventing people from taking deductions—the two top income tax rates in this country and the people who are in those income tax brackets, to be able to claim deductions on their tax returns.

Well, that impacts millions of Americans and millions of job creators, millions of small businesses, not to mention a lot of charities. Many of the people who contribute to charities today don't do it simply because of the tax consequence, but the amount they contribute to a charity is affected by the Tax Code, and reducing the amount they can deduct is going to make it more difficult for many of our charitable organizations that rely upon the

generosity of people. In many cases these are high-income people in this country.

That being said, raising taxes, in my view, is not the way to pay for a new stimulus, a stimulus 2.0, an approach that has been tried and failed. It is something we should not be moving toward, but moving away from, and moving in a different direction.

Again, we have no greater priority in America today than getting this economy growing, creating jobs, getting people back to work. That helps bring in more revenue in the Federal Government and helps deal with our issue of the deficit and the debt. There are two ways we can deal with that: We can reduce spending, and we can grow the economy. We have to do both.

Certainly, those are not unrelated. When we reduce spending, that is essential to growing the economy. We also have to put policies in place that will grow the economy and create jobs. Raising taxes is not the way to do that, and so the President's proposal to pay for his new stimulus bill which raises taxes on people is a wrongheaded approach that has not worked in the past. It will not work in the future. We need to try a different direction.

Republicans are willing, ready, and able to work with this President on passing trade agreements that have been languishing around here, literally, for 4 to 5 years; on reducing the overreaching regulations, which are creating economic uncertainty for our small businesses across this country; and on tax reform that would lower rates and broaden the tax base and bring in an incredible explosion of economic growth and jobs.

Those are the types of things we ought to be looking at—long-term policies that will affect in a positive way the environment, the atmosphere for our job creators, not doing another Washington-directed spending program that has already demonstrated that it doesn't work.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYRIA

Mr. DURBIN. Mr. President, the world has witnessed considerable upheaval across the Middle East this year as citizens from all walks of life have turned out by the millions to say enough to repressive regimes, stagnant political systems, and a lack of economic opportunities.

In fact, we should probably look back to the summer of 2009 when thousands upon thousands of ordinary Iranians bravely took to the streets to peacefully protest the country's likely stolen election.

These Iranian citizens were met with brutal violence, death, detention, and unspeakable torture.

While Iran's ruling dictatorship was able to temporarily repress the public aspirations of its own people, the seeds for wider public discontent were taking root through much of the region.

First, in Tunisia we saw peaceful protests lead to the ousting of corrupt, long-time strongman President Ben Ali.

Next, Egyptian President Mubarak resigned following sustained peaceful protests in Cairo and elsewhere in Egypt.

And certainly Muammar Qaddafi's reign of erratic and despotic rule is nearing an end.

Other popular calls for political and economic reform from Bahrain to Yemen remain in flux.

And as we saw this weekend with the violent and very troubling protests breaching the Israeli Embassy in Cairo, ousting a repressive regime is only one step on a long road toward building effective long-term democratic and economic institutions.

The United States stands ready to support these peaceful transitions, but most of the hard work must continue to come from within—from the people who made such historic change possible in the first place.

Amid so much upheaval and potential hope, it is critically important that we also keep our attention on what is happening in another very important country in the Middle East—Syria.

Since March, millions of protesters have peacefully taken to the streets of towns and villages across Syria demanding an end to the brutal dictatorship of the Assad family.

The Syrian people have suffered 40 years of economic hardship, political repression, and corruption under the Assad family—first under former President Hafez al-Assad and now under his son, Bashar al-Assad.

Let me give an example of life under the Assad regimes.

Almost 30 years ago, then-President Hafez al-Assad ruthlessly leveled a Portion of the town of Hama to put down a rebellion by his own people.

Between 10,000 and 20,000 fellow Syrians were literally buried to death in the ruble.

This is how political dissent was dealt with in Syria.

And what has been his son's strategy for addressing public demands for change while reform is sweeping the rest of the region?

Tragically, the same as his father—mass murder.

Since the popular uprising began, an estimated 2,000 people have already been slaughtered by Assad's security services.

Government snipers on rooftops have fired on those who dare to go outside in areas where protesters are active. Men have been rounded up and detained in nighttime house-to-house raids. Tanks and anti-aircraft guns have been used against civilians and civilian buildings.

A recent example—sadly one that is not at all unique—obviously shows that the current Assad regime has no sense of history.

Last month government troops backed by tanks, armored vehicles, and snipers entered the heart of Hama—the same town of Hama that had been flattened by Assad's father three decades earlier—to quash antigovernment protesters.

Our dedicated U.S. Ambassador Robert Ford had gone to Hama not long before the siege to serve as witness to the unfolding events.

I wish to show this photo, which shows a giant Syrian flag held by the crowd during a protest against President Assad in the city of Hama on July 29.

The town—already under siege for days—saw its telephone, water, and electricity cut off at 5 a.m. as a prelude to the deployment.

Residents tried to stop the advancing armored columns with barricades—many of them built of furniture, iron railing, rocks, and cinderblocks—but stood little chance.

Dozens were killed and hundreds wounded.

Such public resilience and government brutality have continued unabated in Syria for months.

President Assad's tyrannical actions have been condemned around the world. The Arab League, not always known for its democratic advocacy, has urged Syria to ''end the spilling of blood and follow the way of reason before it is too late.''

Syria's neighbor and significant trading partner Turkey has spoken out. Turkish President Gul said he has ''lost confidence'' in the Syrian government. Prime Minister Erdogan has said, ''Turkey can no longer defend Syria.''

British Prime Minister Cameron, French President Sarkozy and German Chancellor Merkel jointly issued a statement urging Assad to ''face the reality of the complete rejection of his regime by the Syrian people and to step aside in the best interests of Syria and the unity of its people.''

The United Nations human rights office in Geneva has issued a sweeping report concluding that the Syrian government might have committed crimes against humanity through summary executions, torture, and by harming children.

President Obama and Secretary of State Clinton have sharply criticized the Syrian government's crackdown from the start, and most recently the Administration announced additional sanctions against the regime, including those squeezing Assad's cash lifeline from petroleum exports. The European Union also cut its purchase of Syrian petroleum.

Senators GILLIBRAND and LIEBERMAN have introduced legislation—legislation I am pleased to support—that further tightens sanctions against Syria's

petroleum exports by penalizing those who buy Syrian oil or invest in its energy sector—an approach Congress has supported in the past against Iran.

I urge others to support this legislation and for the Congress to pass it expeditiously.

And when the crackdown in Syria began, I joined Senators LIEBERMAN, MCCAIN, CARDIN, KYL and at least 20 others on a Senate resolution condemning the violence. I understand that Senator PAUL has had a hold on that resolution for a number of months. I call on Senator PAUL to work with us on his concerns in a timely manner so we can move forward putting the Senate on record about these tragic events in Syria.

There is more still the international community can do.

Russia, China, India, Brazil and South Africa are still blocking a United Nations Security Council resolution that could impose more sweeping international sanctions on Syria. That some of these countries have emerged from decades under their own repressive regimes, only to sit silently as Assad slaughters his own people is extremely troubling.

Russia and China should also pledge not to purchase any surplus Syrian oil which is used by Assad to pay off his enablers and security henchmen.

Human rights monitors, humanitarian workers, and journalists must be allowed in the country.

And the International Criminal Court should look into indicting President Assad on war crimes.

This administration has shown great skill and diplomacy in navigating the turbulent calls for change in the Middle East.

These are demands from everyday people for a better life, for a chance to freely choose one's government, and to see hope and dignity for one's children.

The people of Syria should know that the rest of the world is watching and supporting their aspirations for freedom.

Saturday night in a suburb of Chicago I had a meeting with about 30 Syrian Americans, and we spoke at great length about the situation in the country of their birth. Many of them still have relatives, family, and friends, in Syria, and they are following on YouTube and through the international media the events of the day. They showed me on one of the computers nearby some of the YouTube footage which showed the Syrian security forces literally shooting a man dead, point blank. You could see him lying in the street, and you could see the blood flowing from his body.

To suggest that these peaceful protesters are anything else is to misstate the obvious. These people, by and large, in the streets of Syria are asking for the same thing that was asked for across the Middle East. They are asking for a chance for reform, for change, for self rule.

I promised my friends and people I represent in Illinois who have such strong feelings about Syria that I would do my best when I returned to Washington this week. This floor statement is just the beginning.

A few moments ago, I got off the telephone, having had a phone conversation with Ambassador Ford, who is in Damascus. He has done an exceptional job for our country. He has risked his life to let those who are protesting peacefully know that the United States is in their corner. We talked about the situation on the ground. He is a man of great talent and experience in the Middle East, and he analyzed all the different forces at work.

We know that Iran is, in fact, the major supporter and promoter of Assad and his repressive regime. We know, as well, that these five countries in the United Nations—Russia, India, China, Brazil, and South Africa—are stopping the United Nations action when it comes to Syria. I find it hard to imagine how some of these countries, in light of their own history, could ignore the obvious: the killing of innocent people in the streets of Syria. It cannot be tolerated, should not be condoned, and should not be protected by their veto in the United Nations.

I am going to work with President Obama and this administration and my friends in Congress on both sides of the aisle to let the people of Syria know that what is happening there has not been ignored by the U.S. Congress. I hope Senator RAND PAUL of Kentucky will at least lift his hold on bipartisan legislation which we have pending here which will express that sentiment in the strongest of terms.

The people of Syria deserve that message, to know that the people of the United States, through their elected representatives in the Senate, understand their plight, stand behind them, and will work to bring justice to their country.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTH BOSTON VIETNAM VETERANS MEMORIAL

Mr. WEBB. Mr. President, I rise to express my congratulations and best wishes to the people of South Boston, MA, as they honor their community's long tradition of service to country on the 30th anniversary of the South Boston Vietnam Veterans Memorial.

Thirty years ago, on September 13, 1981, the people of South Boston, led by their own citizens who had served in the Vietnam war, became one of the first communities in the United States to build and dedicate a permanent memorial in honor of those who had given their lives in Vietnam. I was privileged to be a speaker at the original dedication of the memorial, and I am honored to be returning to South Boston this year in order to once again pay tribute to those who served.

It is difficult for many of the generation that followed us to understand how bitterly our country had been divided by that war and how long it took to overcome if not resolve the divisions, often along class lines, that were left in its wake. I do not seek to reopen those wounds today, but it should not be forgotten that 25 young men from this solidly working-class community gave their lives in Vietnam, while Harvard College, located nearby on the far banks of the River Charles, lost a total of 12 out of the 11 classes from 1962 to 1972.

In building this memorial, the people of South Boston took it upon themselves to honor their own, and in so doing they reignited the spirit of service to country, not only here in Boston but elsewhere across our country. It was built through the dedication of friends and neighbors, acting together to honor and remember the service and sacrifice of those they knew and loved.

Many veterans from this community took strong roles in bringing the memorial to fruition, but I would like to extend a special recognition to Tommy Lyons, a Marine Corps veteran of Vietnam, who not only provided spirited and determined leadership on this Memorial but also went on to found the Semper Fidelis Society in Boston, which every November brings together more than 1,000 marines of all ages and wars for the most well-attended veterans' lunch in America.

Mr. President, 25 names are engraved on the South Boston memorial—all of them ''Southie Boys,'' 15 of them marines, 9 soldiers, 1 airman. One of them was a lieutenant; the other 24 were enlisted men. All of them represent the best of citizen service, the willingness to put one's life on the line on behalf of our country.

In closing, I ask that the names of those inscribed on the memorial be printed below:

Joseph J. Agri, USMC
Charles A. Bazzinotti, USA
Richard J. Borovick, USA
John C. Calhoun, USMC
John H. Cole, USMC
Paul M. Daley, USA
Ronald L. Delverde, USMC
Joseph F. Desmond, USMC
Joseph W. Dunn, USMC
Devon M. Enman, USA
Gene D. Grover, USMC
Frank C. Hubicsak, USA

Douglas J. Itri, USA
John P. Jacobs, USMC
John G. Joyce, USA
Edward W. Milan, USAF
James E. O'Toole, USA
Burton W. Peterson, USMC
Paul H. Sheehan, USMC
James J. Stewart, USMC
Edward T. Stone, USMC
Edward M. Sullivan, USMC
Joseph E. Thomas, USMC
Donald J. Turner, USMC
James K. Wheeler, USA

REMEMBERING 9/11

Ms. SNOWE. Mr. President, I rise today on this most moving and memorable of occasions after we as a nation joined together to mark the solemn 10th anniversary of the attacks on September 11, 2001. Throughout my home State of Maine and across this great land, Americans are uniting as one nation indivisible as we pause to remember with the heaviest of hearts the tragedy that befell our nation 10 years ago—a morning that changed America—and Americans—forever.

We are all a different people in America—no matter our faith or ancestry—as a result of the horrific events on 9/11 that are ingrained upon the landscape of our consciousness for all time. We all know where we were and what we were doing at the precise time they happened. As many of us remember the assassination of President Kennedy, and some Pearl Harbor, our children will remember this day.

As we recall, that morning began with such remarkable blue skies, but ended with a Nation in mourning and stunned disbelief. In Washington, DC, I watched the images along with the rest of the world. Later, as the Sun set over the National Mall—still capped by smoke billowing from the wound in the side of the Pentagon—I will never forget gathering with my colleagues in the House and Senate on the Capitol steps to sing ''God Bless America.'' We sang to send a message to the country and to the world that we would never be deterred—that freedom would never be crushed by the blunt and remorseless instruments of terror.

The notes of ''God Bless America'' still reverberate, the resilience we recaptured as a country remains pressed upon our national psyche, and the memory of the inspirational sacrifices of so many heroic Americans who perished that morning will forever have a home in our hearts and our prayers.

On this September 11 as in all that have preceded it, we mourn the loss of those eight individuals from Maine who were taken from us all too soon—Anna Allison, Carol Flyzik, Robert Jalbert, Jacqueline Norton, Robert Norton, James Roux, Robert Schlegel, and Stephen Ward.

We remember the heroic acts of valor that will always distinguish the men and women of 115 different nations who went to work that day, or boarded a plane, or rushed to the aid of strangers whose lives they believed were as vital as their own—and never returned home. If 9/11 was a snapshot of horror, it also became a portrait of consummate humanity. If it laid bare the unimaginable cruelties of which humankind is capable, it also etched forever within our minds the heights to which the human spirit can rise—even and especially in the face of mortality.

Each had a soul, and having visited Ground Zero in the aftermath, I can tell you their presence still triumphed over the twisted destruction—and it always will. We recall that during one of the darkest days in our Nation's extraordinary and storied history, we also witnessed our Nation's mettle and solidarity, the inexhaustible courage and undaunted bravery that provided us with boundless inspiration and hope that sustained us then and inspires us today.

And nowhere was that more evident than with the first responders who, in the face of unspeakable adversity and peril, heroically ran toward the very dangers others were desperately trying to escape, placing their lives in harm's way in the most courageous and valiant of endeavors to save others without regard for their own safety.

As Americans, we are awed by the noble examples of courage and selflessness that emerged. When the alarm went off in fire stations across New York, firefighters were changing shifts. If they were on the way home, they turned around. If they were finishing up at the firehouse, getting ready to leave, they stayed. Some were retired—veterans already at home—and they reported in. Many were to find themselves climbing higher and higher in those great silver towers toward a fate that must have become clearer with every step.

Their valiant service and sacrifice are also a vivid reminder of the remarkable men and women exceptional enough to don our country's uniform to serve and defend our nation. Whether on our shores or soil here at home or around the globe, their steadfast sense of duty and love of country are an inspiration to us all, their commitment fortifies our will, and their professionalism steadies our hands in an uncertain world.

As I gathered with Mainers across our State, I could not help but feel that inescapable, palpable sense of patriotism that binds us all together as Americans. It is also, I believe, a continuation of the heightened love of country all of us experienced when our Nation's bravest and finest—in this case our Navy SEALs—achieved what Americas detractors said was unachievable. They triumphantly rid the world of public enemy number one, and brought justice to the evil incarnate that was Osama bin Laden.

In speaking of bin Laden, I have often sounded the refrain that you can run but you cannot hide. Well, thanks to the combined might of our military, intelligence, and counter-terrorism professionals, the message sent to the terrorists of the world with the death of Osama bin Laden is that America will prevail no matter how long it takes, whatever it takes, no matter where you are.

Though justice was finally rendered, the unending pain of loved ones lost does not ease with the passing of years, and yet out of these atrocities emerged heroes who were then and will forever be shining testaments to the very best of who we are as a nation. And so, today, we memorialize those whose lives were stilled on September 11, and at the same time, we cannot help but extol the courage and indomitable spirit they exhibited.

It was an unmistakable message to the world that we would never be deterred—that our freedoms could never be crushed by the cowardly instruments of terror that are no match against a resilient people certain in the knowledge that good ultimately triumphs over evil.

What better symbol could there be of our mettle as a people than the historic National 9/11 Flag initiative. Americans across our country are stitching together the tattered remnants of one of the largest flags that flew over the wreckage at Ground Zero. When our beloved banner of freedom arrived at the U.S. Capitol on July 14, I cannot begin to convey the sense of honor and privilege I experienced in contributing to its restoration. And to share in this event with first responders, 9/11 families, and veterans made this moment one I will treasure, always.

This expression of love for our homeland speaks to the inescapable belief that our strength as a nation has always emanated not from Washington, but from the people themselves—from tireless patriots of their own volition performing the most extraordinary of deeds.

Patriots like the exemplary Freeport Flag Ladies—Elaine Greene, Carmen Footer, and JoAnn Miller, who have waved American flags on Main Street every Tuesday morning, rain, snow, or shine, since 9-11 in tribute to those who have sacrificed for all of us—our brave servicemen and women and our first responders. It was the highest of honors for me to join them early Sunday morning on Main Street in Freeport to wave flags on the 10th anniversary.

Amid the trials and tribulations that this date in our history evokes, we take solace in the sacred truth that none of us grieves alone—that there are no strangers among us, only Americans. Indeed, out of the rubble rose our resolve, out of despair grew our determination, and out of the hate that was perpetrated upon us proudly stood our humanity. And so, we venerate the American spirit that is stronger than stone and mortar, tougher than steel and glass, and more permanent than any pain or suffering that can be inflicted upon us.

ADDITIONAL STATEMENTS

COMMUNITY SHARES OF COLORADO

● Mr. BENNET. Mr. President, today I wish to honor Community Shares of Colorado, a philanthropic organization that is celebrating 25 years of supporting Colorado's communities. In its years of service, Community Shares has demonstrated a tireless commitment to supporting Colorado's nonprofits and providing individuals with an opportunity to do the same.

Community Shares strives to connect Coloradoans of any economic background with organizations that inspire them. The organizations staff and supporters firmly believe that philanthropy should not be restricted to the most affluent, but rather should be extended to include any and all who are willing to give. Using this approach, they have brought together average gifts of $5 a week for a total of nearly $20 million in support of more than 100 nonprofits.

Furthermore, Community Shares has recently begun a program entitled ''My Colorado Project'' aimed at encouraging our kids and young Coloradans to develop the habits of philanthropy and social responsibility. This innovative program expands traditional donation to include elements of social media and creates an engaging virtual community that involves our young, emerging philanthropists in supporting their communities and causes they care about with a geographic, age-accessible online tool.

The organizations that Community Shares supports are local and dedicated to the issues that define Colorado, from protecting our abundant natural resources to improving health care and promoting community leadership.

I join the State of Colorado in thanking the staff of this organization for their hard work and dedication, and I look forward to its continued success.●

MUSIC IN THE MOUNTAINS

● Mr. BENNET. Mr. President, today I recognize the 25th anniversary season of Music in the Mountains, a nonprofit classical music festival held in Durango, CO. This festival began in 1987 when Maestro Mischa Seminetsky assembled 11 musicians and offered 5 chamber music performances. Under the strong and capable leadership of executive director Susan Lander and current board president Terry Bacon, the festival has grown to more than 220 musicians, many of whom are esteemed first chairs from orchestras across the country and a number of world renowned soloists. The festival now offers nearly thirty orchestral and chamber performances as well as a number of nontraditional musical events.

In addition the festival includes a conservatory program that provides musical training and mentoring for up to 100 young musicians from around the world. In 2000 Mischa Seminetsky and then-board president Ann Flatten began the Music in the Mountains Goes to School Program to reach out to local school children for instructional sessions and miniconcerts. Since then Music in the Mountains has become a regular partner with local schools in Durango offering a variety of teaching programs and activities during the school year that impact the life of hundreds of young students.

This festival would be remarkable in any community; I take particular pride in its being held in Durango, a town of 14,000 residents in the southwest corner of Colorado. The festival is a key component of southwest Colorado's summertime economy providing important economic benefits for the region. Most of the performances are held at the Durango Mountain Ski Resort, a stunningly beautiful resort north of Durango in the San Juan Mountains and an enchanting place to listen to world class music. I congratulate Music in the Mountains and all the volunteers, musicians and community leaders who have made this festival a brilliant success over the last 25 years.●

MAINE MILITARY FUNERAL HONORS PROGRAM

● Ms. COLLINS. Mr. President, today I recognize the contribution of the Maine Military Funeral Honors Program of the Army National Guard. The soldiers in this exceptional program perform military honors at the funerals for Maine's fallen warriors and veterans. They pay tribute to the men and women who have served our Nation, and provide comfort and dignity to the families during their time of loss.

On August 27, the Maine Military Funeral Honors Program performed its seven thousandth military funeral, a duty they have carried out since October 2004. Since that time, approximately 30 highly skilled and carefully selected soldiers of the Maine Military Funeral Honors Program have performed funerals for all of Maine's soldiers who have been killed in action, as well as funerals for veterans of every era, including one in July 2010 for a Civil War Veteran, William Wallace Clark, whose remains were recovered in July 2009 from an unmarked grave beside that of his wife. The team performed 424 military funerals in its first year, and this year they will perform over 1,300—sadly more than 3 funerals per day as our World War II veterans are leaving us.

The soldiers of the Maine Military Funeral Honors Program proudly and respectfully render final honors for our fallen heroes, both past and present, from Fort Kent to Kittery, in the sweltering heat or the bitter cold. They never break military bearing and conform to the same exacting standards that are expected of all honor guards across the country, including those at Arlington National Cemetery.

The Maine Military Funeral Honors Program provides services to 96 percent of the Army veteran population in the State of Maine, a remarkable achievement unmatched by any other State. This year, the program will likely achieve 100 percent. As they continue to meet the growing number of requests to honor those who have answered the call to serve, I continue to be impressed by this exceptional program's dedication to honoring Maine's fallen Army veterans. On the occasion of their seven thousandth military funeral, it is an honor for me to pay homage to those who provide final honors to the best Maine and America have to offer.●

BONNEVILLE COUNTY, IDAHO

● Mr. CRAPO. Mr. President, my colleague Senator JIM RISCH joins me today in recognizing Bonneville County's 100-year anniversary.

Established on February 7, 1911, by the Idaho Legislature, Bonneville County was formed out of Bingham County in eastern Idaho, along the Wyoming border. Bonneville County was named for CPT Benjamin Bonneville, an officer in the U.S. Army who was an explorer and fur trapper in the area in the 1830s.

Home to more than 100,000 Idahoans in an area of nearly 2,000 square miles, the county has diverse geography and industry. It is Idaho's fourth largest county and includes the six incorporated cities of Idaho Falls, Ucon, Iona, Ammon, Swan Valley, and Irwin. Outside of these cities, the county has many beautiful natural features, including the Snake River, Palisades Reservoir, Caribou National Forest, Grays Lake National Wildlife Refuge, and Targhee National Forest. Family farmers produce an abundance of agricultural products, including grain, livestock, fruits and vegetables, floriculture, and poultry, throughout the county. Bonneville County also leads the Nation in energy research and development through the Idaho National Laboratory, the Center for Advanced Energy Studies, and the AREVA Eagle Rock Enrichment Facility.

Bonneville County residents have much to celebrate with 100 years of accomplishments. The work of the Bonneville County Heritage Association and volunteers to organize events observing this milestone, including the centennial Gala Celebration in November, is commendable. Many people have worked hard to make this celebration possible.

I was blessed to grow up and together with my wife raise our children in Bonneville County, where we experienced firsthand the exceptionalism of the people and the communities of the county.

Senator RISCH and I are proud to recognize this landmark anniversary. We congratulate Bonneville County residents for this centennial, and we wish its communities many more years of success.●

SECURITY STATE BANK

● Mr. KOHL. Mr. President, today I wish to recognize the 100th anniversary of Security State Bank. I am honored to have the opportunity to celebrate this extraordinary milestone.

For over a century, Security State Bank has provided its customers with the highest quality banking services. Since 1911, this locally owned institution has grown substantially and continues to promote economic growth throughout northern Wisconsin. Furthermore, Security State Bank has demonstrated an incredible commitment to customer service, as well as to the communities and employees it serves. Under the leadership of the bank's chairman and president, Mr. Willard Ogren, Security State Bank has prospered, further cementing its reputation as a fine lending institution but, more importantly, as a community leader dedicated to promoting financial stability and improvement.

I have both personal and professional admiration for independent banks that are focused on strengthening communities in both the best and worst economic times. For more than 100 years, Security State Bank has embodied the importance of building strong local connections.

It is for this commitment to providing every customer with the highest quality banking services and for their crucial role in community improvement that I am proud to recognize this occasion and 100 years of service that Security State Bank has provided to the people of the State of Wisconsin.●

CENTENNIAL OF MADISON COLLEGE

● Mr. KOHL. Mr. President, I am honored to have the opportunity to congratulate Madison College on their centennial celebration marking 100 years of providing high quality education to students in my State.

Wisconsin was the first State to establish schools for technical and vocational education. Madison College, founded in 1912 as the Madison Continuation School, was opened to provide vocational education to students who dropped out of school. School administrators also targeted adult workers to help them maintain and flourish in their current jobs and also work toward obtaining new ones by providing the classes to help them do so. Throughout the years, Madison College tailored its educational role by responding to the Great Depression with increased craft specialty offerings, such as millinery and woodworking, and later in the post–World War II era, with the help of Federal funding, by honing workers' skills necessary for wartime jobs.

The focus and plan to ensure that every person gets a high-quality education remain true today at this fine institution. Currently, Madison College operates 12 locations in Madison and 4 regional campuses throughout a 12-county district in order to offer a wide variety of educational opportunities to the greatest number of students possible. Today, Madison College continues to add new programs, such as biotechnology and renewable energy, to keep up with the trends of the 21st century and continue to live up to their mission.

For a century of service I commend Madison College and recognize the faculty, students, alumni, and communities they call home. In these tough economic times, access to high-quality education and workforce development are critically important to our State and country finding our way to better financial times. Madison College has stood the test of time as well as economic cycles. I am honored to recognize Madison College on its centennial celebration and for all it has done for the State of Wisconsin and its citizens.●

MESSAGES FROM THE HOUSE

At 11:45 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1059. An act to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes.

H.R. 2076. An act to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes.

H.R. 2633. An act to amend title 28, United States Code, to clarify the time limits for appeals in civil cases to which United States officers or employees are parties.

At 2:22 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2887. An act to provide an extension of surface and air transportation programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1059. An act to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2076. An act to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes; to the Committee on the Judiciary.

H.R. 2633. An act to amend title 28, United States Code, to clarify the time limits for appeals in civil cases to which United States officers or employees are parties; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2832. An act to extend the Generalized System of Preferences, and for other purposes.

H.R. 2887. An act to provide an extension of surface and air transportation programs, and for other purposes.

S. 1549. A bill to provide tax relief for American workers and businesses, to put workers back on the job while rebuilding and modernizing America, and to provide pathways back to work for Americans looking for jobs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3168. A communication from the Administrator, Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Intergovernmental Review'' (7 CFR Parts 1778, 1942, 1944, 1948, 1951, 1980, 3560, 3565, 3570, 4274) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3169. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Commercial Transportation of Equines to Slaughter'' ((RIN0579–AC49) (Docket No. APHIS–2006–0168)) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3170. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Atrazine, Chloroneb, Chlorpyrifos, Clofencet, Endosulfan, et al; Tolerance Actions'' (FRL No. 8883–9) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3171. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sulfur Dioxide; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 8887–2) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3172. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Passive Radio Frequency Identification'' ((RIN0750–AH05) (DFARS Case 2010–D014)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3173. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Discussions Prior to Contract

Award'' ((RIN0750–AG82) (DFARS Case 2010–D013)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3174. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Alternative Line Item Structure'' ((RIN0750–AH02) (DFARS Case 2010–D017)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3175. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Material Inspection and Receiving Report'' (DFARS Case 2009–D023) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3176. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Construction and Architect-Engineer Services Performance Evaluation'' ((RIN0750–AG91) (DFARS Case 2010–D024)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3177. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Designation of a Contracting Officer's Representative'' ((RIN0750–AH35) (DFARS Case 2011–D037)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3178. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Positive Law Codification of Title 41 U.S.C.'' ((RIN0750–AG38) (DFARS Case 2011–D036)) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Armed Services.

EC–3179. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Award Fee Reduction or Denial for Health or Safety Issues'' ((RIN0750–AH37) (DFARS Case 2011–D033)) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Armed Services.

EC–3180. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64) (Docket No. FEMA–2011–0002)) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–3181. A communication from the Acting Assistant Secretary for Housing-Federal Housing Commissioner, transmitting, pursuant to law, a report relative to the Federal Housing Administration's (FHA) General and Special Risk Insurance (GI/SRI) Fund and the FHA's Mutual Mortgage Insurance Fund; to the Committee on Banking, Housing, and Urban Affairs.

EC–3182. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio and West Virginia; Determinations of Attainment of the 1997 Annual Fine Particle Standard for Four Nonattainment Areas'' (FRL No. 9463–1) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Energy and Natural Resources.

EC–3183. A communication from the Chief of the Recovery and Delisting Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Removal of Echinacea tennesseensis (Tennessee Purple Coneflower) from the Federal List of Endangered and Threatened Plants'' (RIN1018–AW26) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3184. A communication from the Acting Chair of the Federal Subsistence Board, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska—Subpart B, Federal Subsistence Board'' (RIN1018–AX52) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3185. A communication from the Acting Chief of the Foreign Species Branch, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Listing Six Foreign Birds as Endangered Throughout Their Range'' (RIN1018–AW39) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3186. A communication from the Wildlife Biologist, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2011–12 Early Season'' (RIN1018–AX34) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3187. A communication from the Wildlife Biologist, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' (RIN1018–AX34) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3188. A communication from the Wildlife Biologist, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations'' (RIN1018–AX34) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3189. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio and West Virginia; Determinations of Attainment of the 1997 Annual Fine Particulate Standard for Four Nonattainment Areas'' (FRL No. 9463–1) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3190. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Revisions to Permits by Rule and Regulations for Control of Air Pollution by Permits for New Construction or Modification'' (FRL No. 9463–6) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3191. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List, Final Rule No. 52'' (FRL No. 9464–6) received in the Office of the President of the Senate on September 12, 2011; to the Committee on Environment and Public Works.

EC–3192. A communication from the Director of Human Resources, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Administrator for Water, received in the Office of the President of the Senate on September 8, 2011; to the Committee on Environment and Public Works.

EC–3193. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Advisory Committee; Change of Name and Function; Technical Amendment'' (Docket No. FDA–2011–N–0002) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–3194. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Fiscal Year 2008 Low Income Home Energy Assistance Program (LIHEAP) Report; to the Committee on Health, Education, Labor, and Pensions.

EC–3195. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Office of Inspector General's budget request for the fiscal year 2013; to the Committee on Health, Education, Labor, and Pensions.

EC–3196. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Board's budget request for the fiscal year 2013; to the Committee on Health, Education, Labor, and Pensions.

EC–3197. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement to include the export of defense articles, including, technical data, and defense services to Canada for development, testing, and manufacture of the Improved Drive System transmission system and parts thereof, for the AH–64D Apache helicopter Block III upgrade for end-use by the U.S. Army in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–3198. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the manufacture of significant military equipment abroad involving the export of defense articles, including technical data, and defense services to Mexico for the pre-cast and post-cast finishing operations of military aircraft, tank, and naval engine components to

include engine hot-section blades for end use by United States military engine manufacturers in the amount of $29,500,000; to the Committee on Foreign Relations.

EC–3199. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Abolishment of Monmouth, New Jersey, as a Nonappropriated Fund Federal Wage System Wage Area'' (RIN3206–AM49) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3200. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Pay for Sunday Work'' (RIN3206–AM08) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3201. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Personnel Records'' (RIN3206–AM05) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3202. A communication from the Director, Retirement Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees'' (RIN3206–AM29) received in the Office of the President of the Senate on September 8, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–3203. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Quarterly Report to Congress; Third Quarter of Fiscal Year 2011''; to the Committee on Veterans' Affairs.

EC–3204. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Side Impact Protection'' (RIN2127–AK82) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3205. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Uniform Criteria for State Observational Surveys of Seat Belt Use'' (RIN2127–AK41) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3206. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards: Occupant Crash Protection'' (RIN2127–AK25) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3207. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment'' (RIN2127–AL00) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3208. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Minor Editorial Corrections and Clarifications'' (RIN2137–AE77) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3209. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Certification; Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards; Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards'' (RIN2127–AK32) received in the Office of the President of the Senate on September 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3210. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Non-Sandbar Large Coastal Shark Research Fishery'' (RIN0648–XA580) received during recess of the Senate in the Office of the President of the Senate on August 11, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3211. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Northern Area Trophy Fishery'' (RIN0648–XA550) received during recess of the Senate in the Office of the President of the Senate on August 11, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3212. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish for Catcher/Processors Participating in the Rockfish Limited Access Fishery in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XA594) received during recess of the Senate in the Office of the President of the Senate on August 11, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3213. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish for Catcher/Processors Participating in the Rockfish Limited Access Fishery in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XA588) received during recess of the Senate in the Office of the President of the Senate on August 11, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3214. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA589) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3215. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher/Processors Participating in the Rockfish Limited Access Fishery in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XA587) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3216. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for American Fisheries Act Catcher/Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA616) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3217. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher Vessels Participating in the Rockfish Entry Level Trawl Fishery in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XA612) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3218. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA547) received in the Office of the President of the Senate on September 6, 2011; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–61. A resolution adopted by the Commission of Wayne County of the State of Michigan relative to support of an integrated network of high-speed trains and expanded Amtrak service as a key to economic development, job creation and fuel consumption reduction; to the Committee on Commerce, Science, and Transportation.

POM–62. A joint resolution adopted by the Senate of the State of California urging Congress to enact federal legislation to modernize the federal Toxic Substances Control Act of 1976 by strengthening chemical management through specified policy reforms; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION NO. 3

Whereas, children and pregnant women are uniquely vulnerable to the health threats of toxic chemicals, and early life chemical exposures have been linked to chronic disease later in life; and

Whereas, a growing body of peer-reviewed scientific evidence links exposure to toxic chemicals to many diseases and health conditions that are rising in incidence, including childhood cancers, prostate cancer, breast cancer, learning and developmental disabilities, infertility, and obesity; and

Whereas, the President's Cancer Panel report released in May 2010 states ''the true burden of environmentally induced cancers has been grossly underestimated,'' and the panel advised the President of the United States ''to use the power of your office to remove the carcinogens and other toxins from our food, water, and air that needlessly increase health care costs, cripple our nation's productivity, and devastate American lives''; and

Whereas, workers in a range of industries are exposed to toxic chemicals which pose threats to their health, increasing worker absenteeism, workers' compensation claims, and health care costs that burden the economy; and

Whereas, a recent national poll found that 78 percent of American voters were seriously concerned about the threat to children's health from exposure to toxic chemicals in day-to-day life; and

Whereas, states bear an undue burden from toxic chemicals, including health care costs and environmental damages, disadvantaging businesses that lack information on chemicals in their supply chain, and increasing demands for state regulation; and

Whereas, the federal Toxic Substances Control Act of 1976 (TSCA; 15 U.S.C. Sec. 2601 et seq.), the primary governing federal statute, was intended to authorize the federal Environmental Protection Agency (EPA) to protect public health and the environment from toxic chemicals; and

Whereas, when TSCA was passed, about 62,000 chemicals in commerce were ''grandfathered in'' without any required testing for health and safety hazards or any restrictions on usage; and

Whereas, in the 35 years since the enactment of TSCA, the EPA has required chemical companies to test only about 200 of those chemicals for health hazards and has issued partial restrictions on only five chemicals; and

Whereas, TSCA has been widely recognized as ineffective and obsolete due to legal and procedural hurdles that prevent the EPA from taking quick and effective regulatory action to protect the public against well-known chemical threats; and

Whereas, a strong uniform federal standard would be beneficial to both consumers and businesses; and

Whereas, in January 2009, the United States General Accounting Office (GAO) added the EPA's regulatory program for assessing and controlling toxic chemicals to its list of ''high risk'' government programs that are not working as intended, finding that the EPA has been unable to complete assessments of chemicals of the highest concern. The EPA requires additional authority to obtain health and safety information from the chemical industry and to shift more of the burden to chemical companies to demonstrate the safety of their products. TSCA does not provide sufficient chemical safety data for public use by consumers, businesses, and workers and fails to create incentives to develop safer alternatives; and

Whereas, the National Conference of State Legislatures unanimously adopted a resolution in July 2009 that articulated principles for the reform of TSCA and called on Congress to act to update the law; and

Whereas, in August 2010, the Environmental Council of the States (ECOS), the national association of state environmental agency directors, unanimously adopted a resolution entitled ''Reforming the Toxic Substances Control Act,'' which endorsed specific policy reforms; and

Whereas, ten states have come together to launch the Interstate Chemicals Clearinghouse (IC2) to coordinate state chemical information management programs, and a coalition of 13 states issued guiding principles for TSCA reform; and

Whereas, seventy-one state laws on chemical safety have been enacted and signed into law in 18 states with broad bipartisan support over the last eight years; and

Whereas, California's policy leadership on chemical management, although outstanding, cannot substitute for congressional leadership to reform TSCA, a reform which all parties agree is urgently needed; and

Whereas, TSCA is the only major federal environmental statute that has never been updated or reauthorized; and

Whereas, legislation to substantially reform TSCA was introduced during the 109th Congress in 2005, the 110th Congress in 2008, and again in the 111th Congress in 2010; Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the California State Legislature urges the President and the 112th Congress of the United States to enact federal legislation to modernize the federal Toxic Substances Control Act of 1976 by strengthening chemical management through policy reforms that would do all of the following:

(a) Require producers and importers to perform comprehensive toxicity testing on their products and to fully disclose the results of their testing.

(b) Require producers and importers to disclose the identities of chemicals in their products.

(c) Require immediate action to reduce or eliminate the worst chemicals, including persistent, bioaccumulative, and toxic chemicals, which are known as PBTs, and other priority toxic chemicals, to which there is already widespread exposure.

(d) Preserve the authority of state and tribal governments to operate chemical management programs that are more protective than the programs established by the federal government.

(e) Establish health safety standards for chemicals that rely on the best available science to protect the most vulnerable, including children and the developing fetus.

(f) Support those chemical manufacturers that are striving to establish that all existing and new chemicals are not harmful to human health, and to provide essential health and safety information on chemicals to inform the market, consumers, and the public.

(g) Reward innovation by fast-tracking the approval of new, demonstrably safer chemicals, and invest in green chemistry research and workforce development to boost American business and spur jobs making safer alternatives.

(h) Promote environmental justice by developing action plans to reduce disproportionate exposure to toxic chemicals in ''hot spots'' communities;

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro Tempore of the United States Senate, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSON of South Dakota, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1547. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

*Wendy Ruth Sherman, of Maryland, to be an Under Secretary of State (Political Affairs).

*Robert Stephen Ford, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic, to which position he was appointed during the recess of the Senate from December 22, 2010, to January 5, 2011.

Nominee: Robert S. Ford.

Post: U.S. Embassy Bahrain.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self. None.

2. Spouse: Clare Alison Barkley: None.

3. Children and Spouses: None.

4. Parents: William Jack Ford—None. Marian Ford—None.

5. Grandparents: Deceased.

6. Brothers and Spouses: William E. Ford—None; Brian J. Ford—None.

Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic, to which position he was appointed during the recess of the Senate from December 22, 2010, to January 5, 2011.

Nominee: Norman L. Eisen.

Post: Ambassador to the Czech Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $28,500.00, 7/31/2008, Obama Victory Fund (Distributed $1,150 to OFA, $27,350 to DNC); $2,300.00, 6/25/2008, Kissel for Congress; $500.00, 6/18/2008, Friends of Jay Rockefeller; $1,000.00, 6/12/2008, Pennsylvanians for Kanjorski; $250.00, 3/27/2008, Al Franken for Senate; $1,000.00, 3/15/2008, Berkowitz for Congress; $1,000.00, 2/1/2008, Warner for Senate; $1,150.00, 12/18/2007, Donna Edwards for Congress; $1,150.00, 4/6/2007, Obama for America; $2,300.00, 3/26/2007, Biden for President; $2,300.00, 3/26/2007; Obama for President.

2. Spouse: M. Lindsay Kaplan: $2,300.00, 6/25/2008, Kissel for Congress; $2,000.00, 9/10/2008, Moveon.Org Political Action; $1,150.00, 2/5/2008, Donna Edwards for Congress; $1,000.00, 6/30/2007, Biden for President, Inc.; $1,150.00, 4/6/2007, Obama for America; $2,300.00, 3/6/2007, Obama for America.

3. Children and Spouses: Tamar Y. Eisen, none.

4. Parents: Frieda Eisen, none; Irvin Eisen—deceased.

5. Grandparents: All of my grandparents have been deceased for over 40 years.

6. Brothers and Spouses: Robert B. Eisen, none; Steven H. Eisen, none.

7. Sisters and Spouses: Not applicable.

---

*Francis Joseph Ricciardone, Jr., of Massachusetts, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America

to the Republic of Turkey, to which position he was appointed during the recess of the Senate from December 22, 2010, to January 5, 2011.

Nominee: Francis Joseph Ricciardone, Jr.

Post: U.S. Embassy Ankara.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate).

Contributions, amount, date, donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Francesca Mara Ricciardone and Micah White: None. Chiara Teresa Ricciardone: None.

4. Parents: Francis J. Ricciardone, Sr., $100, 2008, Republican National Committee. (Mother deceased).

5. Grandparents: Deceased.

6. Brothers and Spouses: Michael and Elizabeth Ricciardone, None; James and Lisa Ricciardone, None; David and Beverly Ricciardone, None.

7. Sisters and Spouses: Theresa Ricciardone and Peter Thayer, None; Marguerite Ricciardone and David R. Stone, $100, 2/2010, Ellen Gibbs (D) (Selectman, Wellesley, MA).

---

*John A. Heffern, of Missouri, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Nominee: John Ashwood Heffern.

Post: United States Ambassador to Armenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self: 0.

2. Spouse: 0.

3. Children and Spouses: 0.

4. Parents: 0.

5. Grandparents: 0.

6. Brothers and Spouses: Christopher E. Heffern: $200, 02/26/2008, Hillary Clinton (donor was sister-in-law Patricia Heffern).

7. Sisters and Spouses: Exact amounts unknown; those who donated anything at all claimed the amounts were negligible and were all for local candidates they did not disclose to me.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE:

S. 1545. A bill to designate Taiwan as a visa waiver program country under section 217(c) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1546. A bill to authorize certain programs of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. JOHNSON of South Dakota:

S. 1547. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. JOHNSON of South Dakota:

S. 1548. A bill to extend the National Flood Insurance Program until December 31, 2011; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REID (by request):

S. 1549. A bill to provide tax relief for American workers and businesses, to put workers back on the job while rebuilding and modernizing America, and to provide pathways back to work for Americans looking for jobs; read the first time.

By Mr. BROWN of Ohio (for himself and Mr. REED):

S. 1550. A bill to establish the National Infrastructure Bank to provide financial assistance for qualified infrastructure projects selected by the Bank, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KIRK (for himself, Mr. ALEXANDER, Mr. RUBIO, and Mr. WYDEN):

S. 1551. A bill to establish a smart card pilot program under the Medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mr. DURBIN, Mr. ROCKEFELLER, Mr. MANCHIN, and Mr. PORTMAN):

S. Res. 261. A resolution designating the month of October 2011 as ''National Medicine Abuse Awareness Month''; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Ms. SNOWE):

S. Res. 262. A resolution designating the week beginning on September 12, 2011, and ending on September 16, 2011, as ''National Health Information Technology Week'' to recognize the value of health information technology in improving health quality; considered and agreed to.

By Mr. NELSON of Nebraska (for himself and Ms. COLLINS):

S. Res. 263. A resolution designating the week beginning September 11, 2011, as ''National Direct Support Professionals Recognition Week''; considered and agreed to.

By Mr. PRYOR (for himself and Mr. BOOZMAN):

S. Res. 264. A resolution designating September 12, 2011, as ''National Day of Encouragement''; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. RUBIO):

S. Res. 265. A resolution honoring the lifetime achievements of E. Thom Rumberger; considered and agreed to.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 274

At the request of Mrs. HAGAN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 274, a bill to amend title XVIII of the Social Security Act to expand access to medication therapy management services under the Medicare prescription drug program.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1002

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1009

At the request of Mr. RUBIO, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1009, a bill to rescind certain Federal funds identified by States as unwanted and use the funds to reduce the Federal debt.

S. 1025

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1025, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1060

At the request of Mr. BLUMENTHAL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1060, a bill to improve education, employment, independent living services, and health care for veterans, to improve assistance for homeless veterans, and to improve the administration of the Department of Veterans Affairs, and for other purposes.

S. 1094

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 1094, a bill to reauthorize the Combating Autism Act of 2006 (Public Law 109–416).

S. 1299

At the request of Mr. MORAN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1299, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Lions Clubs International.

S. 1301

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 to 2015 for

the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

S. 1368

At the request of Mr. NELSON of Nebraska, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1368, a bill to amend the Patient Protection and Affordable Care Act to repeal distributions for medicine qualified only if for prescribed drug or insulin.

S. 1369

At the request of Mr. CRAPO, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1369, a bill to amend the Federal Water Pollution Control Act to exempt the conduct of silvicultural activities from national pollutant discharge elimination system permitting requirements.

S. 1425

At the request of Mr. DEMINT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1425, a bill to amend the National Labor Relations Act to ensure fairness in election procedures with respect to collective bargaining representatives.

S. 1438

At the request of Mr. JOHNSON of Wisconsin, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 1438, a bill to provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 1438, supra.

S. 1472

At the request of Mrs. GILLIBRAND, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1472, a bill to impose sanctions on persons making certain investments that directly and significantly contribute to the enhancement of the ability of Syria to develop its petroleum resources, and for other purposes.

S. 1501

At the request of Mr. HELLER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1501, a bill to require the Joint Select Committee on Deficit Reduction to conduct the business of the Committee in a manner that is open to the public.

S. 1507

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1507, a bill to provide protections from workers with respect to their right to select or refrain from selecting representation by a labor organization.

S. 1512

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 1523

At the request of Mr. GRAHAM, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from South Carolina (Mr. DEMINT), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. JOHANNS), the Senator from Utah (Mr. LEE), the Senator from Kansas (Mr. MORAN) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1523, a bill to prohibit the National Labor Relations Board from ordering any employers to close, relocate, or transfer employment under any circumstance.

S. 1527

At the request of Mrs. HAGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1527, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

S. 1531

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 1531, a bill to provide a Federal regulatory moratorium, and for other purposes.

S. 1538

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1538, a bill to provide for a time-out on certain regulations, and for other purposes.

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 1538, supra.

S. 1542

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1542, a bill to amend part B of title IV of the Social Security Act to extend the child and family services program through fiscal year 2016, and for other purposes.

S.J. RES. 27

At the request of Mr. JOHANNS, his name was added as a cosponsor of S.J. Res. 27, a joint resolution disapproving a rule submitted by the Environmental Protection Agency relating to the mitigation by States of cross-border air pollution under the Clean Air Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON of South Dakota:

S. 1547. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

Mr. JOHNSON of South Dakota. Mr. President, I rise today to speak about the Export-Import Bank. Earlier today, I filed the Export-Import Bank Reauthorization Act of 2011. This legislation was approved unanimously by the Committee on Banking, Housing, and Urban Affairs last Thursday.

This legislation will ensure that the Bank remains able to continue to provide support for U.S. exporters and workers. The bill extends the authorization of the Bank for 4 years, and will increase the Bank's lending authority to $140 billion by 2015. It also strengthens transparency and accountability at the Bank, seeks to modernize the Bank's IT, encourages the Bank to increase projects designed to create renewable energies, and provides for greater oversight of the Bank's financing and any risks it might have to taxpayers.

The Bank's current authorization expires on September 30, 2011, and I hope that this legislation will pass as soon as possible to ensure that the Bank continues to operate.

The Export-Import Bank is the official export credit agency of the United States and it assists in financing the export of U.S. goods and services to international markets. Following the financial crisis, the Bank experienced a dramatic increase in its activities as many companies struggled to find financing in the private market. In Fiscal Year 2010, the Bank saw a 70 percent increase in authorizations from 2008. In fact, last year the Bank committed almost $25 billion in support of U.S. exports—a record.

The Bank has been self-funding since 2008, regularly returning millions of dollars each year to the Treasury. This is a testament to the Bank's leadership under Chairman Fred Hochberg, as well as the good work of the dedicated staff and Board of the Bank.

All of the Bank's transactions are backed by the full faith and credit of the United States. Therefore, I am pleased that this legislation will help ensure that the Bank is working as efficiently and effectively as possible to protect the taxpayers.

Equally important is the Bank's goal to use exports to help create and maintain jobs here at home. This mission, embodied in the Bank's Charter, is at the very core of what Congress intended the Bank to do. I believe that while the Bank is doing a good job, it can—and must—do more. I believe this legislation will help the Bank reach that goal.

This bill is a bipartisan effort and I thank Senator SHELBY for his support. In addition, I thank Senator WARNER, the Chairman of the Subcommittee on Security and International Trade and Finance, Senator BENNET and Senator HAGAN for their extremely important input into this legislation. I urge all my colleagues to support the bill.

By Mr. REID (by request):

S. 1549. A bill to provide tax relief for American workers and businesses, to put workers back on the job while rebuilding and modernizing America, and to provide pathways back to work for Americans looking for jobs; read the first time.

Mr. REID. Mr. President, I ask unanimous consent the the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1549

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REFERENCES.

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

SEC. 3. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 4. BUY AMERICAN—USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.

(a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

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

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

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

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

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 5. WAGE RATE AND EMPLOYMENT PROTECTION REQUIREMENTS.

(a) Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

(b) With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(c) Projects as defined under title 49, United States Code, funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be subject to the requirements of section 5333(b) of title 49, United States Code.

TITLE I—RELIEF FOR WORKERS AND BUSINESSES

Subtitle A—Payroll Tax Relief

SEC. 101. TEMPORARY PAYROLL TAX CUT FOR EMPLOYERS, EMPLOYEES AND THE SELF-EMPLOYED.

(a) WAGES.—Notwithstanding any other provision of law—

(1) with respect to remuneration received during the payroll tax holiday period, the rate of tax under 3101(a) of the Internal Revenue Code of 1986 shall be 3.1 percent (including for purposes of determining the applicable percentage under sections 3201(a) and 3211(a) of such Code), and

(2) with respect to remuneration paid during the payroll tax holiday period, the rate of tax under 3111(a) of such Code shall be 3.1 percent (including for purposes of determining the applicable percentage under sections 3221(a) and 3211(a) of such Code).

(3) Subsection (a)(2) shall only apply to—

(A) employees performing services in a trade or business of a qualified employer, or

(B) in the case of a qualified employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

(4) Subsection (a)(2) shall apply only to the first $5 million of remuneration or compensation paid by a qualified employer subject to section 3111(a) or a corresponding amount of compensation subject to 3221(a).

(b) SELF-EMPLOYMENT TAXES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, with respect to any taxable year which begins in the payroll tax holiday period, the rate of tax under section 1401(a) of the Internal Revenue Code of 1986 shall be—

(A) 6.2 percent on the portion of net earnings from self-employment subject to 1401(a) during the payroll tax period that does not exceed the amount of the excess of $5 million over total remuneration, if any, subject to section 3111(a) paid during the payroll tax holiday period to employees of the self-employed person, and

(B) 9.3 percent for any portion of net earnings from self-employment not subject to subsection (b)(1)(A).

(2) COORDINATION WITH DEDUCTIONS FOR EMPLOYMENT TAXES.—For purposes of the Internal Revenue Code of 1986, in the case of any taxable year which begins in the payroll tax holiday period—

(A) DEDUCTION IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.—The deduction allowed under section 1402(a)(12) of such Code shall be the sum of (i) 4.55 percent times the amount of the taxpayer's net earnings from self-employment for the taxable year subject to paragraph (b)(1)(A) of this section, plus (ii) 7.65 percent of the taxpayers net earnings from self-employment in excess of that amount.

(B) INDIVIDUAL DEDUCTION.—The deduction under section 164(f) of such Code shall be equal to the sum of ((i) one-half of the taxes imposed by section 1401 (after the application of this section) with respect to the taxpayer's net earnings from self-employment for the taxable year subject to paragraph (b)(1)(A) of this section plus (ii) 62.7 percent of the taxes imposed by section 1401 (after the application of this section) with respect to the excess.

(c) REGULATORY AUTHORITY.—The Secretary may prescribe any such regulations or other guidance necessary or appropriate to carry out this section, including the allocation of the excess of $5 million over total remuneration subject to section 3111(a) paid during the payroll tax holiday period among related taxpayers treated as a single qualified employer.

(d) DEFINITIONS.—

(1) PAYROLL TAX HOLIDAY PERIOD.—The term ''payroll tax holiday period'' means calendar year 2012.

(2) QUALIFIED EMPLOYER.—For purposes of this paragraph,

(A) IN GENERAL.—The term ''qualified employer'' means any employer other than the United States, any State or possession of the United States, or any political subdivision thereof, or any instrumentality of the foregoing.

(B) TREATMENT OF EMPLOYEES OF POST-SECONDARY EDUCATIONAL INSTITUTIONS.—Notwithstanding paragraph (A), the term ''qualified employer'' includes any employer which is a public institution of higher education (as defined in section 101 of the Higher Education Act of 1965).

(3) AGGREGATION RULES.—For purposes of this subsection rules similar to sections 414(b), 414(c), 414(m) and 414(o) shall apply to determine when multiple entities shall be treated as a single employer, and rules with respect to predecessor and successor employers may be applied, in such manner as may be prescribed by the Secretary.

(e) TRANSFERS OF FUNDS.—

(1) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-

Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsections (a) and (b) to employers other than those described in (e)(2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(2) TRANSFERS TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—There are hereby appropriated to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a) to employers subject to the Railroad Retirement Tax. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Account had such amendments not been enacted.

(f) COORDINATION WITH OTHER FEDERAL LAWS.—For purposes of applying any provision of Federal law other than the provisions of the Internal Revenue Code of 1986, the rate of tax in effect under section 3101(a) of such Code shall be determined without regard to the reduction in such rate under this section.

SEC. 102. TEMPORARY TAX CREDIT FOR INCREASED PAYROLL.

(a) IN GENERAL.—Notwithstanding any other provision of law, each qualified employer shall be allowed, with respect to wages for services performed for such qualified employer, a payroll increase credit determined as follows:

(1) With respect to the period from October 1, 2011 through December 31, 2011, 6.2 percent of the excess, if any, (but not more than $12.5 million of the excess) of the wages subject to tax under section 3111(a) of the Internal Revenue Code of 1986 for such period over such wages for the corresponding period of 2010.

(2) With respect to the period from January 1, 2012 through December 31, 2012,

(A) 6.2 percent of the excess, if any, (but not more than $50 million of the excess) of the wages subject to tax under section 3111(a) of the Internal Revenue Code of 1986 for such period over such wages for calendar year 2011, minus

(B) 3.1 percent of the result (but not less than zero) of subtracting from $5 million such wages for calendar year 2011.

(3) In the case of a qualified employer for which the wages subject to tax under section 3111(a) of the Internal Revenue Code of 1986 (a) were zero for the corresponding period of 2010 referred to in subsection (a)(1), the amount of such wages shall be deemed to be 80 percent of the amount of wages taken into account for the period from October 1, 2011 through December 31, 2011 and (b) were zero for the calendar year 2011 referred to in subsection (a)(2), then the amount of such wages shall be deemed to be 80 percent of the amount of wages taken into account for 2012.

(4) This subsection (a) shall only apply with respect to the wages of employees performing services in a trade or business of a qualified employer or, in the case of a qualified employer exempt from tax under section 501(a) of the Internal Revenue Code of 1986, in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

(b) QUALIFIED EMPLOYERS.—For purposes of this section—

(1) IN GENERAL.—The term ''qualified employer'' means any employer other than the United States, any State or possession of the United States, or any political subdivision thereof, or any instrumentality of the foregoing.

(2) TREATMENT OF EMPLOYEES OF POST-SECONDARY EDUCATIONAL INSTITUTIONS.—Notwithstanding subparagraph (1), the term ''qualified employer'' includes any employer which is a public institution of higher education (as defined in section 101 of the Higher Education Act of 1965).

(c) AGGREGATION RULES.—For purposes of this subsection rules similar to sections 414(b), 414(c), 414(m) and 414(o) of the Internal Revenue Code of 1986 shall apply to determine when multiple entities shall be treated as a single employer, and rules with respect to predecessor and successor employers may be applied, in such manner as may be prescribed by the Secretary.

(d) APPLICATION OF CREDITS.—The payroll increase credit shall be treated as a credit allowable under Subtitle C of the Internal Revenue Code of 1986 under rules prescribed by the Secretary of the Treasury, provided that the amount so treated for the period described in section (a)(1) or section (a)(2) shall not exceed the amount of tax imposed on the qualified employer under section 3111(a) of such Code for the relevant period. Any income tax deduction by a qualified employer for amounts paid under section 3111(a) of such Code or similar Railroad Retirement Tax provisions shall be reduced by the amounts so credited.

(e) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by subsection (d). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(f) APPLICATION TO RAILROAD RETIREMENT TAXES.—For purposes of qualified employers that are employers under section 3231(a) of the Internal Revenue Code of 1986, subsections (a)(1) and (a)(2) of this section shall apply by substituting section 3221 for section 3111, and substituting the term ''compensation'' for ''wages'' as appropriate.

Subtitle B—Other Relief for Businesses

SEC. 111. EXTENSION OF TEMPORARY 100 PERCENT BONUS DEPRECIATION FOR CERTAIN BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (5) of section 168(k) of the Internal Revenue Code is amended—

(1) by striking ''January 1, 2012'' each place it appears and inserting ''January 1, 2013'', and

(2) by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(b) CONFORMING AMENDMENT.—The heading for paragraph (5) of section 168(k) of the Internal Revenue Code is amended by striking ''PRE–2012 PERIODS'' and inserting ''PRE–2013 PERIODS''.

SEC. 112. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended by striking ''$2,000,000'' and inserting ''$5,000,000''.

(b) DENIAL OF LIABILITY.—Section 411(e)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)(2)) is amended by striking ''$2,000,000'' and inserting ''$5,000,000''.

(c) SUNSET.—The amendments made by subsections (a) and (b) of this section shall remain in effect until September 30, 2012.

(d) FUNDING.—There is appropriated out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until expended, for additional capital for the Surety Bond Guarantees Revolving Fund, as authorized by the Small Business Investment Act of 1958, as amended.

SEC. 113. DELAY IN APPLICATION OF WITHHOLDING ON GOVERNMENT CONTRACTORS.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2013''.

TITLE II—PUTTING WORKERS BACK ON THE JOB WHILE REBUILDING AND MODERNIZING AMERICA

Subtitle A—Veterans Hiring Preferences

SEC. 201. RETURNING HEROES AND WOUNDED WARRIORS WORK OPPORTUNITY TAX CREDITS.

(a) IN GENERAL.—Paragraph (3) of section 51(b) of the Internal Revenue Code is amended by striking ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))'' and inserting ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I), $14,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(iv), and $24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II))''.

(b) RETURNING HEROES TAX CREDITS.—Section 51(d)(3)(A) of the Internal Revenue Code is amended by striking ''or'' at the end of paragraph (3)(A)(i), and inserting the following new paragraphs after paragraph (ii)—

''(iii) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months), or

''(iv) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.''.

(c) SIMPLIFIED CERTIFICATION.—Section 51(d) of the Internal revenue Code is amended by adding a new paragraph 15 as follows—

''(15) CREDIT ALLOWED FOR UNEMPLOYED VETERANS.—

''(A) IN GENERAL.—Any qualified veteran under paragraphs (3)(A)(ii)(II), (3)(A)(iii), and (3)(A)(iv) will be treated as certified by the designated local agency as having aggregate periods of unemployment if—

''(i) In the case of qualified veterans under paragraphs (3)(A)(ii)(II) and (3)(A)(iv), the veteran is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date; or

''(ii) In the case of a qualified veteran under paragraph (3)(A)(iii), the veteran is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date.

''(B) REGULATORY AUTHORITY.—The Secretary in his discretion may provide alternative methods for certification.''.

(d) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—Section 52(c) of the Internal Revenue Code is amended—

(1) by striking the word ''No'' at the beginning of the section and replacing it with ''Except as provided in this subsection, no'';

(2) the following new paragraphs are inserted at the end of section 52(c)—

''(1) IN GENERAL.—In the case of a tax-exempt employer, there shall be treated as a

credit allowable under subpart C (and not allowable under subpart D) the lesser of—

''(A) The amount of the work opportunity credit determined under this subpart with respect to such employer that is related to the hiring of qualified veterans described in sections 51(d)(3)(A)(ii)(II), (iii) or (iv); or

''(B) The amount of the payroll taxes of the employer during the calendar year in which the taxable year begins.

''(2) CREDIT AMOUNT.—In calculating for tax-exempt employers, the work opportunity credit shall be determined by substituting '26 percent' for '40 percent' in section 51(a) and by substituting '16.25 percent' for '25 percent' in section 51(i)(3)(A).

''(3) TAX-EXEMPT EMPLOYER.—For purposes of this subpart, the term 'tax-exempt employer' means an employer that is—

''(i) an organization described in section 501(c) and exempt from taxation under section 501(a), or

''(ii) a public higher education institution (as defined in section 101 of the Higher Education Act of 1965).

''(4) PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'payroll taxes' means—

''(i) amounts required to be withheld from the employees of the tax-exempt employer under section 3401(a),

''(ii) amounts required to be withheld from such employees under section 3101(a), and

''(iii) amounts of the taxes imposed on the tax-exempt employer under section 3111(a).''.

(e) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(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 credits that would have been provided by the possession by reason of the application of this section (other than this subsection) 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.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 that is attributable to the credit provided by this section (other than this subsection (e)) shall be taken into account with respect to any person—

(A) to whom a credit is allowed against taxes imposed by the possession of the United States by reason of 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 (e), the term ''possession of the United States'' includes American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin 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, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 shall apply.

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

Subtitle B—Teacher Stabilization

SEC. 202. PURPOSE.

The purpose of this subtitle is to provide funds to States to prevent teacher layoffs and support the creation of additional jobs in public early childhood, elementary, and secondary education in the 2011–2012 and 2012–2013 school years.

SEC. 203. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR; AVAILABILITY OF FUNDS.

(a) RESERVATION OF FUNDS.—From the amount appropriated to carry out this subtitle under section 212, the Secretary—

(1) shall reserve up to one-half of one percent to provide assistance to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this part under such terms and conditions as the Secretary may determine;

(2) shall reserve up to one-half of one percent to provide assistance to the Secretary of the Interior to carry out activities consistent with this part, in schools operated or funded by the Bureau of Indian Education; and

(3) may reserve up to $2,000,000 for administration and oversight of this part, including program evaluation.

(b) AVAILABILITY OF FUNDS.—Funds made available under section 212 shall remain available to the Secretary until September 30, 2012.

SEC. 204. STATE ALLOCATION.

(a) ALLOCATION.—After reserving funds under section 203(a), the Secretary shall allocate to the States—

(1) 60 percent on the basis of their relative population of individuals aged 5 through 17; and

(2) 40 percent on the basis of their relative total population.

(b) AWARDS.—From the funds allocated under subsection (a), the Secretary shall make a grant to the Governor of each State who submits an approvable application under section 214.

(c) ALTERNATE DISTRIBUTION OF FUNDS.—

(1) If, within 30 days after the date of enactment of this Act, a Governor has not submitted an approvable application to the Secretary, the Secretary shall, consistent with paragraph (2), provide for funds allocated to that State to be distributed to another entity or other entities in the State for the support of early childhood, elementary, and secondary education, under such terms and conditions as the Secretary may establish.

(2) MAINTENANCE OF EFFORT.—

(A) GOVERNOR ASSURANCE.—The Secretary shall not allocate funds under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2012 and 2013 meet the requirements of section 209.

(B) Notwithstanding subparagraph (A), the Secretary may allocate up to 50 percent of the funds that are available to the State under paragraph (1) to another entity or entities in the State, provided that the State educational agency submits data to the Secretary demonstrating that the State will for fiscal year 2012 meet the requirements of section 209(a) or the Secretary otherwise determines that the State will meet those requirements, or such comparable requirements as the Secretary may establish, for that year.

(3) REQUIREMENTS.—An entity that receives funds under paragraph (1) shall use those funds in accordance with the requirements of this subtitle.

(d) REALLOCATION.—If a State does not receive funding under this subtitle or only receives a portion of its allocation under subsection (c), the Secretary shall reallocate the State's entire allocation or the remaining portion of its allocation, as the case may be, to the remaining States in accordance with subsection (a).

SEC. 205. STATE APPLICATION.

The Governor of a State desiring to receive a grant under this subtitle shall submit an application to the Secretary within 30 days of the date of enactment of this Act, in such manner, and containing such information as the Secretary may reasonably require to determine the State's compliance with applicable provisions of law.

SEC. 206. STATE RESERVATION AND RESPONSIBILITIES.

(a) RESERVATION.—Each State receiving a grant under section 204(b) may reserve—

(1) not more than 10 percent of the grant funds for awards to State-funded early learning programs; and

(2) not more than 2 percent of the grant funds for the administrative costs of carrying out its responsibilities under this subtitle.

(b) STATE RESPONSIBILITIES.—Each State receiving a grant under this subtitle shall, after reserving any funds under subsection (a)—

(1) use the remaining grant funds only for awards to local educational agencies for the support of early childhood, elementary, and secondary education; and

(2) distribute those funds, through subgrants, to its local educational agencies by distributing—

(A) 60 percent on the basis of the local educational agencies' relative shares of enrollment; and

(B) 40 percent on the basis of the local educational agencies' relative shares of funds received under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2011; and

(3) make those funds available to local educational agencies no later than 100 days after receiving a grant from the Secretary.

(c) PROHIBITIONS.—A State shall not use funds received under this subtitle to directly or indirectly—

(1) establish, restore, or supplement a rainy-day fund;

(2) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund;

(3) reduce or retire debt obligations incurred by the State; or

(4) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

SEC. 207. LOCAL EDUCATIONAL AGENCIES.

Each local educational agency that receives a subgrant under this subtitle—

(1) shall use the subgrant funds only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, recall or rehire former employees, or hire new employees to provide early childhood, elementary, or secondary educational and related services;

(2) shall obligate those funds no later than September 30, 2013; and

(3) may not use those funds for general administrative expenses or for other support services or expenditures, as those terms are defined by the National Center for Education Statistics in the Common Core of Data, as of the date of enactment of this Act.

SEC. 208. EARLY LEARNING.

Each State-funded early learning program that receives funds under this subtitle shall—

(1) use those funds only for compensation, benefits, and other expenses, such as support services, necessary to retain early childhood educators, recall or rehire former early childhood educators, or hire new early childhood educators to provide early learning services; and

(2) obligate those funds no later than September 30, 2013.

SEC. 209. MAINTENANCE OF EFFORT.

(a) The Secretary shall not allocate funds to a State under this subtitle unless the State provides an assurance to the Secretary that—

(1) for State fiscal year 2012—

(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2011; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2011; and

(2) for State fiscal year 2013—

(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2012; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2012.

(b) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

(2) a precipitous decline in the financial resources of the State.

SEC. 210. REPORTING.

Each State that receives a grant under this subtitle shall submit, on an annual basis, a report to the Secretary that contains—

(1) a description of how funds received under this part were expended or obligated; and

(2) an estimate of the number of jobs supported by the State using funds received under this subtitle.

SEC. 211. DEFINITIONS.

(a) Except as otherwise provided, the terms ''local educational agency'', ''outlying area'', ''Secretary'', ''State'', and ''State educational agency'' have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) The term ''State'' does not include an outlying area.

(c) The term ''early childhood educator'' means an individual who—

(1) works directly with children in a State-funded early learning program in a low-income community;

(2) is involved directly in the care, development, and education of infants, toddlers, or young children age five and under; and

(3) has completed a baccalaureate or advanced degree in early childhood development or early childhood education, or in a field related to early childhood education.

(d) The term ''State-funded early learning program'' means a program that provides educational services to children from birth to kindergarten entry and receives funding from the State.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, and there are appropriated, $30,000,000,000 to carry out this subtitle for fiscal year 2012.

Subtitle C—First Responder Stabilization

SEC. 213. PURPOSE.

The purpose of this subtitle is to provide funds to States and localities to prevent layoffs of, and support the creation of additional jobs for, law enforcement officers and other first responders.

SEC. 214. GRANT PROGRAM.

The Attorney General shall carry out a competitive grant program pursuant to section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) for hiring, rehiring, or retention of career law enforcement officers under part Q of such title. Grants awarded under this section shall not be subject to subsections (g) or (i) of section 1701 or to section 1704 of such Act (42 U.S.C. 3796dd–3(c)).

SEC. 215. APPROPRIATIONS.

There are hereby appropriated to the Community Oriented Policing Stabilization Fund out of any money in the Treasury not otherwise obligated, $5,000,000,000, to remain available until September 30, 2012, of which $4,000,000,000 shall be for the Attorney General to carry out the competitive grant program under Section 214; and of which $1,000,000,000 shall be transferred by the Attorney General to a First Responder Stabilization Fund from which the Secretary of Homeland Security shall make competitive grants for hiring, rehiring, or retention pursuant to the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), to carry out section 34 of such Act (15 U.S.C. 2229a). In making such grants, the Secretary may grant waivers from the requirements in subsections (a)(1)(A), (a)(1)(B), (a)(1)(E), (c)(1), (c)(2), and (c)(4)(A) of section 34. Of the amounts appropriated herein, not to exceed $8,000,000 shall be for administrative costs of the Attorney General, and not to exceed $2,000,000 shall be for administrative costs of the Secretary of Homeland Security.

Subtitle D—School Modernization

PART I—ELEMENTARY AND SECONDARY SCHOOLS

SEC. 221. PURPOSE.

The purpose of this part is to provide assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts across America in order to support the achievement of improved educational outcomes in those schools.

SEC. 222. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, and there are appropriated, $25,000,000,000 to carry out this part, which shall be available for obligation by the Secretary until September 30, 2012.

SEC. 223. ALLOCATION OF FUNDS.

(a) RESERVATIONS.—Of the amount made available to carry out this part, the Secretary shall reserve—

(1) one-half of one percent for the Secretary of the Interior to carry out modernization, renovation, and repair activities described in section 226 in schools operated or funded by the Bureau of Indian Education;

(2) one-half of one percent to make grants to the outlying areas for modernization, renovation, and repair activities described in section 226; and

(3) such funds as the Secretary determines are needed to conduct a survey, by the National Center for Education Statistics, of the school construction, modernization, renovation, and repair needs of the public schools of the United States.

(b) STATE ALLOCATION.—After reserving funds under subsection (a), the Secretary shall allocate the remaining amount among the States in proportion to their respective allocations under part A of title I of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6311 et seq.) for fiscal year 2011, except that—

(1) the Secretary shall allocate 40 percent of such remaining amount to the 100 local educational agencies with the largest numbers of children aged 5–17 living in poverty, as determined using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, in proportion to those agencies' respective allocations under part A of title I of the ESEA for fiscal year 2011; and

(2) the allocation to any State shall be reduced by the aggregate amount of the allocations under paragraph (1) to local educational agencies in that State.

(c) REMAINING ALLOCATION.—

(1) If a State does not apply for its allocation (or applies for less than the full allocation for which it is eligible) or does not use that allocation in a timely manner, the Secretary may—

(A) reallocate all or a portion of that allocation to the other States in accordance with subsection (b); or

(B) use all or a portion of that allocation to make direct allocations to local educational agencies within the State based on their respective allocations under part A of title I of the ESEA for fiscal year 2011 or such other method as the Secretary may determine.

(2) If a local educational agency does not apply for its allocation under subsection (b)(1), applies for less than the full allocation for which it is eligible, or does not use that allocation in a timely manner, the Secretary may reallocate all or a portion of its allocation to the State in which that agency is located.

SEC. 224. STATE USE OF FUNDS.

(a) RESERVATION.—Each State that receives a grant under this part may reserve not more than one percent of the State's allocation under section 223(b) for the purpose of administering the grant, except that no State may reserve more than $750,000 for this purpose.

(b) FUNDS TO LOCAL EDUCATIONAL AGENCIES.—

(1) FORMULA SUBGRANTS.—From the grant funds that are not reserved under subsection (a), a State shall allocate at least 50 percent to local educational agencies, including charter schools that are local educational agencies, that did not receive funds under

section 223(b)(1) from the Secretary, in accordance with their respective allocations under part A of title I of the ESEA for fiscal year 2011, except that no such local educational agency shall receive less than $10,000.

(2) ADDITIONAL SUBGRANTS.—The State shall use any funds remaining, after reserving funds under subsection (a) and allocating funds under paragraph (1), for subgrants to local educational agencies that did not receive funds under section 223(b)(1), including charter schools that are local educational agencies, to support modernization, renovation, and repair projects that the State determines, using objective criteria, are most needed in the State, with priority given to projects in rural local educational agencies.

(c) REMAINING FUNDS.—If a local educational agency does not apply for an allocation under subsection (b)(1), applies for less than its full allocation, or fails to use that allocation in a timely manner, the State may reallocate any unused portion to other local educational agencies in accordance with subsection (b).

SEC. 225. STATE AND LOCAL APPLICATIONS.

(a) STATE APPLICATION.—A State that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, which shall include—

(1) an identification of the State agency or entity that will administer the program;

(2) the State's process for determining how the grant funds will be distributed and administered, including—

(A) how the State will determine the criteria and priorities in making subgrants under section 224(b)(2);

(B) any additional criteria the State will use in determining which projects it will fund under that section;

(C) a description of how the State will consider—

(i) the needs of local educational agencies for assistance under this part;

(ii) the impact of potential projects on job creation in the State;

(iii) the fiscal capacity of local educational agencies applying for assistance;

(iv) the percentage of children in those local educational agencies who are from low-income families; and

(v) the potential for leveraging assistance provided by this program through matching or other financing mechanisms;

(D) a description of how the State will ensure that the local educational agencies receiving subgrants meet the requirements of this part;

(E) a description of how the State will ensure that the State and its local educational agencies meet the deadlines established in section 228;

(F) a description of how the State will give priority to the use of green practices that are certified, verified, or consistent with any applicable provisions of—

(i) the LEED Green Building Rating System;

(ii) Energy Star;

(iii) the CHPS Criteria;

(iv) Green Globes; or

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

(G) a description of the steps that the State will take to ensure that local educational agencies receiving subgrants will adequately maintain any facilities that are modernized, renovated, or repaired with subgrant funds under this part; and

(H) such additional information and assurances as the Secretary may require.

(b) LOCAL APPLICATION.—A local educational agency that is eligible under section 223(b)(1) that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, which shall include—

(1) a description of how the local educational agency will meet the deadlines and requirements of this part;

(2) a description of the steps that the local educational agency will take to adequately maintain any facilities that are modernized, renovated, or repaired with funds under this part; and

(3) such additional information and assurances as the Secretary may require.

SEC. 226. USE OF FUNDS.

(a) IN GENERAL.—Funds awarded to local educational agencies under this part shall be used only for either or both of the following modernization, renovation, or repair activities in facilities that are used for elementary or secondary education or for early learning programs:

(1) Direct payments for school modernization, renovation, and repair.

(2) To pay interest on bonds or payments for other financing instruments that are newly issued for the purpose of financing school modernization, renovation, and repair.

(b) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this part shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to modernize, renovate, or repair eligible school facilities.

(c) PROHIBITION.—Funds awarded to local educational agencies under this part may not be used for—

(1) new construction;

(2) payment of routine maintenance costs; or

(3) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

SEC. 227. PRIVATE SCHOOLS.

(a) IN GENERAL.—Section 9501 of the ESEA (20 U.S.C. 7881) shall apply to this part in the same manner as it applies to activities under that Act, except that—

(1) section 9501 shall not apply with respect to the title to any real property modernized, renovated, or repaired with assistance provided under this section;

(2) the term ''services'', as used in section 9501 with respect to funds under this part, shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include only—

(A) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(B) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(C) asbestos or polychlorinated biphenyls abatement or removal from school facilities; and

(3) expenditures for services provided using funds made available under section 226 shall be considered equal for purposes of section 9501(a)(4) of the ESEA if the per-pupil expenditures for services described in paragraph (2) for students enrolled in private nonprofit elementary and secondary schools that have child-poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this subpart for children enrolled in the public schools of the local educational agency receiving funds under this subpart.

(b) REMAINING FUNDS.—If the expenditure for services described in paragraph (2) is less than the amount calculated under paragraph (3) because of insufficient need for those services, the remainder shall be available to the local educational agency for modernization, renovation, and repair of its school facilities.

(c) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstance is judicially determined to be invalid, the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

SEC. 228. ADDITIONAL PROVISIONS.

(a) Funds appropriated under section 222 shall be available for obligation by local educational agencies receiving grants from the Secretary under section 223(b)(1), by States reserving funds under section 224(a), and by local educational agencies receiving subgrants under section 224(b)(1) only during the period that ends 24 months after the date of enactment of this Act.

(b) Funds appropriated under section 222 shall be available for obligation by local educational agencies receiving subgrants under section 224(b)(2) only during the period that ends 36 months after the date of enactment of this Act.

(c) Section 439 of the General Education Provisions Act (20 U.S.C. 1232b) shall apply to funds available under this part.

(d) For purposes of section 223(b)(1), Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico are not local educational agencies.

PART II—COMMUNITY COLLEGE MODERNIZATION

SEC. 229. FEDERAL ASSISTANCE FOR COMMUNITY COLLEGE MODERNIZATION.

(a) IN GENERAL.—

(1) GRANT PROGRAM.—From the amounts made available under subsection (h), the Secretary shall award grants to States to modernize, renovate, or repair existing facilities at community colleges.

(2) ALLOCATION.—

(A) RESERVATIONS.—Of the amount made available to carry out this section, the Secretary shall reserve—

(i) up to 0.25 percent for grants to institutions that are eligible under section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) to provide for modernization, renovation, and repair activities described in this section; and

(ii) up to 0.25 percent for grants to the outlying areas to provide for modernization, renovation, and repair activities described in this section.

(B) ALLOCATION.—After reserving funds under subparagraph (A), the Secretary shall allocate to each State that has an application approved by the Secretary an amount that bears the same relation to any remaining funds as the total number of students in such State who are enrolled in institutions described in section 230(b)(1)(A) plus the number of students who are estimated to be enrolled in and pursuing a degree or certificate that is not a bachelor's, master's, professional, or other advanced degree in institutions described in section 230(b)(1)(B), based on the proportion of degrees or certificates awarded by such institutions that are not bachelor's, master's, professional, or other advanced degrees, as reported to the Integrated Postsecondary Data System bears to the estimated total number of such students in all States, except that no State shall receive less than $2,500,000.

(C) REALLOCATION.—Amounts not allocated under this section to a State because the State either did not submit an application under subsection (b), the State submitted an

application that the Secretary determined did not meet the requirements of such subsection, or the State cannot demonstrate to the Secretary a sufficient demand for projects to warrant the full allocation of the funds, shall be proportionately reallocated under this paragraph to the other States that have a demonstrated need for, and are receiving, allocations under this section.

(D) STATE ADMINISTRATION.—A State that receives a grant under this section may use not more than one percent of that grant to administer it, except that no State may use more than $750,000 of its grant for this purpose.

(3) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to modernize, renovate, or repair existing community college facilities.

(b) APPLICATION.—A State that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require. Such application shall include a description of—

(1) how the funds provided under this section will improve instruction at community colleges in the State and will improve the ability of those colleges to educate and train students to meet the workforce needs of employers in the State; and

(2) the projected start of each project and the estimated number of persons to be employed in the project.

(c) PROHIBITED USES OF FUNDS.—

(1) IN GENERAL.—No funds awarded under this section may be used for—

(i) payment of routine maintenance costs;

(ii) construction, modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(iii) construction, modernization, renovation, or repair of facilities—

(I) used for sectarian instruction, religious worship, or a school or department of divinity; or

(II) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

(2) FOUR-YEAR INSTITUTIONS.—No funds awarded to a four-year public institution of higher education under this section may be used for any facility, service, or program of the institution that is not available to students who are pursuing a degree or certificate that is not a bachelor's, master's, professional, or other advanced degree.

(d) GREEN PROJECTS.—In providing assistance to community college projects under this section, the State shall consider the extent to which a community college's project involves activities that are certified, verified, or consistent with the applicable provisions of—

(1) the LEED Green Building Rating System;

(2) Energy Star;

(3) the CHPS Criteria, as applicable;

(4) Green Globes; or

(5) an equivalent program adopted by the State or the State higher education agency that includes a verifiable method to demonstrate compliance with such program.

(e) APPLICATION OF GEPA.—Section 439 of the General Education Provisions Act such Act (20 U.S.C. 1232b) shall apply to funds available under this subtitle.

(f) REPORTS BY THE STATES.—Each State that receives a grant under this section shall, not later than September 30, 2012, and annually thereafter for each fiscal year in which the State expends funds received under this section, submit to the Secretary a report that includes—

(1) a description of the projects for which the grant was, or will be, used;

(2) a description of the amount and nature of the assistance provided to each community college under this section; and

(3) the number of jobs created by the projects funded under this section.

(g) REPORT BY THE SECRETARY.—The Secretary shall submit to the authorizing committees (as defined in section 103 of the Higher Education Act of 1965; 20 U.S.C. 1003) an annual report on the grants made under this section, including the information described in subsection (f).

(h) AVAILABILITY OF FUNDS.—

(1) There are authorized to be appropriated, and there are appropriated, to carry out this section (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated), $5,000,000,000 for fiscal year 2012.

(2) Funds appropriated under this subsection shall be available for obligation by community colleges only during the period that ends 36 months after the date of enactment of this Act.

PART III—GENERAL PROVISIONS

SEC. 230. DEFINITIONS.

(a) ESEA TERMS.—Except as otherwise provided, in this subtitle, the terms ''local educational agency'', ''Secretary'', and ''State educational agency'' have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) ADDITIONAL DEFINITIONS.—The following definitions apply to this title:

(1) COMMUNITY COLLEGE.—The term ''community college'' means—

(A) a junior or community college, as that term is defined in section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1058(f)); or

(B) a four-year public institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that awards a significant number of degrees and certificates, as determined by the Secretary, that are not—

(i) bachelor's degrees (or an equivalent); or

(ii) master's, professional, or other advanced degrees.

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

(3) ENERGY STAR.—The term ''Energy Star'' means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

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

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

(6) MODERNIZATION, RENOVATION, AND REPAIR.—The term ''modernization, renovation and repair'' means—

(A) comprehensive assessments of facilities to identify—

(i) facility conditions or deficiencies that could adversely affect student and staff health, safety, performance, or productivity or energy, water, or materials efficiency; and

(ii) needed facility improvements;

(B) repairing, replacing, or installing roofs (which may be extensive, intensive, or semi-intensive ''green'' roofs); electrical wiring; water supply and plumbing systems, sewage systems, storm water runoff systems, lighting systems (or components of such systems); or building envelope, windows, ceilings, flooring, or doors, including security doors;

(C) repairing, replacing, or installing heating, ventilation, or air conditioning systems, or components of those systems (including insulation), including by conducting indoor air quality assessments;

(D) compliance with fire, health, seismic, and safety codes, including professional installation of fire and life safety alarms, and modernizations, renovations, and repairs that ensure that facilities are prepared for such emergencies as acts of terrorism, campus violence, and natural disasters, such as improving building infrastructure to accommodate security measures and installing or upgrading technology to ensure that a school or incident is able to respond to such emergencies;

(E) making modifications necessary to make educational facilities accessible in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that such modifications shall not be the primary use of a grant or subgrant;

(F) abatement, removal, or interim controls of asbestos, polychlorinated biphenyls, mold, mildew, or lead-based hazards, including lead-based paint hazards;

(G) retrofitting necessary to increase energy efficiency;

(H) measures, such as selection and substitution of products and materials, and implementation of improved maintenance and operational procedures, such as ''green cleaning'' programs, to reduce or eliminate potential student or staff exposure to—

(i) volatile organic compounds;

(ii) particles such as dust and pollens; or

(iii) combustion gases;

(I) modernization, renovation, or repair necessary to reduce the consumption of coal, electricity, land, natural gas, oil, or water;

(J) installation or upgrading of educational technology infrastructure;

(K) installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet and woody biomass), waste-to-energy, solar-thermal, and geothermal systems, and energy audits;

(L) modernization, renovation, or repair activities related to energy efficiency and renewable energy, and improvements to building infrastructures to accommodate bicycle and pedestrian access;

(M) Ground improvements, storm water management, landscaping and environmental clean-up when necessary;

(N) other modernization, renovation, or repair to—

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

(ii) ensure the health and safety of students and staff; or

(iii) improve classroom, laboratory, and vocational facilities in order to enhance the quality of science, technology, engineering, and mathematics instruction; and

(O) required environmental remediation related to facilities modernization, renovation, or repair activities described in subparagraphs (A) through (L).

(7) OUTLYING AREA.—The term ''outlying area'' means the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

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

SEC. 231. BUY AMERICAN.

Section 1605 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) applies to funds made available under this title.

Subtitle E—Immediate Transportation Infrastrucure Investments

SEC. 241. IMMEDIATE TRANSPORTATION INFRASTRUCTURE INVESTMENTS.

(a) GRANTS-IN-AID FOR AIRPORTS.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $2,000,000,000 to carry out airport improvement under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code.

(2) FEDERAL SHARE; LIMITATION ON OBLIGATIONS.—The Federal share payable of the costs for which a grant is made under this subsection, shall be 100 percent. The amount made available under this subsection shall not be subject to any limitation on obligations for the Grants-In-Aid for Airports program set forth in any Act or in title 49, United States Code.

(3) DISTRIBUTION OF FUNDS.—Funds provided to the Secretary under this subsection shall not be subject to apportionment formulas, special apportionment categories, or minimum percentages under chapter 471 of such title.

(4) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(5) ADMINISTRATIVE EXPENSES.—Of the funds made available under this subsection, 0.3 percent shall be available to the Secretary for administrative expenses, shall remain available for obligation until September 30, 2015, and may be used in conjunction with funds otherwise provided for the administration of the Grants-In-Aid for Airports program.

(b) NEXT GENERATION AIR TRAFFIC CONTROL ADVANCEMENTS.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $1,000,000,000 for necessary Federal Aviation Administration capital, research and operating costs to carry out Next Generation air traffic control system advancements.

(2) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act.

(c) HIGHWAY INFRASTRUCTURE INVESTMENT.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $27,000,000,000 for restoration, repair, construction and other activities eligible under section 133(b) of title 23, United States Code, and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under section 601(a)(8) of title 23.

(2) FEDERAL SHARE; LIMITATION ON OBLIGATIONS.—The Federal share payable on account of any project or activity carried out with funds made available under this subsection shall be, at the option of the recipient, up to 100 percent of the total cost thereof. The amount made available under this subsection shall not be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs set forth in any Act or in title 23, United States Code.

(3) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) DISTRIBUTION OF FUNDS.—Of the funds provided in this subsection, after making the set-asides required by paragraphs (9), (10), (11), (12), and (15), 50 percent of the funds shall be apportioned to States using the formula set forth in section 104(b)(3) of title 23, United States Code, and the remaining funds shall be apportioned to States in the same ratio as the obligation limitation for fiscal year 2010 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division A of Public Law 111–117.

(5) APPORTIONMENT.—Apportionments under paragraph (4) shall be made not later than 30 days after the date of the enactment of this Act.

(6) REDISTRIBUTION.—

(A) The Secretary shall, 180 days following the date of apportionment, withdraw from each State an amount equal to 50 percent of the funds apportioned under paragraph (4) to that State (excluding funds suballocated within the State) less the amount of funding obligated (excluding funds suballocated within the State), and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this subparagraph in the manner described in section 120(c) of division A of Public Law 111–117.

(B) One year following the date of apportionment, the Secretary shall withdraw from each recipient of funds apportioned under paragraph (4) any unobligated funds, and the Secretary shall redistribute such amounts to States that have had no funds withdrawn under this paragraph (excluding funds suballocated within the State) in the manner described in section 120(c) of division A of Public Law 111–117.

(C) At the request of a State, the Secretary may provide an extension of the one-year period only to the extent that the Secretary determines that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary notify in writing the Committee on Transportation and Infrastructure and the Committee on Environment and Public Works, providing a thorough justification for the extension.

(7) TRANSPORTATION ENHANCEMENTS.—Three percent of the funds apportioned to a State under paragraph (4) shall be set aside for the purposes described in section 133(d)(2) of title 23, United States Code (without regard to the comparison to fiscal year 2005).

(8) SUBALLOCATION.—Thirty percent of the funds apportioned to a State under this subsection shall be suballocated within the State in the manner and for the purposes described in the first sentence of sections 133(d)(3)(A), 133(d)(3)(B), and 133(d)(3)(D) of title 23, United States Code. Such suballocation shall be conducted in every State. Funds suballocated within a State to urbanized areas and other areas shall not be subject to the redistribution of amounts required 180 days following the date of apportionment of funds provided by paragraph (6)(A).

(9) PUERTO RICO AND TERRITORIAL HIGHWAY PROGRAMS.—Of the funds provided under this subsection, $105,000,000 shall be set aside for the Puerto Rico highway program authorized under section 165 of title 23, United States Code, and $45,000,000 shall be for the territorial highway program authorized under section 215 of title 23, United States Code.

(10) FEDERAL LANDS AND INDIAN RESERVATIONS.—Of the funds provided under this subsection, $550,000,000 shall be set aside for investments in transportation at Indian reservations and Federal lands in accordance with the following:

(A) Of the funds set aside by this paragraph, $310,000,000 shall be for the Indian Reservation Roads program, $170,000,000 shall be for the Park Roads and Parkways program, $60,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program.

(B) For investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act.

(C) One year following the enactment of this Act, to ensure the prompt use of the funding provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated.

(D) Up to four percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(E) Section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds set aside by this paragraph.

(11) JOB TRAINING.—Of the funds provided under this subsection, $50,000,000 shall be set aside for the development and administration of transportation training programs under section 140(b) title 23, United States Code.

(A) Funds set aside under this subsection shall be competitively awarded and used for the purpose of providing training, apprenticeship (including Registered Apprenticeship), skill development, and skill improvement programs, as well as summer transportation institutes and may be transferred to, or administered in partnership with, the Secretary of Labor and shall demonstrate to the Secretary of Transportation program outcomes, including—

(i) impact on areas with transportation workforce shortages;

(ii) diversity of training participants;

(iii) number of participants obtaining certifications or credentials required for specific types of employment;

(iv) employment outcome metrics, such as job placement and job retention rates, established in consultation with the Secretary of Labor and consistent with metrics used by programs under the Workforce Investment Act;

(v) to the extent practical, evidence that the program did not preclude workers that participate in training or apprenticeship activities under the program from being referred to, or hired on, projects funded under this chapter; and

(vi) identification of areas of collaboration with the Department of Labor programs, including co-enrollment.

(B) To be eligible to receive a competitively awarded grant under this subsection, a State must certify that at least 0.1 percent of the amounts apportioned under the Surface Transportation Program and Bridge Program will be obligated in the first fiscal year after enactment of this act for job training activities consistent with section 140(b) of title 23, United States Code.

(12) DISADVANTAGED BUSINESS ENTERPRISES.—Of the funds provided under this subsection, $10,000,000 shall be set aside for training programs and assistance programs under section 140(c) of title 23, United States Code. Funds set aside under this paragraph should be allocated to businesses that have proven success in adding staff while effectively completing projects.

(13) STATE PLANNING AND OVERSIGHT EXPENSES.—Of amounts apportioned under paragraph (4) of this subsection, a State may use up to 0.5 percent for activities related to projects funded under this subsection, including activities eligible under sections 134 and 135 of title 23, United States Code, State administration of subgrants, and State oversight of subrecipients.

(14) CONDITIONS.—

(A) Funds made available under this subsection shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for investments in transportation at Indian reservations and Federal lands, and for the territorial highway program, which shall be administered in accordance with chapter 2 of title 23, United States Code, and except for funds made available for disadvantaged business enterprises bonding assistance, which shall be administered in accordance with chapter 3 of title 49, United States Code.

(B) Funds made available under this subsection shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code.

(C) Funding provided under this subsection shall be in addition to any and all funds provided for fiscal years 2011 and 2012 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act.

(D) Section 1101(b) of Public Law 109–59 shall apply to funds apportioned under this subsection.

(15) OVERSIGHT.—The Administrator of the Federal Highway Administration may set aside up to 0.15 percent of the funds provided under this subsection to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act, and such funds shall be available through September 30, 2015.

(d) CAPITAL ASSISTANCE FOR HIGH SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $4,000,000,000 for grants for high-speed rail projects as authorized under sections 26104 and 26106 of title 49, United States Code, capital investment grants to support intercity passenger rail service as authorized under section 24406 of title 49, United States Code, and congestion grants as authorized under section 24105 of title 49, United States Code, and to enter into cooperative agreements for these purposes as authorized, except that the Administrator of the Federal Railroad Administration may retain up to one percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this subsection, which retained amount shall remain available for obligation until September 30, 2015.

(2) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(3) FEDERAL SHARE.—The Federal share payable of the costs for which a grant or cooperative agreements is made under this subsection shall be, at the option of the recipient, up to 100 percent.

(4) INTERIM GUIDANCE.—The Secretary shall issue interim guidance to applicants covering application procedures and administer the grants provided under this subsection pursuant to that guidance until final regulations are issued.

(5) INTERCITY PASSENGER RAIL CORRIDORS.—Not less than 85 percent of the funds provided under this subsection shall be for cooperative agreements that lead to the development of entire segments or phases of intercity or high-speed rail corridors.

(6) CONDITIONS.—

(A) In addition to the provisions of title 49, United States Code, that apply to each of the individual programs funded under this subsection, subsections 24402(a)(2), 24402(i), and 24403(a) and (c) of title 49, United States Code, shall also apply to the provision of funds provided under this subsection.

(B) A project need not be in a State rail plan developed under Chapter 227 of title 49, United States Code, to be eligible for assistance under this subsection.

(C) Recipients of grants under this paragraph shall conduct all procurement transactions using such grant funds in a manner that provides full and open competition, as determined by the Secretary, in compliance with existing labor agreements.

(e) CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.—

(1) IN GENERAL.—There is made available $2,000,000,000 to enable the Secretary of Transportation to make capital grants to the National Railroad Passenger Corporation (Amtrak), as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432).

(2) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(3) PROJECT PRIORITY.—The priority for the use of funds shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure, and for capital projects that expand passenger rail capacity including the rehabilitation of rolling stock.

(4) CONDITIONS.—

(A) None of the funds under this subsection shall be used to subsidize the operating losses of Amtrak.

(B) The funds provided under this subsection shall be awarded not later than 90 days after the date of enactment of this Act.

(C) The Secretary shall take measures to ensure that projects funded under this subsection shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources. The Secretary shall certify to the House and Senate Committees on Appropriations in writing compliance with the preceding sentence.

(5) OVERSIGHT.—The Administrator of the Federal Railroad Administration may set aside 0.5 percent of the funds provided under this subsection to fund the oversight by the Administrator of projects and activities carried out with funds made available in this subsection, and such funds shall be available through September 30, 2015.

(f) TRANSIT CAPITAL ASSISTANCE.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $3,000,000,000 for grants for transit capital assistance grants as defined by section 5302(a)(1) of title 49, United States Code. Notwithstanding any provision of chapter 53 of title 49, however, a recipient of funding under this subsection may use up to 10 percent of the amount provided for the operating costs of equipment and facilities for use in public transportation or for other eligible activities.

(2) FEDERAL SHARE; LIMTATION ON OBLIGATIONS.—The applicable requirements of chapter 53 of title 49, United States Code, shall apply to funding provided under this subsection, except that the Federal share of the costs for which any grant is made under this subsection shall be, at the option of the recipient, up to 100 percent. The amount made available under this subsection shall not be subject to any limitation on obligations for transit programs set forth in any Act or chapter 53 of title 49.

(3) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) DISTRIBUTION OF FUNDS.—The Secretary of Transportation shall—

(A) provide 80 percent of the funds appropriated under this subsection for grants under section 5307 of title 49, United States Code, and apportion such funds in accordance with section 5336 of such title;

(B) provide 10 percent of the funds appropriated under this subsection in accordance with section 5340 of such title; and

(C) provide 10 percent of the funds appropriated under this subsection for grants under section 5311 of title 49, United States Code, and apportion such funds in accordance with such section.

(5) APPORTIONMENT.—The funds apportioned under this subsection shall be apportioned not later than 21 days after the date of the enactment of this Act.

(6) REDISTRIBUTION.—

(A) The Secretary shall, 180 days following the date of apportionment, withdraw from each urbanized area or State an amount equal to 50 percent of the funds apportioned to such urbanized areas or States less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly.

(B) One year following the date of apportionment, the Secretary shall withdraw from each urbanized area or State any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly.

(C) At the request of an urbanized area or State, the Secretary of Transportation may provide an extension of such 1-year period if the Secretary determines that the urbanized area or State has encountered an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary shall notify in writing the Committee on Transportation and Infrastructure and the Committee on Banking, Housing and Urban Affairs, providing a thorough justification for the extension.

(7) CONDITIONS.—

(A) Of the funds provided for section 5311 of title 49, United States Code, 2.5 percent shall be made available for section 5311(c)(1).

(B) Section 1101(b) of Public Law 109–59 shall apply to funds appropriated under this subsection.

(C) The funds appropriated under this subsection shall not be comingled with any prior year funds.

(8) OVERSIGHT.—Notwithstanding any other provision of law, 0.3 percent of the funds provided for grants under section 5307 and section 5340, and 0.3 percent of the funds provided for grants under section 5311, shall be

available for administrative expenses and program management oversight, and such funds shall be available through September 30, 2015.

(g) STATE OF GOOD REPAIR.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $6,000,000,000 for capital expenditures as authorized by sections 5309(b)(2) and (3) of title 49, United States Code.

(2) FEDERAL SHARE.—The applicable requirements of chapter 53 of Title 49, United States Code, shall apply, except that the Federal share of the costs for which a grant is made under this subsection shall be, at the option of the recipient, up to 100 percent.

(3) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) DISTRIBUTION OF FUNDS.—

(A) The Secretary of Transportation shall apportion not less than 75 percent of the funds under this subsection for the modernization of fixed guideway systems, pursuant to the formula set forth in section 5336(b) title 49, United States Code, other than subsection (b)(2)(A)(ii).

(B) Of the funds appropriated under this subsection, not less than 25 percent shall be available for the restoration or replacement of existing public transportation assets related to bus systems, pursuant to the formula set forth in section 5336 other than subsection (b).

(5) APPORTIONMENT.—The funds made available under this subsection shall be apportioned not later than 30 days after the date of the enactment of this Act.

(6) REDISTRIBUTION.—

(A) The Secretary shall, 180 days following the date of apportionment, withdraw from each urbanized area an amount equal to 50 percent of the funds apportioned to such urbanized area less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this paragraph utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this paragraph shall be utilized promptly:

(B) One year following the date of apportionment, the Secretary shall withdraw from each urbanized area any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this paragraph, utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this paragraph shall be utilized promptly:

(C) At the request of an urbanized area, the Secretary may provide an extension of the 1-year period if the Secretary finds that the urbanized area has encountered an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary shall notify the Committee on Transportation and Infrastructure and the Committee on Banking, Housing, and Urban Affairs, providing a thorough justification for the extension.

(7) CONDITIONS.—

(A) The provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this subsection.

(B) The funds appropriated under this subsection shall not be commingled with any prior year funds.

(8) OVERSIGHT.—Notwithstanding any other provision of law, 0.3 percent of the funds under this subsection shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2015.

(h) TRANSPORTATION INFRASTRUCTURE GRANTS AND FINANCING.—

(1) IN GENERAL.—There is made available to the Secretary of Transportation $5,000,000,000 for capital investments in surface transportation infrastructure. The Secretary shall distribute funds provided under this subsection as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region.

(2) FEDERAL SHARE; LIMTATION ON OBLIGATIONS.—The Federal share payable of the costs for which a grant is made under this subsection, shall be 100 percent.

(3) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) PROJECT ELIGIBILITY.—Projects eligible for funding provided under this subsection include—

(A) highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments;

(B) public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service;

(C) passenger and freight rail transportation projects; and

(D) port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.

(5) TIFIA PROGRAM.—The Secretary may transfer to the Federal Highway Administration funds made available under this subsection for the purpose of paying the subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this subsection.

(6) PROJECT PRIORITY.—The Secretary shall give priority to projects that are expected to be completed within 3 years of the date of the enactment of this Act.

(7) DEADLINE FOR ISSUANCE OF COMPETITION CRITERIA.—The Secretary shall publish criteria on which to base the competition for any grants awarded under this subsection not later than 90 days after enactment of this Act. The Secretary shall require applications for funding provided under this subsection to be submitted not later than 180 days after the publication of the criteria, and announce all projects selected to be funded from such funds not later than 1 year after the date of the enactment of the Act.

(8) APPLICABILITY OF TITLE 40.—Each project conducted using funds provided under this subsection shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

(9) ADMINISTRATIVE EXPENSES.—The Secretary may retain up to one half of one percent of the funds provided under this subsection, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this subsection. Funds retained shall remain available for obligation until September 30, 2015.

(i) LOCAL HIRING.—

(1) IN GENERAL.—In the case of the funding made available under subsections (a) through (h) of this section, the Secretary of Transportation may establish standards under which a contract for construction may be advertised that contains requirements for the employment of individuals residing in or adjacent to any of the areas in which the work is to be performed to perform construction work required under the contract, provided that—

(A) all or part of the construction work performed under the contract occurs in an area designated by the Secretary as an area of high unemployment, using data reported by the United States Department of Labor, Bureau of Labor Statistics;

(B) the estimated cost of the project of which the contract is a part is greater than $10 million, except that the estimated cost of the project in the case of construction funded under subsection (c) shall be greater than $50 million; and

(C) the recipient may not require the hiring of individuals who do not have the necessary skills to perform work in any craft or trade; provided that the recipient may require the hiring of such individuals if the recipient establishes reasonable provisions to train such individuals to perform any such work under the contract effectively.

(2) PROJECT STANDARDS.—

(A) IN GENERAL.—Any standards established by the Secretary under this section shall ensure that any requirements specified under subsection (c)(1)—

(i) do not compromise the quality of the project;

(ii) are reasonable in scope and application;

(iii) do not unreasonably delay the completion of the project; and

(iv) do not unreasonably increase the cost of the project.

(B) AVAILABLE PROGRAMS.—The Secretary shall make available to recipients the workforce development and training programs set forth in section 24604(e)(1)(D) of this title to assist recipients who wish to establish training programs that satisfy the provisions of section (c)(1)(C). The Secretary of Labor shall make available its qualifying workforce and training development programs to recipients who wish to establish training programs that satisfy the provisions of section (c)(1)(C).

(3) IMPLEMENTING REGULATIONS.—The Secretary shall promulgate final regulations to implement the authority of this subsection.

(j) ADMINISTRATIVE PROVISIONS.—

(1) APPLICABILITY OF TITLE 40.—Each project conducted using funds provided under this subtitle shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

(2) BUY AMERICAN.—Section 1605 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) applies to each project conducted using funds provided under this subtitle.

Subtitle F—Building and Upgrading Infrastructure for Long-Term Development

SEC. 242. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Building and Upgrading Infrastructure for Long-Term Development Act''.

SEC. 243. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) infrastructure has always been a vital element of the economic strength of the United States and a key indicator of the

international leadership of the United States;

(2) the Erie Canal, the Hoover Dam, the railroads, and the interstate highway system are all testaments to American ingenuity and have helped propel and maintain the United States as the world's largest economy;

(3) according to the World Economic Forum's Global Competitiveness Report, the United States fell to second place in 2009, and dropped to fourth place overall in 2010, however, in the ''Quality of overall infrastructure'' category of the same report, the United States ranked twenty-third in the world;

(4) according to the World Bank's 2010 Logistic Performance Index, the capacity of countries to efficiently move goods and connect manufacturers and consumers with international markets is improving around the world, and the United States now ranks seventh in the world in logistics-related infrastructure behind countries from both Europe and Asia;

(5) according to a January 2009 report from the University of Massachusetts/Alliance for American Manufacturing entitled ''Employment, Productivity and Growth,'' infrastructure investment is a ''highly effective engine of job creation'';

(6) according to the American Society of Civil Engineers, the current condition of the infrastructure in the United States earns a grade point average of D, and an estimated $2,200,000,000,000 investment is needed over the next 5 years to bring American infrastructure up to adequate condition;

(7) according to the National Surface Transportation Policy and Revenue Study Commission, $225,000,000,000 is needed annually from all sources for the next 50 years to upgrade the United States surface transportation system to a state of good repair and create a more advanced system;

(8) the current infrastructure financing mechanisms of the United States, both on the Federal and State level, will fail to meet current and foreseeable demands and will create large funding gaps;

(9) published reports state that there may not be enough demand for municipal bonds to maintain the same level of borrowing at the same rates, resulting in significantly decreased infrastructure investment at the State and local level;

(10) current funding mechanisms are not readily scalable and do not—

(A) serve large in-State or cross jurisdiction infrastructure projects, projects of regional or national significance, or projects that cross sector silos;

(B) sufficiently catalyze private sector investment; or

(C) ensure the optimal return on public resources;

(11) although grant programs of the United States Government must continue to play a central role in financing the transportation, environment, and energy infrastructure needs of the United States, current and foreseeable demands on existing Federal, State, and local funding for infrastructure expansion clearly exceed the resources to support these programs by margins wide enough to prompt serious concerns about the United States ability to sustain long-term economic development, productivity, and international competitiveness;

(12) the capital markets, including pension funds, private equity funds, mutual funds, sovereign wealth funds, and other investors, have a growing interest in infrastructure investment and represent hundreds of billions of dollars of potential investment; and

(13) the establishment of a United States Government-owned, independent, professionally managed institution that could provide credit support to qualified infrastructure projects of regional and national significance, making transparent merit-based investment decisions based on the commercial viability of infrastructure projects, would catalyze the participation of significant private investment capital.

(b) PURPOSE.—The purpose of this Act is to facilitate investment in, and long-term financing of, economically viable infrastructure projects of regional or national significance in a manner that both complements existing Federal, State, local, and private funding sources for these projects and introduces a merit-based system for financing such projects, in order to mobilize significant private sector investment, create jobs, and ensure United States competitiveness through an institution that limits the need for ongoing Federal funding.

SEC. 244. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AIFA.—The term ''AIFA'' means the American Infrastructure Financing Authority established under this Act.

(2) BLIND TRUST.—The term ''blind trust'' means a trust in which the beneficiary has no knowledge of the specific holdings and no rights over how those holdings are managed by the fiduciary of the trust prior to the dissolution of the trust.

(3) BOARD OF DIRECTORS.—The term ''Board of Directors'' means Board of Directors of AIFA.

(4) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Board of Directors of AIFA.

(5) CHIEF EXECUTIVE OFFICER.—The term ''chief executive officer'' means the chief executive officer of AIFA, appointed under section 247.

(6) COST.—The term ''cost'' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) DIRECT LOAN.—The term ''direct loan'' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(8) ELIGIBLE ENTITY.—The term ''eligible entity'' means an individual, corporation, partnership (including a public-private partnership), joint venture, trust, State, or other non-Federal governmental entity, including a political subdivision or any other instrumentality of a State, or a revolving fund.

(9) INFRASTRUCTURE PROJECT.—

(A) IN GENERAL.—The term ''eligible infrastructure project'' means any non-Federal transportation, water, or energy infrastructure project, or an aggregation of such infrastructure projects, as provided in this Act.

(B) TRANSPORTATION INFRASTRUCTURE PROJECT.—The term ''transportation infrastructure project'' means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors:

(i) Highway or road.

(ii) Bridge.

(iii) Mass transit.

(iv) Inland waterways.

(v) Commercial ports.

(vi) Airports.

(vii) Air traffic control systems.

(viii) Passenger rail, including high-speed rail.

(ix) Freight rail systems.

(C) WATER INFRASTRUCTURE PROJECT.—The term ''water infrastructure project'' means the construction, consolidation, alteration, or repair of the following subsectors:

(i) Waterwaste treatment facility.

(ii) Storm water management system.

(iii) Dam.

(iv) Solid waste disposal facility.

(v) Drinking water treatment facility.

(vi) Levee.

(vii) Open space management system.

(D) ENERGY INFRASTRUCTURE PROJECT.—The term ''energy infrastructure project'' means the construction, alteration, or repair of the following subsectors:

(i) Pollution reduced energy generation.

(ii) Transmission and distribution.

(iii) Storage.

(iv) Energy efficiency enhancements for buildings, including public and commercial buildings.

(E) BOARD AUTHORITY TO MODIFY SUBSECTORS.—The Board of Directors may make modifications, at the discretion of the Board, to the subsectors described in this paragraph by a vote of not fewer than 5 of the voting members of the Board of Directors.

(10) INVESTMENT PROSPECTUS.—

(A) The term ''investment prospectus'' means the processes and publications described below that will guide the priorities and strategic focus for the Bank's investments. The investment prospectus shall follow rulemaking procedures under section 553 of title 5, United States Code.

(B) The Bank shall publish a detailed description of its strategy in an Investment Prospectus within one year of the enactment of this subchapter. The Investment Prospectus shall—

(i) specify what the Bank shall consider significant to the economic competitiveness of the United States or a region thereof in a manner consistent with the primary objective;

(ii) specify the priorities and strategic focus of the Bank in forwarding its strategic objectives and carrying out the Bank strategy;

(iii) specify the priorities and strategic focus of the Bank in promoting greater efficiency in the movement of freight;

(iv) specify the priorities and strategic focus of the Bank in promoting the use of innovation and best practices in the planning, design, development and delivery of projects;

(v) describe in detail the framework and methodology for calculating application qualification scores and associated ranges as specified in this subchapter, along with the data to be requested from applicants and the mechanics of calculations to be applied to that data to determine qualification scores and ranges;

(vi) describe how selection criteria will be applied by the Chief Executive Officer in determining the competitiveness of an application and its qualification score and range relative to other current applications and previously funded applications; and

(vii) describe how the qualification score and range methodology and project selection framework are consistent with maximizing the Bank goals in both urban and rural areas.

(C) The Investment Prospectus and any subsequent updates thereto shall be approved by a majority vote of the Board of Directors prior to publication.

(D) The Bank shall update the Investment Prospectus on every biennial anniversary of its original publication.

(11) INVESTMENT-GRADE RATING.—The term ''investment-grade rating'' means a rating of BBB minus, Baa3, or higher assigned to an infrastructure project by a ratings agency.

(12) LOAN GUARANTEE.—The term ''loan guarantee'' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(13) PUBLIC-PRIVATE PARTNERSHIP.—The term ''public-private partnership'' means any eligible entity—

(A)(i) which is undertaking the development of all or part of an infrastructure project that will have a public benefit, pursuant to requirements established in one or

more contracts between the entity and a State or an instrumentality of a State; or

(ii) the activities of which, with respect to such an infrastructure project, are subject to regulation by a State or any instrumentality of a State;

(B) which owns, leases, or operates or will own, lease, or operate, the project in whole or in part; and

(C) the participants in which include not fewer than 1 nongovernmental entity with significant investment and some control over the project or project vehicle.

(14) RURAL INFRASTRUCTURE PROJECT.—The term ''rural infrastructure project'' means an infrastructure project in a rural area, as that term is defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)).

(15) SECRETARY.—Unless the context otherwise requires, the term ''Secretary'' means the Secretary of the Treasury or the designee thereof.

(16) SENIOR MANAGEMENT.—The term ''senior management'' means the chief financial officer, chief risk officer, chief compliance officer, general counsel, chief lending officer, and chief operations officer of AIFA established under section 249, and such other officers as the Board of Directors may, by majority vote, add to senior management.

(17) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of Northern Mariana Islands, and any other territory of the United States.

PART I—AMERICAN INFRASTRUCTURE FINANCING AUTHORITY

SEC. 245. ESTABLISHMENT AND GENERAL AUTHORITY OF AIFA.

(a) ESTABLISHMENT OF AIFA.—The American Infrastructure Financing Authority is established as a wholly owned Government corporation.

(b) GENERAL AUTHORITY OF AIFA.—AIFA shall provide direct loans and loan guarantees to facilitate infrastructure projects that are both economically viable and of regional or national significance, and shall have such other authority, as provided in this Act.

(c) INCORPORATION.—

(1) IN GENERAL.—The Board of Directors first appointed shall be deemed the incorporator of AIFA, and the incorporation shall be held to have been effected from the date of the first meeting of the Board of Directors.

(2) CORPORATE OFFICE.—AIFA shall—

(A) maintain an office in Washington, DC; and

(B) for purposes of venue in civil actions, be considered to be a resident of Washington, DC.

(d) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall take such action as may be necessary to assist in implementing AIFA, and in carrying out the purpose of this Act.

(e) RULE OF CONSTRUCTION.—Chapter 91 of title 31, United States Code, does not apply to AIFA, unless otherwise specifically provided in this Act.

SEC. 246. VOTING MEMBERS OF THE BOARD OF DIRECTORS.

(a) VOTING MEMBERSHIP OF THE BOARD OF DIRECTORS.—

(1) IN GENERAL.—AIFA shall have a Board of Directors consisting of 7 voting members appointed by the President, by and with the advice and consent of the Senate, not more than 4 of whom shall be from the same political party.

(2) CHAIRPERSON.—One of the voting members of the Board of Directors shall be designated by the President to serve as Chairperson thereof.

(3) CONGRESSIONAL RECOMMENDATIONS.—Not later than 30 days after the date of enactment of this Act, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall each submit a recommendation to the President for appointment of a member of the Board of Directors, after consultation with the appropriate committees of Congress.

(b) VOTING RIGHTS.—Each voting member of the Board of Directors shall have an equal vote in all decisions of the Board of Directors.

(c) QUALIFICATIONS OF VOTING MEMBERS.—Each voting member of the Board of Directors shall—

(1) be a citizen of the United States; and

(2) have significant demonstrated expertise in—

(A) the management and administration of a financial institution relevant to the operation of AIFA; or a public financial agency or authority; or

(B) the financing, development, or operation of infrastructure projects; or

(C) analyzing the economic benefits of infrastructure investment.

(d) TERMS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, each voting member of the Board of Directors shall be appointed for a term of 4 years.

(2) INITIAL STAGGERED TERMS.—Of the voting members first appointed to the Board of Directors—

(A) the initial Chairperson and 3 of the other voting members shall each be appointed for a term of 4 years; and

(B) the remaining 3 voting members shall each be appointed for a term of 2 years.

(3) DATE OF INITIAL NOMINATIONS.—The initial nominations for the appointment of all voting members of the Board of Directors shall be made not later than 60 days after the date of enactment of this Act.

(4) BEGINNING OF TERM.—The term of each of the initial voting members appointed under this section shall commence immediately upon the date of appointment, except that, for purposes of calculating the term limits specified in this subsection, the initial terms shall each be construed as beginning on January 22 of the year following the date of the initial appointment.

(5) VACANCIES.—A vacancy in the position of a voting member of the Board of Directors shall be filled by the President, and a member appointed to fill a vacancy on the Board of Directors occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(e) MEETINGS.—

(1) OPEN TO THE PUBLIC; NOTICE.—Except as provided in paragraph (3), all meetings of the Board of Directors shall be—

(A) open to the public; and

(B) preceded by reasonable public notice.

(2) FREQUENCY.—The Board of Directors shall meet not later than 60 days after the date on which all members of the Board of Directors are first appointed, at least quarterly thereafter, and otherwise at the call of either the Chairperson or 5 voting members of the Board of Directors.

(3) EXCEPTION FOR CLOSED MEETINGS.—The voting members of the Board of Directors may, by majority vote, close a meeting to the public if, during the meeting to be closed, there is likely to be disclosed proprietary or sensitive information regarding an infrastructure project under consideration for assistance under this Act. The Board of Directors shall prepare minutes of any meeting that is closed to the public, and shall make such minutes available as soon as practicable, not later than 1 year after the date of the closed meeting, with any necessary redactions to protect any proprietary or sensitive information.

(4) QUORUM.—For purposes of meetings of the Board of Directors, 5 voting members of the Board of Directors shall constitute a quorum.

(f) COMPENSATION OF MEMBERS.—Each voting member of the Board of Directors shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board of Directors.

(g) CONFLICTS OF INTEREST.—A voting member of the Board of Directors may not participate in any review or decision affecting an infrastructure project under consideration for assistance under this Act, if the member has or is affiliated with an entity who has a financial interest in such project.

SEC. 247. CHIEF EXECUTIVE OFFICER OF AIFA.

(a) IN GENERAL.—The chief executive officer of AIFA shall be a nonvoting member of the Board of Directors, who shall be responsible for all activities of AIFA, and shall support the Board of Directors as set forth in this Act and as the Board of Directors deems necessary or appropriate.

(b) APPOINTMENT AND TENURE OF THE CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—The President shall appoint the chief executive officer, by and with the advice and consent of the Senate.

(2) TERM.—The chief executive officer shall be appointed for a term of 6 years.

(3) VACANCIES.—Any vacancy in the office of the chief executive officer shall be filled by the President, and the person appointed to fill a vacancy in that position occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(c) QUALIFICATIONS.—The chief executive officer—

(1) shall have significant expertise in management and administration of a financial institution, or significant expertise in the financing and development of infrastructure projects, or significant expertise in analyzing the economic benefits of infrastructure investment; and

(2) may not—

(A) hold any other public office;

(B) have any financial interest in an infrastructure project then being considered by the Board of Directors, unless that interest is placed in a blind trust; or

(C) have any financial interest in an investment institution or its affiliates or any other entity seeking or likely to seek financial assistance for any infrastructure project from AIFA, unless any such interest is placed in a blind trust for the tenure of the service of the chief executive officer plus 2 additional years.

(d) RESPONSIBILITIES.—The chief executive officer shall have such executive functions, powers, and duties as may be prescribed by this Act, the bylaws of AIFA, or the Board of Directors, including—

(1) responsibility for the development and implementation of the strategy of AIFA, including—

(A) the development and submission to the Board of Directors of the investment prospectus, the annual business plans and budget;

(B) the development and submission to the Board of Directors of a long-term strategic plan; and

(C) the development, revision, and submission to the Board of Directors of internal policies; and

(2) responsibility for the management and oversight of the daily activities, decisions,

operations, and personnel of AIFA, including—

(A) the appointment of senior management, subject to approval by the voting members of the Board of Directors, and the hiring and termination of all other AIFA personnel;

(B) requesting the detail, on a reimbursable basis, of personnel from any Federal agency having specific expertise not available from within AIFA, following which request the head of the Federal agency may detail, on a reimbursable basis, any personnel of such agency reasonably requested by the chief executive officer;

(C) assessing and recommending in the first instance, for ultimate approval or disapproval by the Board of Directors, compensation and adjustments to compensation of senior management and other personnel of AIFA as may be necessary for carrying out the functions of AIFA;

(D) ensuring, in conjunction with the general counsel of AIFA, that all activities of AIFA are carried out in compliance with applicable law;

(E) overseeing the involvement of AIFA in all projects, including—

(i) developing eligible projects for AIFA financial assistance;

(ii) determining the terms and conditions of all financial assistance packages;

(iii) monitoring all infrastructure projects assisted by AIFA, including responsibility for ensuring that the proceeds of any loan made, guaranteed, or participated in are used only for the purposes for which the loan or guarantee was made;

(iv) preparing and submitting for approval by the Board of Directors the documents required under paragraph (1); and

(v) ensuring the implementation of decisions of the Board of Directors; and

(F) such other activities as may be necessary or appropriate in carrying out this Act.

(e) COMPENSATION.—

(1) IN GENERAL.—Any compensation assessment or recommendation by the chief executive officer under this section shall be without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

(2) CONSIDERATIONS.—The compensation assessment or recommendation required under this subsection shall take into account merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel.

SEC. 248. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors shall—

(1) as soon as is practicable after the date on which all members are appointed, approve or disapprove senior management appointed by the chief executive officer;

(2) not later than 180 days after the date on which all members are appointed—

(A) develop and approve the bylaws of AIFA, including bylaws for the regulation of the affairs and conduct of the business of AIFA, consistent with the purpose, goals, objectives, and policies set forth in this Act;

(B) establish subcommittees, including an audit committee that is composed solely of members of the Board of Directors who are independent of the senior management of AIFA;

(C) develop and approve, in consultation with senior management, a conflict-of-interest policy for the Board of Directors and for senior management;

(D) approve or disapprove internal policies that the chief executive officer shall submit to the Board of Directors, including—

(i) policies regarding the loan application and approval process, including—

(I) disclosure and application procedures to be followed by entities in the course of nominating infrastructure projects for assistance under this Act;

(II) guidelines for the selection and approval of projects;

(III) specific criteria for determining eligibility for project selection, consistent with title II; and

(IV) standardized terms and conditions, fee schedules, or legal requirements of a contract or program, so as to carry out this Act; and

(ii) operational guidelines; and

(E) approve or disapprove a multi-year or 1-year business plan and budget for AIFA;

(3) ensure that AIFA is at all times operated in a manner that is consistent with this Act, by—

(A) monitoring and assessing the effectiveness of AIFA in achieving its strategic goals;

(B) periodically reviewing internal policies;

(C) reviewing and approving annual business plans, annual budgets, and long-term strategies submitted by the chief executive officer;

(D) reviewing and approving annual reports submitted by the chief executive officer;

(E) engaging one or more external auditors, as set forth in this Act; and

(F) reviewing and approving all changes to the organization of senior management;

(4) appoint and fix, by a vote of 5 of the 7 voting members of the Board of Directors, and without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United Sates Code, the compensation and adjustments to compensation of all AIFA personnel, provided that in appointing and fixing any compensation or adjustments to compensation under this paragraph, the Board shall—

(A) consult with, and seek to maintain comparability with, other comparable Federal personnel;

(B) consult with the Office of Personnel Management; and

(C) carry out such duties consistent with merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel;

(5) establish such other criteria, requirements, or procedures as the Board of Directors may consider to be appropriate in carrying out this Act;

(6) serve as the primary liaison for AIFA in interactions with Congress, the Executive Branch, and State and local governments, and to represent the interests of AIFA in such interactions and others;

(7) approve by a vote of 5 of the 7 voting members of the Board of Directors any changes to the bylaws or internal policies of AIFA;

(8) have the authority and responsibility—

(A) to oversee entering into and carry out such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out this Act with—

(i) any Federal department or agency;

(ii) any State, territory, or possession (or any political subdivision thereof, including State infrastructure banks) of the United States; and

(iii) any individual, public-private partnership, firm, association, or corporation;

(B) to approve of the acquisition, lease, pledge, exchange, and disposal of real and personal property by AIFA and otherwise approve the exercise by AIFA of all of the usual incidents of ownership of property, to the extent that the exercise of such powers is appropriate to and consistent with the purposes of AIFA;

(C) to determine the character of, and the necessity for, the obligations and expenditures of AIFA, and the manner in which the obligations and expenditures will be incurred, allowed, and paid, subject to this Act and other Federal law specifically applicable to wholly owned Federal corporations;

(D) to execute, in accordance with applicable bylaws and regulations, appropriate instruments;

(E) to approve other forms of credit enhancement that AIFA may provide to eligible projects, as long as the forms of credit enhancements are consistent with the purposes of this Act and terms set forth in title II;

(F) to exercise all other lawful powers which are necessary or appropriate to carry out, and are consistent with, the purposes of AIFA;

(G) to sue or be sued in the corporate capacity of AIFA in any court of competent jurisdiction;

(H) to indemnify the members of the Board of Directors and officers of AIFA for any liabilities arising out of the actions of the members and officers in such capacity, in accordance with, and subject to the limitations contained in this Act;

(I) to review all financial assistance packages to all eligible infrastructure projects, as submitted by the chief executive officer and to approve, postpone, or deny the same by majority vote;

(J) to review all restructuring proposals submitted by the chief executive officer, including assignation, pledging, or disposal of the interest of AIFA in a project, including payment or income from any interest owned or held by AIFA, and to approve, postpone, or deny the same by majority vote; and

(K) to enter into binding commitments, as specified in approved financial assistance packages;

(9) delegate to the chief executive officer those duties that the Board of Directors deems appropriate, to better carry out the powers and purposes of the Board of Directors under this section; and

(10) to approve a maximum aggregate amount of outstanding obligations of AIFA at any given time, taking into consideration funding, and the size of AIFA's addressable market for infrastructure projects.

SEC. 249. SENIOR MANAGEMENT.

(a) IN GENERAL.—Senior management shall support the chief executive officer in the discharge of the responsibilities of the chief executive officer.

(b) APPOINTMENT OF SENIOR MANAGEMENT.—The chief executive officer shall appoint such senior managers as are necessary to carry out the purpose of AIFA, as approved by a majority vote of the voting members of the Board of Directors.

(c) TERM.—Each member of senior management shall serve at the pleasure of the chief executive officer and the Board of Directors.

(d) REMOVAL OF SENIOR MANAGEMENT.—Any member of senior management may be removed, either by a majority of the voting members of the Board of Directors upon request by the chief executive officer, or otherwise by vote of not fewer than 5 voting members of the Board of Directors.

(e) SENIOR MANAGEMENT.—

(1) IN GENERAL.—Each member of senior management shall report directly to the chief executive officer, other than the Chief Risk Officer, who shall report directly to the Board of Directors.

(2) DUTIES AND RESPONSIBILITIES.—

(A) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer shall be responsible for all financial functions of AIFA, provided that,

at the discretion of the Board of Directors, specific functions of the Chief Financial Officer may be delegated externally.

(B) CHIEF RISK OFFICER.—The Chief Risk Officer shall be responsible for all functions of AIFA relating to—

(i) the creation of financial, credit, and operational risk management guidelines and policies;

(ii) credit analysis for infrastructure projects;

(iii) the creation of conforming standards for infrastructure finance agreements;

(iv) the monitoring of the financial, credit, and operational exposure of AIFA; and

(v) risk management and mitigation actions, including by reporting such actions, or recommendations of such actions to be taken, directly to the Board of Directors.

(C) CHIEF COMPLIANCE OFFICER.—The Chief Compliance Officer shall be responsible for all functions of AIFA relating to internal audits, accounting safeguards, and the enforcement of such safeguards and other applicable requirements.

(D) GENERAL COUNSEL.—The General Counsel shall be responsible for all functions of AIFA relating to legal matters and, in consultation with the chief executive officer, shall be responsible for ensuring that AIFA complies with all applicable law.

(E) CHIEF OPERATIONS OFFICER.—The Chief Operations Officer shall be responsible for all operational functions of AIFA, including those relating to the continuing operations and performance of all infrastructure projects in which AIFA retains an interest and for all AIFA functions related to human resources.

(F) CHIEF LENDING OFFICER.—The Chief Lending Officer shall be responsible for—

(i) all functions of AIFA relating to the development of project pipeline, financial structuring of projects, selection of infrastructure projects to be reviewed by the Board of Directors, preparation of infrastructure projects to be presented to the Board of Directors, and set aside for rural infrastructure projects; and

(ii) the creation and management of—

(I) a Center for Excellence to provide technical assistance to public sector borrowers in the development and financing of infrastructure projects; and

(II) an Office of Rural Assistance to provide technical assistance in the development and financing of rural infrastructure projects; and

(iii) the establishment of guidelines to ensure diversification of lending activities by region, infrastructure project type, and project size.

(f) CHANGES TO SENIOR MANAGEMENT.—The Board of Directors, in consultation with the chief executive officer, may alter the structure of the senior management of AIFA at any time to better accomplish the goals, objectives, and purposes of AIFA, provided that the functions of the Chief Financial Officer set forth in subsection (e) remain separate from the functions of the Chief Risk Officer set forth in subsection (e).

(g) CONFLICTS OF INTEREST.—No individual appointed to senior management may—

(1) hold any other public office;

(2) have any financial interest in an infrastructure project then being considered by the Board of Directors, unless that interest is placed in a blind trust; or

(3) have any financial interest in an investment institution or its affiliates, AIFA or its affiliates, or other entity then seeking or likely to seek financial assistance for any infrastructure project from AIFA, unless any such interest is placed in a blind trust during the term of service of that individual in a senior management position, and for a period of 2 years thereafter.

SEC. 250. SPECIAL INSPECTOR GENERAL FOR AIFA.

(a) IN GENERAL.—During the first 5 operating years of AIFA, the Office of the Inspector General of the Department of the Treasury shall have responsibility for AIFA.

(b) OFFICE OF THE SPECIAL INSPECTOR GENERAL.—Effective 5 years after the date of enactment of the commencement of the operations of AIFA, there is established the Office of the Special Inspector General for AIFA.

(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) HEAD OF OFFICE.—The head of the Office of the Special Inspector General for AIFA shall be the Special Inspector General for AIFA (in this Act referred to as the ''Special Inspector General''), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) BASIS OF APPOINTMENT.—The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) TIMING OF NOMINATION.—The nomination of an individual as Special Inspector General shall be made as soon as is practicable after the effective date under subsection (b).

(4) REMOVAL.—The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) RULE OF CONSTRUCTION.—For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) RATE OF PAY.—The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(d) DUTIES.—

(1) IN GENERAL.—It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the business activities of AIFA.

(2) OTHER SYSTEMS, PROCEDURES, AND CONTROLS.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) ADDITIONAL DUTIES.—In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(e) POWERS AND AUTHORITIES.—

(1) IN GENERAL.—In carrying out the duties specified in subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(2) ADDITIONAL AUTHORITY.—The Special Inspector General shall carry out the duties specified in subsection (c)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(f) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) ADDITIONAL OFFICERS.—

(A) The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(B) The Special Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(2) RETENTION OF SERVICES.—The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) ABILITY TO CONTRACT FOR AUDITS, STUDIES, AND OTHER SERVICES.—The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Special Inspector General.

(4) REQUEST FOR INFORMATION.—

(A) IN GENERAL.—Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Special Inspector General, or an authorized designee.

(B) REFUSAL TO COMPLY.—Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the Secretary of the Treasury, without delay.

(g) REPORTS.—

(1) ANNUAL REPORT.—Not later than 1 year after the confirmation of the Special Inspector General, and every calendar year thereafter, the Special Inspector General shall submit to the President a report summarizing the activities of the Special Inspector General during the previous 1-year period ending on the date of such report.

(2) PUBLIC DISCLOSURES.—Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

SEC. 251. OTHER PERSONNEL.

Except as otherwise provided in the bylaws of AIFA, the chief executive officer, in consultation with the Board of Directors, shall appoint, remove, and define the duties of such qualified personnel as are necessary to carry out the powers, duties, and purpose of AIFA, other than senior management, who shall be appointed in accordance with section 249.

SEC. 252. COMPLIANCE.

The provision of assistance by the Board of Directors pursuant to this Act shall not be construed as superseding any provision of State law or regulation otherwise applicable to an infrastructure project.

PART II—TERMS AND LIMITATIONS ON DIRECT LOANS AND LOAN GUARANTEES

SEC. 253. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM AIFA AND TERMS AND LIMITATIONS OF LOANS.

(a) IN GENERAL.—Any project whose use or purpose is private and for which no public benefit is created shall not be eligible for financial assistance from AIFA under this Act. Financial assistance under this Act shall only be made available if the applicant for such assistance has demonstrated to the

satisfaction of the Board of Directors that the infrastructure project for which such assistance is being sought—

(1) is not for the refinancing of an existing infrastructure project; and

(2) meets—

(A) any pertinent requirements set forth in this Act;

(B) any criteria established by the Board of Directors or chief executive officer in accordance with this Act; and

(C) the definition of a transportation infrastructure project, water infrastructure project, or energy infrastructure project.

(b) CONSIDERATIONS.—The criteria established by the Board of Directors pursuant to this Act shall provide adequate consideration of—

(1) the economic, financial, technical, environmental, and public benefits and costs of each infrastructure project under consideration for financial assistance under this Act, prioritizing infrastructure projects that—

(A) contribute to regional or national economic growth;

(B) offer value for money to taxpayers;

(C) demonstrate a clear and significant public benefit;

(D) lead to job creation; and

(E) mitigate environmental concerns;

(2) the means by which development of the infrastructure project under consideration is being financed, including—

(A) the terms, conditions, and structure of the proposed financing;

(B) the credit worthiness and standing of the project sponsors, providers of equity, and cofinanciers;

(C) the financial assumptions and projections on which the infrastructure project is based; and

(D) whether there is sufficient State or municipal political support for the successful completion of the infrastructure project;

(3) the likelihood that the provision of assistance by AIFA will cause such development to proceed more promptly and with lower costs than would be the case without such assistance;

(4) the extent to which the provision of assistance by AIFA maximizes the level of private investment in the infrastructure project or supports a public-private partnership, while providing a significant public benefit;

(5) the extent to which the provision of assistance by AIFA can mobilize the participation of other financing partners in the infrastructure project;

(6) the technical and operational viability of the infrastructure project;

(7) the proportion of financial assistance from AIFA;

(8) the geographic location of the project in an effort to have geographic diversity of projects funded by AIFA;

(9) the size of the project and its impact on the resources of AIFA;

(10) the infrastructure sector of the project, in an effort to have projects from more than one sector funded by AIFA; and

(11) Encourages use of innovative procurement, asset management, or financing to minimize the all-in-life-cycle cost, and improve the cost-effectiveness of a project.

(c) APPLICATION.—

(1) IN GENERAL.—Any eligible entity seeking assistance from AIFA under this Act for an eligible infrastructure project shall submit an application to AIFA at such time, in such manner, and containing such information as the Board of Directors or the chief executive officer may require.

(2) REVIEW OF APPLICATIONS.—AIFA shall review applications for assistance under this Act on an ongoing basis. The chief executive officer, working with the senior management, shall prepare eligible infrastructure projects for review and approval by the Board of Directors.

(3) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the infrastructure project obligations.

(d) ELIGIBLE INFRASTRUCTURE PROJECT COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to be eligible for assistance under this Act, an infrastructure project shall have project costs that are reasonably anticipated to equal or exceed $100,000,000.

(2) RURAL INFRASTRUCTURE PROJECTS.—To be eligible for assistance under this Act a rural infrastructure project shall have project costs that are reasonably anticipated to equal or exceed $25,000,000.

(e) LOAN ELIGIBILITY AND MAXIMUM AMOUNTS.—

(1) IN GENERAL.—The amount of a direct loan or loan guarantee under this Act shall not exceed the lesser of 50 percent of the reasonably anticipated eligible infrastructure project costs or, if the direct loan or loan guarantee does not receive an investment grade rating, the amount of the senior project obligations.

(2) MAXIMUM ANNUAL LOAN AND LOAN GUARANTEE VOLUME.—The aggregate amount of direct loans and loan guarantees made by AIFA in any single fiscal year may not exceed—

(A) during the first 2 fiscal years of the operations of AIFA, $10,000,000,000;

(B) during fiscal years 3 through 9 of the operations of AIFA, $20,000,000,000; or

(C) during any fiscal year thereafter, $50,000,000,000.

(f) STATE AND LOCAL PERMITS REQUIRED.—The provision of assistance by the Board of Directors pursuant to this Act shall not be deemed to relieve any recipient of such assistance, or the related infrastructure project, of any obligation to obtain required State and local permits and approvals.

SEC. 254. LOAN TERMS AND REPAYMENT.

(a) IN GENERAL.—A direct loan or loan guarantee under this Act with respect to an eligible infrastructure project shall be on such terms, subject to such conditions, and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the chief executive officer determines appropriate.

(b) TERMS.—A direct loan or loan guarantee under this Act—

(1) shall—

(A) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations (such as availability payments and dedicated State or local revenues); and

(B) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(2) may have a lien on revenues described in paragraph (1), subject to any lien securing project obligations.

(c) BASE INTEREST RATE.—The base interest rate on a direct loan under this Act shall be not less than the yield on United States Treasury obligations of a similar maturity to the maturity of the direct loan.

(d) RISK ASSESSMENT.—Before entering into an agreement for assistance under this Act, the chief executive officer, in consultation with the Director of the Office of Management and Budget and considering rating agency preliminary or final rating opinion letters of the project under this section, shall estimate an appropriate Federal credit subsidy amount for each direct loan and loan guarantee, taking into account such letter, as well as any comparable market rates available for such a loan or loan guarantee, should any exist. The final credit subsidy cost for each loan and loan guarantee shall be determined consistent with the Federal Credit Reform Act, 2 U.S.C. 661a et seq.

(e) CREDIT FEE.—With respect to each agreement for assistance under this Act, the chief executive officer may charge a credit fee to the recipient of such assistance to pay for, over time, all or a portion of the Federal credit subsidy determined under subsection (d), with the remainder paid by the account established for AIFA; provided, that the source of fees paid under this section shall not be a loan or debt obligation guaranteed by the Federal Government. In the case of a direct loan, such credit fee shall be in addition to the base interest rate established under subsection (c).

(f) MATURITY DATE.—The final maturity date of a direct loan or loan guaranteed by AIFA under this Act shall be not later than 35 years after the date of substantial completion of the infrastructure project, as determined by the chief executive officer.

(g) RATING OPINION LETTER.—

(1) IN GENERAL.—The chief executive officer shall require each applicant for assistance under this Act to provide a rating opinion letter from at least 1 ratings agency, indicating that the senior obligations of the infrastructure project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating.

(2) RURAL INFRASTRUCTURE PROJECTS.—With respect to a rural infrastructure project, a rating agency opinion letter described in paragraph (1) shall not be required, except that the loan or loan guarantee shall receive an internal rating score, using methods similar to the ratings agencies generated by AIFA, measuring the proposed direct loan or loan guarantee against comparable direct loans or loan guarantees of similar credit quality in a similar sector.

(h) INVESTMENT-GRADE RATING REQUIREMENT.—

(1) LOANS AND LOAN GUARANTEES.—The execution of a direct loan or loan guarantee under this Act shall be contingent on the senior obligations of the infrastructure project receiving an investment-grade rating.

(2) RATING OF AIFA OVERALL PORTFOLIO.—The average rating of the overall portfolio of AIFA shall be not less than investment grade after 5 years of operation.

(i) TERMS AND REPAYMENT OF DIRECT LOANS.—

(1) SCHEDULE.—The chief executive officer shall establish a repayment schedule for each direct loan under this Act, based on the projected cash flow from infrastructure project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this Act shall commence not later than 5 years after the date of substantial completion of the infrastructure project, as determined by the chief executive officer of AIFA.

(3) DEFERRED PAYMENTS OF DIRECT LOANS.—

(A) AUTHORIZATION.—If, at any time after the date of substantial completion of an infrastructure project assisted under this Act, the infrastructure project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the direct loan under this Act, the chief executive officer may allow the obligor to add unpaid principal and interest to the outstanding balance of the direct loan, if the result would benefit the taxpayer.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest, in accordance with the terms of the obligation, until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the infrastructure project meeting criteria established by the Board of Directors.

(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT OF DIRECT LOANS.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the infrastructure project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations under this Act may be applied annually to prepay the direct loan, without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—A direct loan under this Act may be prepaid at any time, without penalty, from the proceeds of refinancing from non-Federal funding sources.

(5) SALE OF DIRECT LOANS.—

(A) IN GENERAL.—As soon as is practicable after substantial completion of an infrastructure project assisted under this Act, and after notifying the obligor, the chief executive officer may sell to another entity, or reoffer into the capital markets, a direct loan for the infrastructure project, if the chief executive officer determines that the sale or reoffering can be made on favorable terms for the taxpayer.

(B) CONSENT OF OBLIGOR.—In making a sale or reoffering under subparagraph (A), the chief executive officer may not change the original terms and conditions of the direct loan, without the written consent of the obligor.

(j) LOAN GUARANTEES.—

(1) TERMS.—The terms of a loan guaranteed by AIFA under this Act shall be consistent with the terms set forth in this section for a direct loan, except that the rate on the guaranteed loan and any payment, pre-payment, or refinancing features shall be negotiated between the obligor and the lender, with the consent of the chief executive officer.

(2) GUARANTEED LENDER.—A guaranteed lender shall be limited to those lenders meeting the definition of that term in section 601(a) of title 23, United States Code.

(k) COMPLIANCE WITH FCRA—IN GENERAL.—Direct loans and loan guarantees authorized by this Act shall be subject to the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), as amended.

SEC. 255. COMPLIANCE AND ENFORCEMENT.

(a) CREDIT AGREEMENT.—Notwithstanding any other provision of law, each eligible entity that receives assistance under this Act from AIFA shall enter into a credit agreement that requires such entity to comply with all applicable policies and procedures of AIFA, in addition to all other provisions of the loan agreement.

(b) AIFA AUTHORITY ON NONCOMPLIANCE.—In any case in which a recipient of assistance under this Act is materially out of compliance with the loan agreement, or any applicable policy or procedure of AIFA, the Board of Directors may take action to cancel unutilized loan amounts, or to accelerate the repayment terms of any outstanding obligation.

(c) Nothing in this Act is intended to affect existing provisions of law applicable to the planning, development, construction, or operation of projects funded under the Act.

SEC. 256. AUDITS; REPORTS TO THE PRESIDENT AND CONGRESS.

(a) ACCOUNTING.—The books of account of AIFA shall be maintained in accordance with generally accepted accounting principles, and shall be subject to an annual audit by independent public accountants of nationally recognized standing appointed by the Board of Directors.

(b) REPORTS.—

(1) BOARD OF DIRECTORS.—Not later than 90 days after the last day of each fiscal year, the Board of Directors shall submit to the President and Congress a complete and detailed report with respect to the preceding fiscal year, setting forth—

(A) a summary of the operations of AIFA, for such fiscal year;

(B) a schedule of the obligations of AIFA and capital securities outstanding at the end of such fiscal year, with a statement of the amounts issued and redeemed or paid during such fiscal year;

(C) the status of infrastructure projects receiving funding or other assistance pursuant to this Act during such fiscal year, including all nonperforming loans, and including disclosure of all entities with a development, ownership, or operational interest in such infrastructure projects;

(D) a description of the successes and challenges encountered in lending to rural communities, including the role of the Center for Excellence and the Office of Rural Assistance established under this Act; and

(E) an assessment of the risks of the portfolio of AIFA, prepared by an independent source.

(2) GAO.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct an evaluation of, and shall submit to Congress a report on, activities of AIFA for the fiscal years covered by the report that includes an assessment of the impact and benefits of each funded infrastructure project, including a review of how effectively each such infrastructure project accomplished the goals prioritized by the infrastructure project criteria of AIFA.

(c) BOOKS AND RECORDS.—

(1) IN GENERAL.—AIFA shall maintain adequate books and records to support the financial transactions of AIFA, with a description of financial transactions and infrastructure projects receiving funding, and the amount of funding for each such project maintained on a publically accessible database.

(2) AUDITS BY THE SECRETARY AND GAO.—The books and records of AIFA shall at all times be open to inspection by the Secretary of the Treasury, the Special Inspector General, and the Comptroller General of the United States.

PART III—FUNDING OF AIFA

SEC. 257. ADMINISTRATIVE FEES.

(a) IN GENERAL.—In addition to fees that may be collected under section 254(e), the chief executive officer shall establish and collect fees from eligible funding recipients with respect to loans and loan guarantees under this Act that—

(1) are sufficient to cover all or a portion of the administrative costs to the Federal Government for the operations of AIFA, including the costs of expert firms, including counsel in the field of municipal and project finance, and financial advisors to assist with underwriting, credit analysis, or other independent reviews, as appropriate;

(2) may be in the form of an application or transaction fee, or other form established by the CEO; and

(3) may be based on the risk premium associated with the loan or loan guarantee, taking into consideration—

(A) the price of United States Treasury obligations of a similar maturity;

(B) prevailing market conditions;

(C) the ability of the infrastructure project to support the loan or loan guarantee; and

(D) the total amount of the loan or loan guarantee.

(b) AVAILABILITY OF AMOUNTS.—Amounts collected under subsections (a)(1), (a)(2), and (a)(3) shall be available without further action; provided further, that the source of fees paid under this section shall not be a loan or debt obligation guaranteed by the Federal Government.

SEC. 258. EFFICIENCY OF AIFA.

The chief executive officer shall, to the extent possible, take actions consistent with this Act to minimize the risk and cost to the taxpayer of AIFA activities. Fees and premiums for loan guarantee or insurance coverage will be set at levels that minimize administrative and Federal credit subsidy costs to the Government, as defined in Section 502 of the Federal Credit Reform Act of 1990, as amended, of such coverage, while supporting achievement of the program's objectives, consistent with policies as set forth in the Business Plan.

SEC. 259. FUNDING.

There is hereby appropriated to AIFA to carry out this Act, for the cost of direct loans and loan guarantees subject to the limitations under Section 253, and for administrative costs, $10,000,000,000, to remain available until expended; Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Federal Credit Reform Act of 1990, as amended; Provided further, that of this amount, not more than $25,000,000 for each of fiscal years 2012 through 2013, and not more than $50,000,000 for fiscal year 2014 may be used for administrative costs of AIFA; provided further, that not more than 5 percent of such amount shall be used to offset subsidy costs associated with rural projects. Amounts authorized shall be available without further action.

PART IV—EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS

SEC. 260. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2013''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, 2011, AND 2012''.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2013''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, 2011, AND 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

Subtitle G—Project Rebuild

SEC. 261. PROJECT REBUILD.

(a) DIRECT APPROPRIATIONS.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $15,000,000,000, to remain available until September 30, 2014, for assistance to eligible entities including States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)), and qualified nonprofit organizations, businesses or consortia of eligible entities for the redevelopment of abandoned and foreclosed-upon properties and for the stabilization of affected neighborhoods.

(b) ALLOCATION OF APPROPRIATED AMOUNTS.—

(1) IN GENERAL.—Of the amounts appropriated, two thirds shall be allocated to States and units of general local government based on a funding formula established by the Secretary of Housing and Urban Development (in this subtitle referred to as the ''Secretary''). Of the amounts appropriated, one third shall be distributed competitively to eligible entities.

(2) FORMULA TO BE DEVISED SWIFTLY.—The funding formula required under paragraph (1) shall be established and the Secretary shall announce formula funding allocations, not later than 30 days after the date of enactment of this section.

(3) FORMULA CRITERIA.—The Secretary may establish a minimum grant size, and the funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes in default or delinquency in each State or unit of general local government; and

(C) other factors such as established program designs, grantee capacity and performance, number and percentage of commercial foreclosures, overall economic conditions, and other market needs data, as determined by the Secretary.

(4) COMPETITION CRITERIA.—

(A) For the funds distributed competitively, eligible entities shall be States, units of general local government, nonprofit entities, for-profit entities, and consortia of eligible entities that demonstrate capacity to use funding within the period of this program.

(B) In selecting grantees, the Secretary shall ensure that grantees are in areas with the greatest number and percentage of residential and commercial foreclosures and other market needs data, as determined by the Secretary. Additional award criteria shall include demonstrated grantee capacity to execute projects involving acquisition and rehabilitation or redevelopment of foreclosed residential and commercial property and neighborhood stabilization, leverage, knowledge of market conditions and of effective stabilization activities to address identified conditions, and any additional factors determined by the Secretary.

(C) The Secretary may establish a minimum grant size; and

(D) The Secretary shall publish competition criteria for any grants awarded under this heading not later than 60 days after appropriation of funds, and applications shall be due to the Secretary within 120 days.

(c) USE OF FUNDS.—

(1) OBLIGATION AND EXPENDITURE.—The Secretary shall obligate all funding within 150 days of enactment of this Act. Any eligible entity that receives amounts pursuant to this section shall expend all funds allocated to it within three years of the date the funds become available to the grantee for obligation. Furthermore, the Secretary shall by Notice establish intermediate expenditure benchmarks at the one and two year dates from the date the funds become available to the grantee for obligation.

(2) PRIORITIES.—

(A) JOB CREATION.—Each grantee or eligible entity shall describe how its proposed use of funds will prioritize job creation, and secondly, will address goals to stabilize neighborhoods, reverse vacancy, or increase or stabilize residential and commercial property values.

(B) TARGETING.—Any State or unit of general local government that receives formula amounts pursuant to this section shall, in distributing and targeting such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(i) with the greatest percentage of home foreclosures;

(ii) identified as likely to face a significant rise in the rate of residential or commercial foreclosures; and

(iii) with higher than national average unemployment rate.

(C) LEVERAGE.—Each grantee or eligible entity shall describe how its proposed use of funds will leverage private funds.

(3) ELIGIBLE USES.—Amounts made available under this section may be used to—

(A) establish financing mechanisms for the purchase and redevelopment of abandoned and foreclosed-upon properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such properties;

(C) establish and operate land banks for properties that have been abandoned or foreclosed upon;

(D) demolish blighted structures;

(E) redevelop abandoned, foreclosed, demolished, or vacant properties; and

(F) engage in other activities, as determined by the Secretary through notice, that are consistent with the goals of creating jobs, stabilizing neighborhoods, reversing vacancy reduction, and increasing or stabilizing residential and commercial property values.

(d) LIMITATIONS.—

(1) ON PURCHASES.—Any purchase of a property under this section shall be at a price not to exceed its current market value, taking into account its current condition.

(2) REHABILITATION.—Any rehabilitation of an eligible property under this section shall be to the extent necessary to comply with applicable laws, and other requirements relating to safety, quality, marketability, and habitability, in order to sell, rent, or redevelop such properties or provide a renewable energy source or sources for such properties.

(3) SALE OF HOMES.—If an abandoned or foreclosed-upon home is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, marketable, and habitable condition.

(4) ON DEMOLITION OF PUBLIC HOUSING.—Public housing, as defined at section 3(b)(6) of the United States Housing Act of 1937, may not be demolished with funds under this section.

(5) ON DEMOLITION ACTIVITIES.—No more than 10 percent of any grant made under this section may be used for demolition activities unless the Secretary determines that such use represents an appropriate response to local market conditions.

(6) ON USE OF FUNDS FOR NON-RESIDENTIAL PROPERTY.—No more than 30 percent of any grant made under this section may be used for eligible activities under subparagraphs (A), (B), and (E) of subsection (c)(3) that will not result in residential use of the property involved unless the Secretary determines that such use represents an appropriate response to local market conditions.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to eligible entities under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH.—No matching funds shall be required in order for an eligible entity to receive any amounts under this section.

(3) TENANT PROTECTIONS.—An eligible entity receiving a grant under this section shall comply with the 14th, 17th, 18th, 19th, 20th, 21st, 22nd and 23rd provisos of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, 123 Stat. 218–19), as amended by section 1497(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 2211).

(4) VICINITY HIRING.—An eligible entity receiving a grant under this section shall comply with section 1497(a)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 129 Stat. 2210).

(5) BUY AMERICAN.—Section 1605 of Title XVI—General Provisions of the American Recovery and Reinvestment Act of 2009—shall apply to amounts appropriated, revenues generated, and amounts otherwise made available to eligible entities under this section.

(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

(1) IN GENERAL.—In administering the program under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 or under title I of the Cranston-Gonzalez National Affordable Housing Act of 1990 (except for those provisions in these laws related to fair housing, nondiscrimination, labor standards, and the environment) for the purpose of expediting and facilitating the use of funds under this section.

(2) NOTICE.—The Secretary shall provide written notice of intent to the public via internet to exercise the authority to specify alternative requirements under paragraph.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the formula and competitive grantee funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the formula and competitive grantee funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of eligible properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

(g) NATIONWIDE DISTRIBUTION OF RESOURCES.—Notwithstanding any other provision of this section or the amendments made by this section, each State shall receive not less than $20,000,000 of formula funds.

(h) LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.—No State or unit of general local government may use any amounts received pursuant to this section to

fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use, which shall not be construed to include economic development that primarily benefits private entities.

(i) LIMITATION ON DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—None of the funds made available under this title or title IV shall be distributed to—

(A) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(B) an organization which employs applicable individuals.

(2) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term ''applicable individual'' means an individual who—

(A) is—

(i) employed by the organization in a permanent or temporary capacity;

(ii) contracted or retained by the organization; or

(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

(B) has been indicted for a violation under Federal law relating to an election for Federal office.

(j) RENTAL HOUSING PREFERENCES.—Each State and local government receiving formula amounts shall establish procedures to create preferences for the development of affordable rental housing.

(k) JOB CREATION.—If a grantee chooses to use funds to create jobs by establishing and operating a program to maintain eligible neighborhood properties, not more than 10 percent of any grant may be used for that purpose.

(l) PROGRAM SUPPORT AND CAPACITY BUILDING.—The Secretary may use up to 0.75 percent of the funds appropriated for capacity building of and support for eligible entities and grantees undertaking neighborhood stabilization programs, staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities.

(1) Funds set aside for the purposes of this subparagraph shall remain available until September 30, 2016;

(2) Any funds made available under this subparagraph and used by the Secretary for personnel expenses related to administering funding under this subparagraph shall be transferred to ''Personnel Compensation and Benefits, Community Planning and Development'';

(3) Any funds made available under this subparagraph and used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management, Community Planning and Development'' for non-personnel expenses; and

(4) Any funds made available under this subparagraph and used by the Secretary for technology shall be transferred to ''Working Capital Fund''.

(m) ENFORCEMENT AND PREVENTION OF FRAUD AND ABUSE.—The Secretary shall establish and implement procedures to prevent fraud and abuse of funds under this section, and shall impose a requirement that grantees have an internal auditor to continuously monitor grantee performance to prevent fraud, waste, and abuse. Grantees shall provide the Secretary and citizens with quarterly progress reports. The Secretary shall recapture funds from formula and competitive grantees that do not expend 100 percent of allocated funds within 3 years of the date that funds become available, and from underperforming or mismanaged grantees, and shall re-allocate those funds by formula to target areas with the greatest need, as determined by the Secretary through notice. The Secretary may take an alternative sanctions action only upon determining that such action is necessary to achieve program goals in a timely manner.

(n) The Secretary of Housing and Urban Development shall to the extent feasible conform policies and procedures for grants made under this section to the policies and practices already in place for the grants made under Section 2301 of the Housing and Economic Recovery Act of 2008; Division A, Title XII of the American Recovery and Reinvestment Act of 2009; or Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Subtitle H—National Wireless Initiative

SEC. 271. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) 700 MHZ BAND.—The term ''700 MHz band'' means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) 700 MHZ D BLOCK SPECTRUM.—The term ''700 MHz D block spectrum'' means the portion of the electromagnetic spectrum frequencies from 758 megahertz to 763 megahertz and from 788 megahertz to 793 megahertz.

(3) APPROPRIATE COMMITTEES OF CONGRESS.—Except as otherwise specifically provided, the term ''appropriate committees of Congress'' means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(4) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary of Commerce for Communications and Information.

(5) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(6) CORPORATION.—The term ''Corporation'' means the Public Safety Broadband Corporation established in section 284.

(7) EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.—The term ''existing public safety broadband spectrum'' means the portion of the electromagnetic spectrum between the frequencies—

(A) from 763 megahertz to 768 megahertz;

(B) from 793 megahertz to 798 megahertz;

(C) from 768 megahertz to 769 megahertz; and

(D) from 798 megahertz to 799 megahertz.

(8) FEDERAL ENTITY.—The term ''Federal entity'' has the same meaning as in section 113(i) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(i)).

(9) NARROWBAND SPECTRUM.—The term ''narrowband spectrum'' means the portion of the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(10) NIST.—The term ''NIST'' means the National Institute of Standards and Technology.

(11) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration.

(12) PUBLIC SAFETY ENTITY.—The term ''public safety entity'' means an entity that provides public safety services.

(13) PUBLIC SAFETY SERVICES.—The term ''public safety services''—

(A) has the meaning given the term in section 337(f) of the Communications Act of 1934 (47 U.S.C. 337(f)); and

(B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

PART I—AUCTIONS OF SPECTRUM AND SPECTRUM MANAGEMENT

SEC. 272. CLARIFICATION OF AUTHORITIES TO REPURPOSE FEDERAL SPECTRUM FOR COMMERCIAL PURPOSES.

(a) Paragraph (1) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1)) is amended by striking paragraph (1) and inserting the following:

''(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station authorized to use a band of frequencies specified in paragraph (2) and that incurs relocation costs because of planning for a potential auction of spectrum frequencies, a planned auction of spectrum frequencies or the reallocation of spectrum frequencies from Federal use to exclusive non-Federal use, or shared Federal and non-Federal use may receive payment for such costs from the Spectrum Relocation Fund, in accordance with section 118 of this Act. For purposes of this paragraph, Federal power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a), are eligible to receive payment under this paragraph.''.

(b) ELIGIBLE FREQUENCIES.—Section 113(g)(2)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) is amended by deleting and replacing subsection (B) with the following:

''(B) any other band of frequencies reallocated from Federal use to non-Federal or shared use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C 309(j)) or is assigned as a result of later legislation or other administrative direction.''.

(c) Paragraph (3) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(3)) is amended by striking it in its entirety and replacing it with the following:

''(3) DEFINITION OF RELOCATION AND SHARING COSTS.—For purposes of this subsection, the terms 'relocation costs' and 'sharing costs' mean the costs incurred by a Federal entity to plan for a potential or planned auction or sharing of spectrum frequencies and to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment, relocating a Federal Government station to a different geographic location, modifying Federal government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology. Comparable capability of systems includes the acquisition of state-of-the art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality. Such costs include—

''(A) the costs of any modification or replacement of equipment, spares, associated ancillary equipment, software, facilities, operating manuals, training costs, or regulations that are attributable to relocation or sharing;

''(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary, which may be renewed, to carry out the relocation activities of an eligible Federal entity, and reasonable

additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs above recurring costs of the system before relocation for the remaining estimated life of the system being relocated;

''(C) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with (i) calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection, or in calculating the estimated sharing costs; (ii) determining the technical or operational feasibility of relocation to one or more potential relocation bands; or (iii) planning for or managing a relocation or sharing project (including spectrum coordination with auction winners) or potential relocation or sharing project;

''(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of shared frequencies or, in the case of frequencies reallocated to exclusive commercial use, prior to the termination of the Federal entity's primary allocation or protected status, when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process;

''(E) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment or the timely accommodation of sharing of Federal frequencies; and

''(F) the costs of the use of commercial systems and services (including systems not utilizing spectrum) to replace Federal systems discontinued or relocated pursuant to this Act, including lease, subscription, and equipment costs over an appropriate period, such as the anticipated life of an equivalent Federal system or other period determined by the Director of the Office of Management and Budget.''.

(d) A new subsection (7) is added to Section 113(g) as follows:

''(7) SPECTRUM SHARING.—Federal entities are permitted to allow access to their frequency assignments by non-Federal entities upon approval of the terms of such access by NTIA, in consultation with the Office of Management and Budget. Such non-Federal entities must comply with all applicable rules of the Commission and NTIA, including any regulations promulgated pursuant to this section. Remuneration associated with such access shall be deposited into the Spectrum Relocation Fund. Federal entities that incur costs as a result of such access are eligible for payment from the Fund for the purposes specified in subsection (3) of this section. The revenue associated with such access must be at least 110 percent of the estimated Federal costs.''.

(e) Section 118 of such Act (47 U.S.C. 928) is amended by:

(1) In subsection (b), adding at the end, ''and any payments made by non-Federal entities for access to Federal spectrum pursuant to 47 U.S.C. 113(g)(7)'';

(2) replacing subsection (c) with the following:

''The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as defined in section (g)(3) of this title, of an eligible Federal entity incurring such costs with respect to relocation from any eligible frequency. In addition, the amounts in the Fund from payments by non-Federal entities for access to Federal spectrum are authorized to be used to pay Federal costs associated with such sharing, as defined in section (g)(3) of this title. The Director of the Office of Management and Budget (OMB) may transfer at any time (including prior to any auction or contemplated auction, or sharing initiative) such sums as may be available in the Fund to an eligible federal entity to pay eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title. However, the Director may not transfer more than $100,000,000 associated with authorized pre-auction activities before an auction is completed and proceeds are deposited in the Spectrum Relocation Fund. Within the $100,000,000 that may be transferred before an auction, the Director of OMB may transfer up to $10,000,000 in total to eligible federal entities for eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title for costs incurred prior to the enactment of this legislation, but after June 28th, 2010. These amounts transferred pursuant to the previous proviso are in addition to amounts that the Director of OMB may transfer after the enactment of this legislation.'';

(3) amending subsection (d)(1) to add, ''and sharing'' before ''costs'';

(4) amending subsection (d)(2)(B) to add, ''and sharing'' before ''costs'', and adding at the end, ''and sharing'';

(5) replacing subsection (d)(3) with the following:

''Any amounts in the Fund that are remaining after the payment of the relocation and sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 15 years after the date of the deposit of such proceeds to the Fund, unless the Director of OMB, in consultation with the Assistant Secretary for Communications and Information, notifies the Committees on Appropriations and Energy and Commerce of the House of Representative and the Committees on Appropriations and Commerce, Science, and Transportation of the Senate at least 60 days in advance of the reversion of the funds to the general fund of the Treasury that such funds are needed to complete or to implement current or future relocations or sharing initiatives.'';

(6) amending subsection (e)(2) by adding ''and sharing'' before ''costs''; by adding ''or sharing'' before ''is complete''; and by adding ''or sharing'' before ''in accordance''; and

(7) adding a new subsection at the end thereof:

''(f) Notwithstanding subsections (c) through (e) of this section and after the amount specified in subsection (b), up to twenty percent of the amounts deposited in the Spectrum Relocation Fund from the auction of licenses following the date of enactment of this section for frequencies vacated by Federal entities, or up to twenty percent of the amounts paid by non-Federal entities for sharing of Federal spectrum, after the date of enactment are hereby appropriated and available at the discretion of the Director of the Office of Management and Budget, in consultation with the Assistant Secretary for Communications and Information, for payment to the eligible Federal entities, in addition to the relocation and sharing costs defined in paragraph (3) of subsection 923(g), for the purpose of encouraging timely access to those frequencies, provided that:

''(1) Such payments may be based on the market value of the spectrum, timeliness of clearing, and needs for agencies' essential missions;

''(2) Such payments are authorized for:

''(A) the purposes of achieving enhanced capabilities of systems that are affected by the activities specified in subparagraphs (A) through (F) of paragraph (3) of subsection 923(g) of this title; and

''(B) other communications, radar and spectrum-using investments not directly affected by such reallocation or sharing but essential for the missions of the Federal entity that is relocating its systems or sharing frequencies;

''(3) The increase to the Fund due to any one auction after any payment is not less than 10 percent of the winning bids in the relevant auction, or is not less than 10 percent of the payments from non-Federal entities in the relevant sharing agreement;

''(4) Payments to eligible entities must be based on the proceeds generated in the auction that an eligible entity participates in; and

''(5) Such payments will not be made until 30 days after the Director of OMB has notified the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations and Energy and Commerce of the House of Representatives.''.

(f) Subparagraph D of section 309 (j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)) is amended by adding '', after the retention of revenue described in subparagraph (B),'' before ''attributable'' and ''and frequencies identified by the Federal Communications Commission to be auctioned in conjunction with eligible frequencies described in 47 U.S.C. 923(g)(2)'' before the first ''shall'' in the subparagraph.

(g) If the head of an executive agency of the Federal Government determines that public disclosure of any information contained in notifications and reports required by sections 923 or 928 of Title 47 of the United States Code would reveal classified national security information or other information for which there is a legal basis for nondisclosure and such public disclosure would be detrimental to national security, homeland security, public safety, or jeopardize law enforcement investigations the head of the executive agency shall notify the NTIA of that determination prior to release of such information. In that event, such information shall be included in a separate annex, as needed and to the extent the agency head determines is consistent with national security or law enforcement purposes. These annexes shall be provided to the appropriate subcommittee in accordance with applicable stipulations, but shall not be disclosed to the public or provided to any unauthorized person through any other means.

SEC. 273. INCENTIVE AUCTION AUTHORITY.

(a) Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in subparagraph (A), by deleting ''and (E)'' and inserting ''(E) and (F)'' after ''subparagraphs (B), (D),''; and

(2) by adding at the end the following new subparagraphs:

''(F) Notwithstanding any other provision of law, if the Commission determines that it is consistent with the public interest in utilization of the spectrum for a licensee to voluntarily relinquish some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses through a competitive bidding process subject to new service rules, or the designation of spectrum for unlicensed use, the Commission may pay to such licensee a portion of any auction proceeds that the Commission determines, in its discretion, are attributable to the spectrum usage rights voluntarily relinquished by such licensee. If the Commission also determines that it is in the public interest to modify the spectrum usage rights of any incumbent licensee in order to facilitate the

assignment of such new initial licenses subject to new service rules, or the designation of spectrum for unlicensed use, the Commission may pay to such licensee a portion of the auction proceeds for the purpose of relocating to any alternative frequency or location that the Commission may designate; Provided, however, that with respect to frequency bands between 54 megahertz and 72 megahertz, 76 megahertz and 88 megahertz, 174 megahertz and 216 megahertz, and 470 megahertz and 698 megahertz (‘the specified bands’), any spectrum made available for alternative use utilizing payments authorized under this subsection shall be assigned via the competitive bidding process until the winning bidders for licenses covering at least 84 megahertz from the specified bands deposit the full amount of their bids in accordance with the Commission’s instructions. In addition, if more than 84 megahertz of spectrum from the specified bands is made available for alternative use utilizing payments under this subsection, and such spectrum is assigned via competitive bidding, a portion of the proceeds may be disbursed to licensees of other frequency bands for the purpose of making additional spectrum available, provided that a majority of such additional spectrum is assigned via competitive bidding. Also, provided that in exercising the authority provided under this section:

‘‘(i) The Chairman of the Commission, in consultation with the Director of OMB, shall notify the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations and Energy and Commerce of the House of Representatives of the methodology for calculating such payments to licensees at least 3 months in advance of the relevant auction, and that such methodology consider the value of spectrum vacated in its current use and the timeliness of clearing; and

‘‘(ii) Notwithstanding subparagraph (A), and except as provided in subparagraphs (B), (C), and (D), all proceeds (including deposits and up front payments from successful bidders) from the auction of spectrum under this section and section 106 of this Act shall be deposited with the Public Safety Trust Fund established under section 217 of this Act.

‘‘(G) ESTABLISHMENT OF INCENTIVE AUCTION RELOCATION FUND.—

‘‘(i) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Incentive Auction Relocation Fund’.

‘‘(ii) ADMINISTRATION.—The Assistant Secretary shall administer the Incentive Auction Relocation Fund using the amounts deposited pursuant to this section.

‘‘(iii) CREDITING OF RECEIPTS.—There shall be deposited into or credited to the Incentive Auction Relocation Fund any amounts specified in section 217 of this Act.

‘‘(iv) AVAILABILITY.—Amounts in the Incentive Auction Relocation Fund shall be available to the NTIA for use—

‘‘(I) without fiscal year limitation;

‘‘(II) for a period not to exceed 18 months following the later of—

‘‘(aa) the completion of incentive auction from which such amounts were derived;

‘‘(bb) the date on which the Commission issues all the new channel assignments pursuant to any repacking required under subparagraph (F)(ii); or

‘‘(cc) the issuance of a construction permit by the Commission for a station to change channels, geographic locations, to collocate on the same channel or notification by a station to the Assistant Secretary that it is impacted by such a change; and

‘‘(III) without further appropriation.

‘‘(v) USE OF FUNDS.—Amounts in the Incentive Auction Relocation Fund may only be used by the NTIA, in consultation with the Commission, to cover—

‘‘(I) the reasonable costs of television broadcast stations that are relocated to a different spectrum channel or geographic location following an incentive auction under subparagraph (F), or that are impacted by such relocations, including to cover the cost of new equipment, installation, and construction; and

‘‘(II) the costs incurred by multichannel video programming distributors for new equipment, installation, and construction related to the carriage of such relocated stations or the carriage of stations that voluntarily elect to share a channel, but retain their existing rights to carriage pursuant to sections 338, 614, and 615.’’.

SEC. 274. REQUIREMENTS WHEN REPURPOSING CERTAIN MOBILE SATELLITE SERVICES SPECTRUM FOR TERRESTRIAL BROADBAND USE.

To the extent that the Commission makes available terrestrial broadband rights on spectrum primarily licensed for mobile satellite services, the Commission shall recover a significant portion of the value of such right either through the authority provided in section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) or by section 278 of this subtitle.

SEC. 275. PERMANENT EXTENSION OF AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is repealed.

SEC. 276. AUTHORITY TO AUCTION LICENSES FOR DOMESTIC SATELLITE SERVICES.

Section 309(j) of the Communications Act of 1934 is amended by adding the following new subsection at the end thereof:

‘‘(17) Notwithstanding any other provision of law, the Commission shall use competitive bidding under this subsection to assign any license, construction permit, reservation, or similar authorization or modification thereof, that may be used solely or predominantly for domestic satellite communications services, including satellite-based television or radio services. A service is defined to be predominantly for domestic satellite communications services if the majority of customers that may be served are located within the geographic boundaries of the United States. The Commission may, however, use an alternative approach to assignment of such licenses or similar authorities if it finds that such an alternative to competitive bidding would serve the public interest, convenience, and necessity. This paragraph shall be effective on the date of its enactment and shall apply to all Commission assignments or reservations of spectrum for domestic satellite services, including, but not limited to, all assignments or reservations for satellite-based television or radio services as of the effective date.’’.

SEC. 277. DIRECTED AUCTION OF CERTAIN SPECTRUM.

(a) IDENTIFICATION OF SPECTRUM.—Not later than 1 year after the date of enactment of this subtitle, the Assistant Secretary shall identify and make available for immediate reallocation, at a minimum, 15 megahertz of contiguous spectrum at frequencies located between 1675 megahertz and 1710 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA’s October 2010 report entitled ‘‘An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands’’, to be made available for reallocation or sharing with incumbent Government operations.

(b) AUCTION.—Not later than January 31, 2016, the Commission shall conduct, in such combination as deemed appropriate by the Commission, the auctions of the following licenses covering at least the frequencies described in this section, by commencing the bidding for:

(1) The spectrum between the frequencies of 1915 megahertz and 1920 megahertz, inclusive.

(2) The spectrum between the frequencies of 1995 megahertz and 2000 megahertz, inclusive.

(3) The spectrum between the frequencies of 2020 megahertz and 2025 megahertz, inclusive.

(4) The spectrum between the frequencies of 2155 megahertz and 2175 megahertz, inclusive.

(5) The spectrum between the frequencies of 2175 megahertz and 2180 megahertz, inclusive.

(6) At least 25 megahertz of spectrum between the frequencies of 1755 megahertz and 1850 megahertz, minus appropriate geographic exclusion zones if necessary, unless the President of the United States determines that—

(A) such spectrum should not be reallocated due to the need to protect incumbent Federal operations; or reallocation must be delayed or progressed in phases to ensure protection or continuity of Federal operations; and

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to auction of spectrum frequencies identified in this paragraph.

(7) The Commission may substitute alternative spectrum frequencies for the spectrum frequencies identified in paragraphs (1) through (5) of this subsection, if the Commission determines that alternative spectrum would better serve the public interest and the Office of Management and Budget certifies that such alternative spectrum frequencies are reasonably expected to produce receipts comparable to auction of the spectrum frequencies identified in paragraphs (1) through (5) of this subsection.

(c) AUCTION ORGANIZATION.—The Commission may, if technically feasible and consistent with the public interest, combine the spectrum identified in paragraphs (4), (5), and the portion of paragraph (6) between the frequencies of 1755 megahertz and 1850 megahertz, inclusive, of subsection (b) in an auction of licenses for paired spectrum blocks.

(d) FURTHER REALLOCATION OF CERTAIN OTHER SPECTRUM.—

(1) COVERED SPECTRUM.—For purposes of this subsection, the term ‘‘covered spectrum’’ means the portion of the electromagnetic spectrum between the frequencies of 3550 to 3650 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA’s October 2010 report entitled ‘‘An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands’’.

(2) IN GENERAL.—Consistent with requirements of section 309(j) of the Communications Act of 1934, the Commission shall reallocate covered spectrum for assignment by competitive bidding or allocation to unlicensed use, minus appropriate exclusion zones if necessary, unless the President of the United States determines that—

(A) such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference; or

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to what the covered

spectrum might auction for without the geographic exclusion zones.

(3) ACTIONS REQUIRED IF COVERED SPECTRUM CANNOT BE REALLOCATED.—

(A) IN GENERAL.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, then the President shall, within 1 year after the date of such determination—

(i) identify alternative bands of frequencies totaling more than 20 megahertz and no more than 100 megahertz of spectrum used primarily by Federal agencies that satisfy the requirements of clauses (i) and (ii) of paragraph (2)(B);

(ii) report to the appropriate committees of Congress and the Commission an identification of such alternative spectrum for assignment by competitive bidding; and

(iii) make such alternative spectrum for assignment immediately available for reallocation.

(B) AUCTION.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, the Commission shall commence the bidding of the alternative spectrum identified pursuant to subparagraph (A) within 3 years of the date of enactment of this subtitle.

(4) ACTIONS REQUIRED IF COVERED SPECTRUM CAN BE REALLOCATED.—If the President does not make a determination under paragraph (1) that the covered spectrum cannot be reallocated, the Commission shall commence the competitive bidding for the covered spectrum within 3 years of the date of enactment of this subtitle.

(e) AMENDMENTS TO DESIGN REQUIREMENTS RELATED TO COMPETITIVE BIDDING.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (E)(ii), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(2) by amending clause (i) of the second sentence of paragraph (8)(C) to read as follows:

''(i) the deposits—

''(I) of successful bidders of any auction conducted pursuant to subparagraph (F) of section 106 of this act shall be paid to the Public Safety Trust Fund established under section 217 of such Act; and

''(II) of successful bidders of any other auction shall be paid to the Treasury;''.

SEC. 278. AUTHORITY TO ESTABLISH SPECTRUM LICENSE USER FEES.

Section 309 of the Communications Act of 1934 is amended by adding the following new subsection at the end thereof:

''(m) USE OF SPECTRUM LICENSE USER FEES.—For initial licenses or construction permits that are not granted through the use of competitive bidding as set forth in subsection (j), and for renewals or modifications of initial licenses or other authorizations, whether granted through competitive bidding or not, the Commission may, where warranted, establish, assess, and collect annual user fees on holders of spectrum licenses or construction permits, including their successors or assignees, in order to promote efficient and effective use of the electromagnetic spectrum.

''(1) REQUIRED COLLECTIONS.—The Commission shall collect at least the following amounts—

''(A) $200,000,000 in fiscal year 2012;

''(B) $300,000,000 in fiscal year 2013;

''(C) $425,000,000 in fiscal year 2014;

''(D) $550,000,000 in fiscal year 2015;

''(E) $550,000,000 in fiscal year 2016;

''(F) $550,000,000 in fiscal year 2017;

''(G) $550,000,000 in fiscal year 2018;

''(H) $550,000,000 in fiscal year 2019;

''(I) $550,000,000 in fiscal year 2020; and

''(J) $550,000,000 in fiscal year 2021.

''(2) DEVELOPMENT OF SPECTRUM FEE REGULATIONS.—

''(A) The Commission shall, by regulation, establish a methodology for assessing annual spectrum user fees and a schedule for collection of such fees on classes of spectrum licenses or construction permits or other instruments of authorization, consistent with the public interest, convenience and necessity. The Commission may determine over time different classes of spectrum licenses or construction permits upon which such fees may be assessed. In establishing the fee methodology, the Commission may consider the following factors:

''(i) the highest value alternative spectrum use forgone;

''(ii) scope and type of permissible services and uses;

''(iii) amount of spectrum and licensed coverage area;

''(iv) shared versus exclusive use;

''(v) level of demand for spectrum licenses or construction permits within a certain spectrum band or geographic area;

''(vi) the amount of revenue raised on comparable licenses awarded through an auction; and

''(vii) such factors that the Commission determines, in its discretion, are necessary to promote efficient and effective spectrum use.

''(B) In addition, the Commission shall, by regulation, establish a methodology for assessing annual user fees and a schedule for collection of such fees on entities holding Ancillary Terrestrial Component authority in conjunction with Mobile Satellite Service spectrum licenses, where the Ancillary Terrestrial Component authority was not assigned through use of competitive bidding. The Commission shall not collect less from the holders of such authority than a reasonable estimate of the value of such authority over its term, regardless of whether terrestrial services is actually provided during this term. In determining a reasonable estimate of the value of such authority, the Commission may consider factors listed in subsection (A).

''(C) Within 60 days of enactment of this Act, the Commission shall commence a rulemaking to develop the fee methodology and regulations. The Commission shall take all actions necessary so that it can collect fees from the first class or classes of spectrum license or construction permit holders no later than September 30, 2012.

''(D) The Commission, from time to time, may commence further rulemakings (separate from or in connection with other rulemakings or proceedings involving spectrum-based services, licenses, permits and uses) and modify the fee methodology or revise its rules required by paragraph (B) to add or modify classes of spectrum license or construction permit holders that must pay fees, and assign or adjust such fee as a result of the addition, deletion, reclassification or other change in a spectrum-based service or use, including changes in the nature of a spectrum-based service or use as a consequence of Commission rulemaking proceedings or changes in law. Any resulting changes in the classes of spectrum licenses, construction permits or fees shall take effect upon the dates established in the Commission's rulemaking proceeding in accordance with applicable law.

''(E) The Commission shall exempt from such fees holders of licenses for broadcast television and public safety services. The term 'emergency response providers' includes State, local, and tribal, emergency public safety, law enforcement, firefighter, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies and authorities.

''(3) PENALTIES FOR LATE PAYMENT.—The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by this subsection.

''(4) REVOCATION OF LICENSE OR PERMIT.—The Commission may revoke any spectrum license or construction permit for a licensee's or permitee's failure to pay in a timely manner any fee or penalty to the Commission under this subsection. Such revocation action may be taken by the Commission after notice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice will provide the licensee at least 30 days to either pay the fee or show cause why the fee does not apply to the licensee or should otherwise be waived or payment deferred. A hearing is not required under this subsection unless the licensee's response presents a substantial and material question of fact. In any case where a hearing is conducted pursuant to this section, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee. Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing. Any Commission order adopted pursuant to this subsection shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked. No order of revocation under this subsection shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

''(5) TREATMENT OF REVENUES.—All proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the General Fund of the Treasury.''.

PART II—PUBLIC SAFETY BROADBAND NETWORK

SEC. 281. REALLOCATION OF D BLOCK FOR PUBLIC SAFETY.

(a) IN GENERAL.—The Commission shall reallocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this subtitle.

(b) SPECTRUM ALLOCATION.—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

(1) by striking ''24'' in paragraph (1) and inserting ''34''; and

(2) by striking ''36'' in paragraph (2) and inserting ''26''.

SEC. 282. FLEXIBLE USE OF NARROWBAND SPECTRUM.

The Commission may allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require and subject to interoperability requirements of the Commission and the Corporation established in section 204 of this subtitle.

SEC. 283. SINGLE PUBLIC SAFETY WIRELESS NETWORK LICENSEE.

(a) REALLOCATION AND GRANT OF LICENSE.—Notwithstanding any other provision of law, and subject to the provisions of this subtitle, including section 290, the Commission shall grant a license to the Public Safety Broadband Corporation established under section 284 for the use of the 700 MHz D block spectrum and existing public safety broadband spectrum.

(b) TERM OF LICENSE.—

(1) INITIAL LICENSE.—The license granted under subsection (a) shall be for an initial term of 10 years from the date of the initial issuance of the license.

(2) RENEWAL OF LICENSE.—Prior to expiration of the term of the initial license granted under subsection (a) or the expiration of any subsequent renewal of such license, the Corporation shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the Corporation has met the duties and obligations set forth under this subtitle. A renewal license granted under this paragraph shall be for a term of not to exceed 15 years.

(c) FACILITATION OF TRANSITION.—The Commission shall take all actions necessary to facilitate the transition of the existing public safety broadband spectrum to the Public Safety Broadband Corporation established under section 284.

SEC. 284. ESTABLISHMENT OF PUBLIC SAFETY BROADBAND CORPORATION.

(a) ESTABLISHMENT.—There is authorized to be established a private, nonprofit corporation, to be known as the ''Public Safety Broadband Corporation'', which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(b) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (sec. 29–301.01 et seq., D.C. Official Code).

(c) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(d) POWERS UNDER DC ACT.—In order to carry out the duties and activities of the Corporation, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act.

(e) INCORPORATION.—The members of the initial Board of Directors of the Corporation shall serve as incorporators and shall take whatever steps that are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

SEC. 285. BOARD OF DIRECTORS OF THE CORPORATION.

(a) MEMBERSHIP.—The management of the Corporation shall be vested in a Board of Directors (referred to in this Title as the ''Board''), which shall consist of the following members:

(1) FEDERAL MEMBERS.—The following individuals, or their respective designees, shall serve as Federal members:

(A) The Secretary of Commerce.

(B) The Secretary of Homeland Security.

(C) The Attorney General of the United States.

(D) The Director of the Office of Management and Budget.

(2) NON-FEDERAL MEMBERS.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall appoint 11 individuals to serve as non-Federal members of the Board.

(B) STATE, TERRITORIAL, TRIBAL AND LOCAL GOVERNMENT INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should—

(i) appoint at least 3 individuals with significant expertise in the collective interests of State, Territorial, Tribal and Local governments; and

(ii) seek to ensure geographic and regional representation of the United States in such appointments;

(iii) seek to ensure rural and urban representation in such appointments.

(C) PUBLIC SAFETY INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint at least 3 individuals who have served or are currently serving as public safety professionals.

(D) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.—Each non-Federal member appointed under subparagraph (A) should meet at least 1 of the following criteria:

(I) PUBLIC SAFETY EXPERIENCE.—Knowledge and experience in the use of Federal, State, local, or tribal public safety or emergency response.

(II) TECHNICAL EXPERTISE.—Technical expertise and fluency regarding broadband communications, including public safety communications and cybersecurity.

(III) NETWORK EXPERTISE.—Expertise in building, deploying, and operating commercial telecommunications networks.

(IV) FINANCIAL EXPERTISE.—Expertise in financing and funding telecommunications networks.

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint—

(I) at least one individual who satisfies the requirement under subclause (II) of clause (i);

(II) at least one individual who satisfies the requirement under subclause (III) of clause (i); and

(III) at least one individual who satisfies the requirement under subclause (IV) of clause (i).

(E) INDEPENDENCE.—

(i) IN GENERAL.—Each non-Federal member of the Board shall be independent and neutral and maintain a fiduciary relationship with the Corporation in performing his or her duties.

(ii) INDEPENDENCE DETERMINATION.—In order to be considered independent for purposes of this subparagraph, a member of the Board—

(I) may not, other than in his or her capacity as a member of the Board or any committee thereof—

(aa) accept any consulting, advisory, or other compensatory fee from the Corporation; or

(bb) be a person associated with the Corporation or with any affiliated company thereof; and

(II) shall be disqualified from any deliberation involving any transaction of the Corporation in which the Board member has a financial interest in the outcome of the transaction.

(F) NOT OFFICERS OR EMPLOYEES.—The non-Federal members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(G) CITIZENSHIP.—No individual other than a citizen of the United States may serve as a non-Federal member of the Board.

(H) CLEARANCE FOR CLASSIFIED INFORMATION.—In order to have the threat and vulnerability information necessary to make risk management decisions regarding the network, the non-Federal members of the Board shall be required, prior to appointment, to obtain a clearance held by the Director of National Intelligence that permits them to receive information classified at the level of Top Secret, Special Compartmented Information.

(b) TERMS OF APPOINTMENT.—

(1) INITIAL APPOINTMENT DEADLINE.—Members of the Board shall be appointed not later than 180 days after the date of the enactment of this subtitle.

(2) TERMS.—

(A) LENGTH.—

(i) FEDERAL MEMBERS.—Each Federal member of the Board shall serve as a member of the Board for the life of the Corporation while serving in their appointed capacity.

(ii) NON-FEDERAL MEMBERS.—The term of office of each non-Federal member of the Board shall be 3 years. No non-Federal member of the Board may serve more than 2 consecutive full 3-year terms.

(B) EXPIRATION OF TERM.—Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

(C) APPOINTMENT TO FILL VACANCY.—Any non-Federal member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(D) STAGGERED TERMS.—With respect to the initial non-Federal members of the Board—

(i) 4 members shall serve for a term of 3 years;

(ii) 4 members shall serve for a term of 2 years; and

(iii) 3 members shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(c) CHAIR.—

(1) SELECTION.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board.

(2) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(3) REMOVAL FOR CAUSE.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, may remove the Chair of the Board and any non-Federal member for good cause.

(d) REMOVAL.—All members of the Board may by majority vote—

(1) remove any non-Federal member of the Board from office for conduct determined by the Board to be detrimental to the Board or Corporation; and

(2) request that the Secretary of Commerce exercise his or her authority to remove the Chair of the Board for conduct determined by the Board to be detrimental to the Board or Corporation.

(e) MEETINGS.—

(1) FREQUENCY.—The Board shall meet in accordance with the bylaws of the Corporation—

(A) at the call of the Chairperson; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, to discuss security vulnerabilities when making those vulnerabilities public would increase risk to the network or otherwise materially threaten network operations, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(f) QUORUM.—Eight members of the Board shall constitute a quorum.

(g) BYLAWS.—A majority of the members of the Board of Directors may amend the bylaws of the Corporation.

(h) ATTENDANCE.—Members of the Board of Directors may attend meetings of the Corporation and vote in person, via telephone conference, or via video conference.

(i) PROHIBITION ON COMPENSATION.—Members of the Board of the Corporation shall serve without pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the Corporation, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Corporation.

SEC. 286. OFFICERS, EMPLOYEES, AND COMMITTEES OF THE CORPORATION.

(a) OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—The Corporation shall have a Chief Executive Officer, and such other officers and employees as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board pursuant to this subsection. The Chief Executive Officer may name and appoint such employees as are necessary. All officers and employees shall serve at the pleasure of the Board.

(2) LIMITATION.—No individual other than a citizen of the United States may be an officer of the Corporation.

(3) NONPOLITICAL NATURE OF APPOINTMENT.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) COMPENSATION.—

(A) IN GENERAL.—The Board may hire and fix the compensation of employees hired under this subsection as may be necessary to carry out the purposes of the Corporation.

(B) APPROVAL BY COMPENSATION BY FEDERAL MEMBERS.—Notwithstanding any other provision of law, or any bylaw adopted by the Corporation, all rates of compensation, including benefit plans and salary ranges, for officers and employees of the Board, shall be jointly approved by the Federal members of the Board.

(C) LIMITATION ON OTHER COMPENSATION.—No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of the employment of the officer or employee by the Corporation, unless unanimously approved by all voting members of the Corporation.

(5) SERVICE ON OTHER BOARDS.—Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct.

(6) RULE OF CONSTRUCTION.—No officer or employee of the Board or of the Corporation shall be considered to be an officer or employee of the United States Government or of the government of the District of Columbia.

(7) CLEARANCE FOR CLASSIFIED INFORMATION.—In order to have the threat and vulnerability information necessary to make risk management decisions regarding the network, at a minimum the Chief Executive Officer and any officers filling the roles normally titled as Chief Information Officers, Chief Information Security Officer, and Chief Operations Officer shall—

(A) be required, within six months of being hired, to obtain a clearance held by the Director of National Intelligence that permits them to receive information classified at the level of Top Secret, Special Compartmented Information.

(b) ADVISORY COMMITTEES.—The Board—

(1) shall establish a standing public safety advisory committee to assist the Board in carrying out its duties and responsibilities under this Title; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the Board determines are necessary.

SEC. 287. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) STOCK.—The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) PROFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual associated with the Corporation, except as salary or reasonable compensation for services.

(c) POLITICS.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(d) PROHIBITION ON LOBBYING ACTIVITIES.—The Corporation shall not engage in lobbying activities (as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (5 U.S.C. 1602(7))).

SEC. 288. POWERS, DUTIES, AND RESPONSIBILITIES OF THE CORPORATION.

(a) GENERAL POWERS.—The Corporation shall have the authority to do the following:

(1) To adopt and use a corporate seal.

(2) To have succession until dissolved by an Act of Congress.

(3) To prescribe, through the actions of its Board, bylaws not inconsistent with Federal law and the laws of the District of Columbia, regulating the manner in which the Corporation's general business may be conducted and the manner in which the privileges granted to the Corporation by law may be exercised.

(4) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this Title, and such incidental powers as shall be necessary.

(5) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Corporation considers necessary to carry out its responsibilities and duties.

(6) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies, pursuant to guidelines established by the Director of the Office of Management and Budget.

(7) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the Corporation.

(8) To issue notes or bonds, which shall not be guaranteed or backed in any manner by the Government of the United States, to purchasers of such instruments in the private capital markets.

(9) To incur indebtedness, which shall be the sole liability of the Corporation and shall not be guaranteed or backed by the Government of the United States, to carry out the purposes of this Title.

(10) To spend funds under paragraph (6) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this subtitle.

(11) To establish reserve accounts with funds that the Corporation may receive from time to time that exceed the amounts required by the Corporation to timely pay its debt service and other obligations.

(12) To expend the funds placed in any reserve accounts established under paragraph (11) (including interest earned on any such amounts) in a manner authorized by the Board, but only for purposes that—

(A) will advance or enhance public safety communications consistent with this subtitle; or

(B) are otherwise approved by an Act of Congress.

(13) To build, operate and maintain the public safety interoperable broadband network.

(14) To take such other actions as the Corporation (through its Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this subtitle.

(b) DUTY AND RESPONSIBILITY TO DEPLOY AND OPERATE A NATIONWIDE PUBLIC SAFETY INTEROPERABLE BROADBAND NETWORK.—

(1) IN GENERAL.—The Corporation shall hold the single public safety wireless license granted under section 281 and take all actions necessary to ensure the building, deployment, and operation of a secure and resilient nationwide public safety interoperable broadband network in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 284(b)(1), including by,—

(A) ensuring nationwide standards including encryption requirements for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network;

(C) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network; and

(D) establishing policies regarding Federal and public safety support use.

(2) INTEROPERABILITY, SECURITY AND STANDARDS.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the Corporation shall—

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyber intrusions or cyberattack;

(B) be informed of and manage supply chain risks to the network, including requirements to provide insight into the suppliers and supply chains for critical network components and to implement risk management best practice in network design, contracting, operations and maintenance;

(C) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment and devices for use on the network be—

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used across the nationwide public safety broadband network operating in the 700 MHz band;

(iii) be able to be interchangeable with other vendors' equipment; and

(iv) backward-compatible with existing second and third generation commercial networks to the extent that such capabilities are necessary and technically and economically reasonable; and

(D) promote integration of the network with public safety answering points or their equivalent.

(3) RURAL COVERAGE.—In carrying out the duties and responsibilities of this subsection,

including issuing requests for proposals, the Corporation, consistent with the license granted under section 281, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network.

(4) EXECUTION OF AUTHORITY.—In carrying out the duties and responsibilities of this subsection, the Corporation may—

(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out such duties and responsibilities;

(C) receive payment for use of—

(i) network capacity licensed to the Corporation; and

(ii) network infrastructure constructed, owned, or operated by the Corporation; and

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) OTHER SPECIFIC DUTIES AND RESPONSIBILITIES.—

(1) ESTABLISHMENT OF NETWORK POLICIES.—In carrying out the requirements under subsection (b), the Corporation shall take such actions as may be necessary, including the development of requests for proposals—

(A) request for proposals should include—

(i) build timetables, including by taking into consideration the time needed to build out to rural areas;

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical, operational and security requirements of the network and, as appropriate, network suppliers;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ongoing compliance review and monitoring of the—

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network; and

(iii) training needs of entities operating on and personnel using such network.

(2) STATE AND LOCAL PLANNING.—

(A) REQUIRED CONSULTATION.—In developing requests for proposal and otherwise carrying out its responsibilities under this subtitle, the Corporation shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the—

(i) construction of an Evolved Packet Core or Cores and any Radio Access Network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

(iv) adequacy of hardening, security, reliability, and resiliency requirements;

(v) assignment of priority to local users;

(vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network established under subsection (b); and

(vii) training needs of local users.

(B) METHOD OF CONSULTATION.—The consultation required under subparagraph (A) shall occur between the Corporation and the single officer or governmental body designated under section 294(d).

(3) LEVERAGING EXISTING INFRASTRUCTURE.—In carrying out the requirement under subsection (b), the Corporation shall enter into agreements to utilize, to the maximum economically desirable, existing—

(A) commercial or other communications infrastructure; and

(B) Federal, State, tribal, or local infrastructure.

(4) MAINTENANCE AND UPGRADES.—The Corporation shall ensure through the maintenance, operation, and improvement of the nationwide public safety interoperable broadband network established under subsection (b), including by ensuring that the Corporation updates and revises any policies established under paragraph (1) to take into account new and evolving technologies and security concerns.

(5) ROAMING AGREEMENTS.—The Corporation shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety interoperable broadband users to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

(6) NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.—The Director of NIST, in consultation with the Corporation and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols, encryption requirements, and standards for public safety entities and commercial vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety interoperable broadband network established under subsection (b).

(7) REPRESENTATION BEFORE STANDARD SETTING ENTITIES.—The Corporation, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 284(b)(1), shall represent the interests of public safety users of the nationwide public safety interoperable broadband network established under subsection (b) before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity regarding the development of standards relating to interoperability.

(8) PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.—Except as authorized by the President, the Corporation shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

(d) USE OF MAILS.—The Corporation may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

SEC. 289. INITIAL FUNDING FOR CORPORATION.

(a) NTIA PROVISION OF INITIAL FUNDING TO THE CORPORATION.—

(1) IN GENERAL.—Prior to the commencement of incentive auctions to be carried out under section 309(j)(8)(F) of the Communications Act of 1934 or the auction of spectrum pursuant to section 273 of this subtitle, the NTIA is hereby appropriated $50,000,000 for reasonable administrative expenses and other costs associated with the establishment of the Corporation, and that may be transferred as needed to the Corporation for expenses before the commencement of incentive auction: *Provided*, That funding shall expire on September 30, 2014.

(2) CONDITION OF FUNDING.—At the time of application for, and as a condition to, any such funding, the Corporation shall file with the NTIA a statement with respect to the anticipated use of the proceeds of this funding.

(3) NTIA APPROVAL.—If the NTIA determines that such funding is necessary for the Corporation to carry out its duties and responsibilities under this Title and that Corporation has submitted a plan, then the NTIA shall notify the appropriate committees of Congress 30 days before each transfer of funds takes place.

SEC. 290. PERMANENT SELF-FUNDING; DUTY TO ASSESS AND COLLECT FEES FOR NETWORK USE.

(a) IN GENERAL.—The Corporation shall have the authority to assess and collect the following fees:

(1) NETWORK USER FEE.—A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety interoperable broadband network established under this Title.

(2) LEASE FEES RELATED TO NETWORK CAPACITY.—

(A) IN GENERAL.—A fee from any non-Federal entity that seeks to enter into a covered leasing agreement.

(B) COVERED LEASING AGREEMENT.—For purposes of subparagraph (A), a ''covered leasing agreement'' means a written agreement between the Corporation and secondary user to permit—

(i) access to network capacity on a secondary basis for non-public safety services; and

(ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

(3) LEASE FEES RELATED TO NETWORK EQUIPMENT AND INFRASTRUCTURE.—A fee from any non-Federal entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the Corporation.

(b) ESTABLISHMENT OF FEE AMOUNTS; PERMANENT SELF-FUNDING.—The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the Corporation in carrying out its duties and responsibilities described under this Title for the fiscal year involved.

(c) REQUIRED REINVESTMENT OF FUNDS.—The Corporation shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable broadband network by using such funds only for constructing, maintaining, managing or improving the network.

SEC. 291. AUDIT AND REPORT.

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations shall be audited by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General.

(2) LOCATION.—Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the Corporation are normally kept.

(3) ACCESS TO CORPORATION BOOKS AND DOCUMENTS.—

(A) IN GENERAL.—For purposes of an audit conducted under paragraph (1), the representatives of the Comptroller General shall—

(i) have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by

the Corporation that pertain to the financial transactions of the Corporation and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) REQUIREMENT.—All books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

(b) REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the Corporation.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain—

(A) such comments and information as the Comptroller General determines necessary to inform Congress of the financial operations and condition of the Corporation;

(B) any recommendations of the Comptroller General relating to the financial operations and condition of the Corporation; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the Corporation that was observed during the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without the authority of law.

SEC. 292. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, and each year thereafter, the Corporation shall submit an annual report covering the preceding fiscal year to the President and the appropriate committees of Congress.

(b) REQUIRED CONTENT.—The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation under this section; and

(2) such recommendations or proposals for legislative or administrative action as the Corporation deems appropriate.

(c) AVAILABILITY TO TESTIFY.—The directors, officers, employees, and agents of the Corporation shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit made by the Comptroller General under section 291; or

(3) any other matter which such committees may determine appropriate.

SEC. 293. PROVISION OF TECHNICAL ASSISTANCE.

The Commission and the Departments of Homeland Security, Justice and Commerce may provide technical assistance to the Corporation and may take any action at the request of the Corporation in effectuating its duties and responsibilities under this Title.

SEC. 294. STATE AND LOCAL IMPLEMENTATION.

(a) ESTABLISHMENT OF STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.—The Assistant Secretary, in consultation with the Corporation, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety interoperable broadband network established in this subtitle to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, identity management for public safety users and their devices, and other needs.

(b) MATCHING REQUIREMENTS; FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the Corporation.

(2) WAIVER.—The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) PROGRAMMATIC REQUIREMENTS.—Not later than 6 months after the establishment of the bylaws of the Corporation pursuant to section 286 of this subtitle, the Assistant Secretary, in consultation with the Corporation, shall establish requirements relating to the grant program to be carried out under this section, including the following:

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) CERTIFICATION AND DESIGNATION OF OFFICER OR GOVERNMENTAL BODY.—In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

SEC. 295. STATE AND LOCAL IMPLEMENTATION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''State and Local Implementation Fund''.

(b) PURPOSE.—The Assistant Secretary shall establish and administer the grant program authorized under section 294 of this subtitle using funds deposited in the State and Local Implementation Fund.

(c) CREDITING OF RECEIPTS.—There shall be deposited into or credited to the State and Local Implementation Fund—

(1) any amounts specified in section 297; and

(2) any amounts borrowed by the Assistant Secretary under subsection (d).

(d) BORROWING AUTHORITY.—

(1) IN GENERAL.—The Assistant Secretary may borrow from the General Fund of the Treasury beginning on October 1, 2011, such sums as may be necessary, but not to exceed $100,000,000 to implement section 294.

(2) REIMBURSEMENT.—The Assistant Secretary shall reimburse the General Fund of the Treasury, with interest, for any amounts borrowed under subparagraph (1) as funds are deposited into the State and Local Implementation Fund.

SEC. 296. PUBLIC SAFETY WIRELESS COMMUNICATIONS RESEARCH AND DEVELOPMENT.

(a) NIST DIRECTED RESEARCH AND DEVELOPMENT PROGRAM.—From amounts made available from the Public Safety Trust Fund established under section 297, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) REQUIRED ACTIVITIES.—In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the Corporation and the public safety advisory committee established under section 286(b)(1), shall—

(1) document public safety wireless communications technical requirements;

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety interoperable broadband network to be established under this title;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device ''talkaround'' standards for broadband networks, if necessary and practical, public safety prioritization, authentication capabilities, as well as a standard application programing interfaces for the nationwide public safety interoperable broadband network to be established under this title, if necessary and practical;

(5) seek to develop technologies, standards, processes, and architectures that provide a significant improvement in network security, resiliency and trustworthiness; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

(c) TRANSFER AUTHORITY.—If in the determination of the Director of NIST another Federal agency is better suited to carry out and oversee the research and development of any activity to be carried out in accordance with the requirements of this section, the Director may transfer any amounts provided under this section to such agency, including to the National Institute of Justice of the Department of Justice and the Department of Homeland Security.

SEC. 297. PUBLIC SAFETY TRUST FUND.

(a) ESTABLISHMENT OF PUBLIC SAFETY TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Public Safety Trust Fund''.

(2) CREDITING OF RECEIPTS.—

(A) IN GENERAL.—There shall be deposited into or credited to the Public Safety Trust Fund the proceeds from the auction of spectrum carried out pursuant to—

(i) section 273 of this subtitle; and

(ii) section 309(j)(8)(F) of the Communications Act of 1934, as added by section 273 of this subtitle.

(B) AVAILABILITY.—Amounts deposited into or credited to the Public Safety Trust Fund in accordance with subparagraph (A) shall remain available until the end of fiscal year 2018. Upon the expiration of the period described in the prior sentence such amounts shall be deposited in the General Fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) USE OF FUND.—Amounts deposited in the Public Safety Trust Fund shall be used in the following manner:

(1) PAYMENT OF AUCTION INCENTIVE.—

(A) REQUIRED DISBURSALS.—Amounts in the Public Safety Trust Fund shall be used to make any required disbursal of payments to licensees required pursuant to clause (i) and subclause (IV) of clause (ii) of section 309(j)(8)(F) of the Communications Act of 1934.

(B) NOTIFICATION TO CONGRESS.—

(i) IN GENERAL.—At least 3 months in advance of any incentive auction conducted pursuant to subparagraph (F) of section

309(j)(8) of the Communications Act of 1934, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress—

(I) of the methodology for calculating the disbursal of payments to certain licensees required pursuant to clause (i) and subclauses (III) and (IV) of clause of (ii) of such section;

(II) that such methodology considers the value of the spectrum voluntarily relinquished in its current use and the timeliness with which the licensee cleared its use of such spectrum; and

(III) of the estimated payments to be made from the Incentive Auction Relocation fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(ii) DEFINITION.—In this clause, the term ''appropriate committees of Congress'' means—

(I) the Committee on Commerce, Science, and Transportation of the Senate;

(II) the Committee on Appropriations of the Senate;

(III) the Committee on Energy and Commerce of the House of Representatives; and

(IV) the Committee on Appropriations of the House of Representatives.

(2) INCENTIVE AUCTION RELOCATION FUND.—Not more than $1,000,000,000 shall be deposited in the Incentive Auction Relocation Fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(3) STATE AND LOCAL IMPLEMENTATION FUND.—$200,000,000 shall be deposited in the State and Local Implementation Fund established under section 294.

(4) PUBLIC SAFETY BROADBAND CORPORATION.—$6,450,000,000 shall deposited with the Public Safety Broadband Corporation established under section 284, of which pursuant to its responsibilities and duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network. Funds deposited with the Public Safety Broadband Corporation shall be available after submission of a five-year budget by the Corporation and approval by the Secretary of Commerce, in consultation with the Secretary of Homeland Security, Director of the Office of Management and Budget and Attorney General of the United States.

(5) PUBLIC SAFETY RESEARCH AND DEVELOPMENT.—After approval by the Office of Management and Budget of a spend plan developed by the Director of NIST, a Wireless Innovation (WIN) Fund of up to $300,000,000 shall be made available for use by the Director of NIST to carry out the research program established under section 296 and be available until expended. If less than $300,000,000 is approved by the Office of Management and Budget, the remainder shall be transferred to the Public Safety Broadband Corporation established in section 284 and be available for duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network.

(6) DEFICIT REDUCTION.—Any amounts remaining after the deduction of the amounts required under paragraphs (1) through (5) shall be deposited in the General Fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

SEC. 298. FCC REPORT ON EFFICIENT USE OF PUBLIC SAFETY SPECTRUM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this subtitle and every 2 years thereafter, the Commission shall, in consultation with the Assistant Secretary and the Director of NIST, conduct a study and submit to the appropriate committees of Congress a report on the spectrum allocated for public safety use.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an examination of how such spectrum is being used;

(2) recommendations on how such spectrum may be used more efficiently;

(3) an assessment of the feasibility of public safety entities relocating from other bands to the public safety broadband spectrum; and

(4) an assessment of whether any spectrum made available by the relocation described in paragraph (3) could be returned to the Commission for reassignment through auction, including through use of incentive auction authority under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)), as added by section 273(a).

SEC. 299. PUBLIC SAFETY ROAMING AND PRIORITY ACCESS.

The Commission may adopt rules, if necessary in the public interest, to improve the ability of public safety users to roam onto commercial networks and to gain priority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

TITLE III—ASSISTANCE FOR THE UNEMPLOYED AND PATHWAYS BACK TO WORK

Subtitle A—Supporting Unemployed Workers

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''Supporting Unemployed Workers Act of 2011''.

PART I—EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION AND CERTAIN EXTENDED BENEFITS PROVISIONS, AND ESTABLISHMENT OF SELF-EMPLOYMENT ASSISTANCE PROGRAM

SEC. 311. 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), is amended—

(1) by striking ''January 3, 2012'' each place it appears and inserting ''January 3, 2013'';

(2) in the heading for subsection (b)(2), by striking ''January 3, 2012'' and inserting ''January 3, 2013''; and

(3) in subsection (b)(3), by striking ''June 9, 2012'' and inserting ''June 8, 2013''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), is amended—

(1) in subparagraph (F), by striking ''and'' at the end; and

(2) by inserting after subparagraph (G) the following:

''(H) the amendments made by section 101 of the Supporting Unemployed Workers Act of 2011; and.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2010 (Public Law 111–205).

SEC. 312. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note), is amended—

(1) by striking ''January 4, 2012'' each place it appears and inserting ''January 4, 2013'';

(2) in the heading for subsection (b)(2), by striking ''January 4, 2012'' and inserting ''January 4, 2013''; and

(3) in subsection (c), by striking ''June 11, 2012'' and inserting ''June 11, 2013''.

(b) EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''June 10, 2012'' and inserting ''June 9, 2013''.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 502 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312; 26 U.S.C. 3304 note) is amended—

(1) in subsection (a) by striking ''December 31, 2011'' and inserting ''December 31, 2012''; and

(2) in subsection (b)(2) by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2010 (Public Law 111–205).

SEC. 313. REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) IN GENERAL.—

(1) PROVISION OF SERVICES AND ACTIVITIES.—Section 4001 of the Supplemental Appropriations Act, 2008, (Public Law 110–252; 26 U.S.C. 3304 note), is amended by inserting the following new subsection (h):

''(h) IN GENERAL.—

''(1) REQUIRED PROVISION OF SERVICES AND ACTIVITIES.—An agreement under this section shall require that the State provide reemployment services and reemployment and eligibility assessment activities to each individual receiving emergency unemployment compensation who, on or after the date that is 30 days after the date of enactment of the Supporting Unemployed Workers Act of 2011, establishes an account under section 4002(b), commences receiving the amounts described in section 4002(c), commences receiving the amounts described in section 4002(d), or commences receiving the amounts described in subsection 4002(e), whichever occurs first. Such services and activities shall be provided by the staff of the State agency responsible for administration of the State unemployment compensation law or the Wagner-Peyser Act from funds available pursuant to section 4004(c)(2) and may also be provided from funds available under the Wagner-Peyser Act.

''(2) DESCRIPTION OF SERVICES AND ACTIVITIES.—The reemployment services and in-person reemployment and eligibility assessment activities provided to individuals receiving emergency unemployment compensation described in paragraph (1)—

''(A) shall include—

''(i) the provision of labor market and career information;

''(ii) an assessment of the skills of the individual;

''(iii) orientation to the services available through the One-Stop centers established under title I of the Workforce Investment Act of 1998;

''(iv) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops and may include referrals to appropriate training services; and

''(v) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

''(B) may include the provision of—

''(i) comprehensive and specialized assessments;

''(ii) individual and group career counseling; and

''(iii) additional reemployment services.

''(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection shall participate, or shall have completed participation in, such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that there is justifiable cause for failure to participate or complete such services or activities, as defined in guidance to be issued by the Secretary of Labor.''.

(2) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessments activities required to be provided under the amendments made by paragraph (1).

(b) FUNDING.—

(1) IN GENERAL.—Section 4004(c) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), is amended—

(A) by striking ''There'' and inserting ''(1) ADMINISTRATION.—There''; and

(B) by inserting the following new paragraph:

''(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.—

''(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, out of the employment security administration account as established by section 901(a) of the Social Security Act, such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

''(B) DETERMINATION OF TOTAL AMOUNT.—The amount referred to in subparagraph (A) is the amount the Secretary estimates is equal to—

''(i) the number of individuals who will receive reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2) in all States through the date specified in section 4007(b)(3), multiplied by

''(ii) $200.

''(C) DISTRIBUTION AMONG STATES.—Of the amounts appropriated under subparagraph (A), the Secretary of Labor shall distribute amounts to each State, in accordance with section 4003(c), that the Secretary estimates is equal to—

''(i) the number of individuals who will receive reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2) in such State through the date specified in section 4007(b)(3), multiplied by

''(ii) $200.''.

(2) TRANSFER OF FUNDS.—Section 4004(e) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), is amended—

(A) in paragraph (2), by striking the period and inserting ''; and''; and

(B) by inserting the following paragraph (3):

''(3) to the employment security administration account (as established by section 901(a) of the Social Security Act) such sums as the Secretary of Labor determines to be necessary in accordance with subsection (c)(2) to assist States in providing reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2).''.

SEC. 314. FEDERAL-STATE AGREEMENTS TO ADMINISTER A SELF-EMPLOYMENT ASSISTANCE PROGRAM.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 313, is further amended by inserting a new subsection (i) as follows:

''(i) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who meet the eligibility criteria specified in subsection (b).

''(B) PAYMENT OF ALLOWANCES.—The self-employment assistance allowance described in subparagraph (A) shall be paid for up to 26 weeks to an eligible individual from such individual's emergency unemployment compensation account described in section 4002, and the amount in such account shall be reduced accordingly.

''(2) DEFINITION OF 'SELF-EMPLOYMENT ASSISTANCE PROGRAM'.—For the purposes of this title, the term 'self-employment assistance program' means a program as defined under section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), except as follows:

''(A) all references to 'regular unemployment compensation under the State law' shall be deemed to refer instead to 'emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note)';

''(B) paragraph (3)(B) shall not apply;

''(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

'' '(i) include any entrepreneurial training that the State may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and;';

''(D) the reference to '5 percent' in paragraph (4) shall be deemed to refer instead to '1 percent'; and

''(E) paragraph (5) shall not apply.

''(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who has received any emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 26 times the individual's average weekly benefit amount of emergency unemployment compensation.

''(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

''(A) TERMINATION.—An individual who is participating in a State's self -employment assistance program may opt to discontinue participation in such program.

''(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—An individual whose participation in the self-employment assistance program is terminated as described in paragraph (1) or who has completed participation in such program, and who continues to meet the eligibility requirements for emergency unemployment compensation under this title, shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.''.

SEC. 315. CONFORMING AMENDMENT ON PAYMENT OF BRIDGE TO WORK WAGES.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 103, is further amended by inserting a new subsection (j) as follows:

''(j) AUTHORIZATION TO PAY WAGES FOR PURPOSES OF A BRIDGE TO WORK PROGRAM.—Any State that establishes a Bridge to Work program under section 204 of the Supporting Unemployed Workers Act of 2011 is authorized to deduct from an emergency unemployment compensation account established for such individual under section 4002 such sums as may be necessary to pay wages for such individual as authorized under section 204(b)(1) of such Act.''.

SEC. 316. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), is amended—

(1) by striking ''June 30, 2011'' and inserting ''June 30, 2012''; and

(2) by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of the enactment of this Act.

PART II—REEMPLOYMENT NOW PROGRAM

SEC. 321. ESTABLISHMENT OF REEMPLOYMENT NOW PROGRAM.

(a) IN GENERAL.—There is hereby established the Reemployment NOW program to be carried out by the Secretary of Labor in accordance with this part in order to facilitate the reemployment of individuals who are receiving emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) (hereafter in this part referred to as ''EUC claimants'').

(b) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated and appropriated from the general fund of the Treasury for fiscal year 2012 $4,000,000,000 to carry out the Reemployment NOW program under this part.

SEC. 322. DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—Of the funds appropriated under section 321(b) to carry out this part, the Secretary of Labor shall—

(1) reserve up to 1 percent for the costs of Federal administration and for carrying out rigorous evaluations of the activities conducted under this part; and

(2) allot the remainder of the funds not reserved under paragraph (1) in accordance with the requirements of subsection (b) and (c) to States that have approved plans under section 323.

(b) ALLOTMENT FORMULA.—

(1) FORMULA FACTORS.—The Secretary of Labor shall allot the funds available under subsection (a)(2) as follows:

(A) two-thirds of such funds shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(B) one-third of such funds shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 27 weeks or more, compared to the total number of individuals in all States who have been unemployed for 27 weeks or more.

(2) CALCULATION.—For purposes of paragraph (1), the number of unemployed individuals and the number of individuals unemployed for 27 weeks or more shall be based on the data for the most recent 12-month period, as determined by the Secretary.

(c) REALLOTMENT.—

(1) FAILURE TO SUBMIT STATE PLAN.—If a State does not submit a State plan by the time specified in section 323(b), or a State does not receive approval of a State plan, the amount the State would have been eligible to receive pursuant to the formula under subsection (b) shall be allotted to States that receive approval of the State plan under section 323 in accordance with the relative allotments of such States as determined by the Secretary under subsection (b).

(2) FAILURE TO IMPLEMENT ACTIVITIES ON A TIMELY BASIS.—The Secretary of Labor may, in accordance with procedures and criteria established by the Secretary, recapture the portion of the State allotment under this part that remains unobligated if the Secretary determines such funds are not being obligated at a rate sufficient to meet the purposes of this part. The Secretary shall reallot such recaptured funds to other States that are not subject to recapture in accordance with the relative share of the allotments of such States as determined by the Secretary under subsection (b).

(3) RECAPTURE OF FUNDS.—Funds recaptured under paragraph (2) shall be available for reobligation not later than December 31, 2012.

SEC. 323. STATE PLAN.

(a) IN GENERAL.—For a State to be eligible to receive an allotment under section 322, a State shall submit to the Secretary of Labor a State plan in such form and containing such information as the Secretary may require, which at a minimum shall include:

(1) a description of the activities to be carried out by the State to assist in the reemployment of eligible individuals to be served in accordance with this part, including which of the activities authorized in sections 324–328 the State intends to carry out and an estimate of the amounts the State intends to allocate to the activities, respectively;

(2) a description of the performance outcomes to be achieved by the State through the activities carried out under this part, including the employment outcomes to be achieved by participants and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes;

(3) a description of coordination of activities to be carried out under this part with activities under title I of the Workforce Investment Act of 1998, the Wagner-Peyser Act, and other appropriate Federal programs;

(4) the timelines for implementation of the activities described in the plan and the number of EUC claimants expected to be enrolled in such activities by quarter;

(5) assurances that the State will participate in the evaluation activities carried out by the Secretary of Labor under this section;

(6) assurances that the State will provide appropriate reemployment services, including counseling, to any EUC claimant who participates in any of the programs authorized under this part; and

(7) assurances that the State will report such information as the Secretary may require relating to fiscal, performance and other matters, including employment outcomes and effects, which the Secretary determines are necessary to effectively monitor the activities carried out under this part.

(b) PLAN SUBMISSION AND APPROVAL.—A State plan under this section shall be submitted to the Secretary of Labor for approval not later than 30 days after the Secretary issues guidance relating to submission of such plan. The Secretary shall approve such plans if the Secretary determines that the plans meet the requirements of this part and are appropriate and adequate to carry out the purposes of this part.

(c) PLAN MODIFICATIONS.—A State may submit modifications to a State plan that has been approved under this part, and the Secretary of Labor may approve such modifications, if the plan as modified would meet the requirements of this part and are appropriate and adequate to carry out the purposes of this part.

SEC. 324. BRIDGE TO WORK PROGRAM.

(a) IN GENERAL.—A State may use funds allotted to the State under this part to establish and administer a Bridge to Work program described in this section.

(b) DESCRIPTION OF PROGRAM.—In order to increase individuals' opportunities to move to permanent employment, a State may establish a Bridge to Work program to provide an EUC claimant with short-term work experience placements with an eligible employer, during which time such individual—

(1) shall be paid emergency unemployment compensation payable under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as wages for work performed, and as specified in subsection (c);

(2) shall be paid the additional amount described in subsection (e) as augmented wages for work performed; and

(3) may be paid compensation in addition to the amounts described in paragraphs (1) and (2) by a State or by a participating employer as wages for work performed.

(c) PROGRAM ELIGIBILITY AND OTHER REQUIREMENTS.—For purposes of this program—

(1) individuals who, except for the requirements described in paragraph (3), are eligible to receive emergency unemployment compensation payments under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), and who choose to participate in the program described in subsection (b), shall receive such payments as wages for work performed during their voluntary participation in the program described under subsection (b);

(2) the wages payable to individuals described in paragraph (1) shall be paid from the emergency unemployment compensation account for such individual as described in section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), and the amount in such individual's account shall be reduced accordingly;

(3) The wages payable to an individual described in paragraph (1) shall be payable in the same amount, at the same interval, on the same terms, and subject to the same conditions under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), except that—

(A) State requirements applied under such Act relating to availability for work and active search for work are not applicable to such individuals who participate for at least 25 hours per week in the program described in subsection (b) for the duration of such individual's participation in the program;

(B) State requirements applied under such act relating to disqualifying income regarding wages earned shall not apply to such individuals who participate for at least 25 hours per week in the program described in subsection (b), and shall not apply with respect to—

(i) the wages described under subsection (b); and

(ii) any wages, in addition to those described under subsection (b), whether paid by a State or a participating employer for the same work activities;

(C) State prohibitions or limitations applied under such Act relating to employment status shall not apply to such individuals who participate in the program described in subsection (b); and

(D) State requirements applied under such Act relating to an individual's acceptance of an offer of employment shall not apply with regard to an offer of long-term employment from a participating employer made to such individual who is participating in the program described in subsection (b) in a work experience provided by such employer, where such long-term employment is expected to commence or commences at the conclusion of the duration specified in paragraph (4)(A);

(4) the program shall be structured so that individuals described in paragraph (1) may participate in the program for up to—

(A) 8 weeks, and

(B) 38 hours for each such week;

(5) a State shall ensure that all individuals participating in the program are covered by a workers' compensation insurance program; and

(6) the program meets such other requirements as the Secretary of Labor determines to be appropriate in guidance issued by the Secretary.

(d) STATE REQUIREMENTS.—

(1) CERTIFICATION OF ELIGIBLE EMPLOYER.—A State may certify as eligible for participation in the program under this section any employer that meets the eligibility criteria as established in guidance by the Secretary of Labor, except that an employer shall not be certified as eligible for participation in the program described under subsection (b)—

(A) if such employer—

(i) is a Federal, State, or local government entity;

(ii) would engage an eligible individual in work activities under any employer's grant, contract, or subcontract with a Federal, State, or local government entity, except with regard to work activities under any employer's supply contract or subcontract;

(iii) is delinquent with respect to any taxes or employer contributions described under sections 3301 and 3303(a)(1) of the Internal Revenue Code of 1986 or with respect to any related reporting requirements;

(iv) is engaged in the business of supplying workers to other employers and would participate in the program for the purpose of supplying individuals participating in the program to other employers; or

(v) has previously participated in the program and the State has determined that such employer has failed to abide by any of the requirements specified in subsections (h), (i), or (j), or by any other requirements that the Secretary may establish for employers under subsection (c)(6); and

(B) unless such employer provides assurances that it has not displaced existing workers pursuant to the requirements of subsection (h).

(2) AUTHORIZED ACTIVITIES.—Funds allotted to a State under this part for the program—

(A) shall be used to—

(i) recruit employers for participation in the program;

(ii) review and certify employers identified by eligible individuals seeking to participate in the program;

(iii) ensure that reemployment and counseling services are available for program participants, including services describing the program under subsection (b), prior to an individual's participation in such program;

(iv) establish and implement processes to monitor the progress and performance of individual participants for the duration of the program;

(v) prevent misuse of the program; and

(vi) pay augmented wages to eligible individuals, if necessary, as described in subsection (e); and

(B) may be used—

(i) to pay workers' compensation insurance premiums to cover all individuals participating in the program, except that, if a State opts not to make such payments directly to a State administered workers' compensation program, the State involved shall describe in the approved State plan the means by which such State shall ensure workers' compensation or equivalent coverage for all individuals who participate in the program;

(ii) to pay compensation to a participating individual that is in addition to the amounts described in subsections (c)(1) and (e) as wages for work performed;

(iii) to provide supportive services, such as transportation, child care, and dependent care, that would enable individuals to participate in the program;

(iv) for the administration and oversight of the program; and

(v) to fulfill additional program requirements included in the approved State plan.

(e) PAYMENT OF AUGMENTED WAGES IF NECESSARY.—In the event that the wages described in subsection (c)(1) are not sufficient to equal or exceed the minimum wages that are required to be paid by an employer under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law, whichever is higher, a State shall pay augmented wages to a program participant in any amount necessary to cover the difference between—

(1) such minimum wages amount; and

(2) the wages payable under subsection (c)(1).

(f) EFFECT OF WAGES ON ELIGIBILITY FOR OTHER PROGRAMS.—None of the wages paid under this section shall be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally assisted program based on need.

(g) EFFECT OF WAGES, WORK ACTIVITIES, AND PROGRAM PARTICIPATION ON CONTINUING ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—Any wages paid under this section and any additional wages paid by an employer to an individual described in subsection (c)(1), and any work activities performed by such individual as a participant in the program, shall not be construed so as to render such individual ineligible to receive emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note).

(h) NONDISPLACEMENT OF EMPLOYEES.—

(1) PROHIBITION.—An employer shall not use a program participant to displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any current employee (as of the date of the participation).

(2) OTHER PROHIBITIONS.—An employer shall not permit a program participant to perform work activities related to any job for which—

(A) any other individual is on layoff from the same or any substantially equivalent position;

(B) the employer has terminated the employment of any employee or otherwise reduced the workforce of the employer with the intention of filling or partially filling the vacancy so created with the work activities to be performed by a program participant;

(C) there is a strike or lock out at the worksite that is the participant's place of employment; or

(D) the job is created in a manner that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(i) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—An employer shall not, by means of assigning work activities under this section, impair an existing contract for services or a collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization that is signatory to the collective bargaining agreement.

(j) LIMITATION ON EMPLOYER PARTICIPATION.—If, after 24 weeks of participation in the program, an employer has not made an offer of suitable long-term employment to any individual described under subsection (c)(1) who was placed with such employer and has completed the program, a State shall bar such employer from further participation in the program. States may impose additional conditions on participating employers to ensure that an appropriate number of participants receive offers of suitable long term employment.

(k) FAILURE TO MEET PROGRAM REQUIREMENTS.—If a State makes a determination based on information provided to the State, or acquired by the State by means of its administration and oversight functions, that a participating employer under this section has violated a requirement of this section, the State shall bar such employer from further participation in the program. The State shall establish a process whereby an individual described in subsection (c)(1), or any other affected individual or entity, may file a complaint with the State relating to a violation of any requirement or prohibition under this section.

(l) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN BRIDGE TO WORK PROGRAM.—

(1) TERMINATION.—An individual who is participating in a program described in subsection (b) may opt to discontinue participation in such program.

(2) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—An individual who opts to discontinue participation in such program, is terminated from such program by a participating employer, or who has completed participation in such program, and who continues to meet the eligibility requirements for emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) of such Act or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.

(m) EFFECT OF OTHER LAWS.—Unless otherwise provided in this section, nothing in this section shall be construed to alter or affect the rights or obligations under any Federal, State, or local laws with respect to any individual described in subsection (c)(1) and with respect to any participating employer under this section.

(n) TREATMENT OF PAYMENTS.—All wages or other payments to an individual under this section shall be treated as payments of unemployment insurance for purposes of section 209 of the Social Security Act (42 U.S.C. 409) and for purposes of subtitle A and sections 3101 and 3111 of the Internal Revenue Code of 1986.

SEC. 325. WAGE INSURANCE.

(a) IN GENERAL.—A State may use the funds allotted to the State under this part to provide a wage insurance program for EUC claimants.

(b) BENEFITS.—The wage insurance program provided under this section may use funds allotted to the State under this part to pay, for a period not to exceed 2 years, to a worker described in subsection (c), up to 50 percent of the difference between—

(1) the wages received by the worker at the time of separation; and

(2) the wages received by the worker for reemployment.

(c) INDIVIDUAL ELIGIBILITY.—The benefits described in subsection (b) may be paid to an individual who is an EUC claimant at the time such individual obtains reemployment and who—

(1) is at least 50 years of age;

(2) earns not more than $50,000 per year in wages from reemployment;

(3) is employed on a full-time basis as defined by the law of the State; and

(4) is not employed by the employer from which the individual was last separated.

(d) TOTAL AMOUNT OF PAYMENTS.—A State shall establish a maximum amount of payments per individual for purposes of payments described in subsection (b) during the eligibility period described in such subsection.

(e) NON-DISCRIMINATION REGARDING WAGES.—An employer shall not pay a worker described in subsection (c) less than such employer pays to a regular worker in the same or substantially equivalent position.

SEC. 326. ENHANCED REEMPLOYMENT STRATEGIES.

(a) IN GENERAL.—A State may use funds allotted under this part to provide a program of enhanced reemployment services to EUC claimants. In addition to the provision of services to such claimants, the program may include the provision of reemployment services to individuals who are unemployed and have exhausted their rights to emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008, (Public Law 110–252; 26 U.S.C. 3304 note). The program shall provide reemployment services that are more intensive than the reemployment services provided by the State prior to the receipt of the allotment under this part.

(b) TYPES OF SERVICES.—The enhanced reemployment services described in subsection (a) may include services such as—

(1) assessments, counseling, and other intensive services that are provided by staff on a one-to-one basis and may be customized to meet the reemployment needs of EUC claimants and individuals described in subsection (a);

(2) comprehensive assessments designed to identify alternative career paths;

(3) case management;

(4) reemployment services that are provided more frequently and more intensively than such reemployment services have previously been provided by the State; and

(5) services that are designed to enhance communication skills, interviewing skills, and other skills that would assist in obtaining reemployment.

SEC. 327. SELF-EMPLOYMENT PROGRAMS.

A State may use funds allotted to the State under this part, in an amount specified

under an approved State plan, for the administrative costs associated with starting up the self-employment assistance program described in section 4001(i) of the Supplemental Appropriations Act, 2008, (Public Law 110–252; 26 U.S.C. 3304 note).

SEC. 328. ADDITIONAL INNOVATIVE PROGRAMS.

(a) IN GENERAL.—A State may use funds allotted under this part to provide a program for innovative activities, which use a strategy that is different from the reemployment strategies described in sections 324–327 and which are designed to facilitate the reemployment of EUC claimants. In addition to the provision of activities to such claimants, the program may include the provision of activities to individuals who are unemployed and have exhausted their rights to emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008, (Public Law 110–252; 26 U.S.C. 3304 note).

(b) CONDITIONS.—The innovative activities approved in accordance with subsection (a)—

(1) shall directly benefit EUC claimants and, if applicable, individuals described in subsection (a), either as a benefit paid to such claimant or individual or as a service provided to such claimant or individual;

(2) shall not result in a reduction in the duration or amount of, emergency unemployment compensation for which EUC claimants would otherwise be eligible;

(3) shall not include a reduction in the duration, amount of or eligibility for regular compensation or extended benefits;

(4) shall not be used to displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation) or allow a program participant to perform work activities related to any job for which—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling or partially filling the vacancy so created with the work activities to be performed by a program participant;

(C) there is a strike or lock out at the worksite that is the participant's place of employment; or

(D) the job is created in a manner that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation);

(5) shall not be in violation of any Federal, State, or local law.

SEC. 329. GUIDANCE AND ADDITIONAL REQUIREMENTS.

The Secretary of Labor may establish through guidance, without regard to the requirements of section 553 of title 5, United States Code, such additional requirements, including requirements regarding the allotment, recapture, and reallotment of funds, and reporting requirements, as the Secretary determines to be necessary to ensure fiscal integrity, effective monitoring, and appropriate and prompt implementation of the activities under this Act.

SEC. 330. REPORT OF INFORMATION AND EVALUATIONS TO CONGRESS AND THE PUBLIC.

The Secretary of Labor shall provide to the appropriate Committees of the Congress and make available to the public the information reported pursuant to section 329 and the evaluations of activities carried out pursuant to the funds reserved under section 322(a)(1).

SEC. 331. STATE.

For purposes of this part, the term ''State'' has the meaning given that term in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

PART III—SHORT-TIME COMPENSATION PROGRAM

SEC. 341. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

''(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

''(1) the participation of an employer is voluntary;

''(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

''(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are eligible for unemployment compensation;

''(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were totally unemployed from the participating employer;

''(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by their participation in the short-time compensation program;

''(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by the State agency;

''(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program, subject to other requirements in this section;

''(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

''(9) in the case of employees represented by a union as the sole and exclusive representative, the appropriate official of the union has agreed to the terms of the employer's written plan and implementation is consistent with employer obligations under the applicable Federal laws; and

''(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.''.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));''.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

''(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and''; and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking ''the payment of short-time compensation under a plan approved by the Secretary of Labor'' and inserting ''the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)''.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

SEC. 342. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)) under the provisions of the State law.

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement 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 the Secretary's 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.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a

benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—

(1) IN GENERAL.—Payments to a State under subsection (a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

(2) THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 343.—States may receive payments under this section and section 343 with respect to a total of not more than 156 weeks.

(c) TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.—During any period that the transition provision under section 341(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a), the State shall be eligible for payments under this section after the effective date of such enactment.

(d) FUNDING AND CERTIFICATIONS.—

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(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.

(e) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms ''State'', ''State agency'', and ''State law'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 343. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State's law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)).

(2) ABILITY TO TERMINATE.—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 FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State's unemployment fund and shall not be used for purposes of calculating an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

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

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement 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 the Secretary's 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.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(4) 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.

(d) APPLICABILITY.—

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

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

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 342(b), shall be eligible to receive payments under section 342 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms ''State'', ''State agency'', and ''State law'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 344. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraph (1) and (2).

(B) CLARIFICATION.—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 341(a)(3) and 342(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 341(a)), and a State with an agreement under section 343, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying $700,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

(2) NOTICE.—The Secretary 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 for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, $700,000,000 to carry out this section, to remain available without fiscal year limitation.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) SHORT-TIME COMPENSATION PROGRAM.—The term ''short-time compensation program'' has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms ''State'', ''State agency'', and ''State law'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 345. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)), the Secretary of Labor (in this section referred to as the ''Secretary'') shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers; and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

SEC. 346. REPORTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this Act.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)).

(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in States that have not enacted a short-time compensation program or entered into an agreement with the Secretary on a short-time compensation plan to determine the level of interest among such employers in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, $1,500,000 to carry out this section, to remain available without fiscal year limitation.

Subtitle B—Long Term Unemployed Hiring Preferences

SEC. 351. LONG TERM UNEMPLOYEED WORKERS WORK OPPORTUNITY TAX CREDITS.

(a) IN GENERAL.—Paragraph (3) of section 51(b) of the Internal Revenue Code is amended by inserting ''$10,000 per year in the case of any individual who is a qualified long term unemployed individual by reason of subsection (d)(11), and'' before ''$12,000 per year''.

(b) LONG TERM UNEMPLOYEED INDIVIDUALS TAX CREDITS.—Paragraph (d) of section 51 of the Internal Revenue Code is amended by—

(1) inserting ''(J) qualified long term unemployed individual'' at the end of paragraph (d)(1);

(2) inserting a new paragraph after paragraph (10) as follows—

''(11) Qualified long term unemployed individual.

''(A) IN GENERAL.—The term 'qualified long term unemployed individual' means any individual who was not a student for at least 6 months during the 1-year period ending on the hiring date and is certified by the designated local agency as having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.

''(B) STUDENT.—For purposes of this subsection, a student is an individual enrolled at least half-time in a program that leads to a degree, certificate, or other recognized educational credential for at least 6 months whether or not consecutive during the 1-year period ending on the hiring date.''; and

(3) renumbering current paragraphs (11) through (14) as paragraphs (12) through (15).

(c) SIMPLIFIED CERTIFICATION.—Section 51(d) of the Internal Revenue Code is amended by adding a new paragraph 16 as follows:

''(16) Credit allowed for qualified long term unemployed individuals.

''(A) IN GENERAL.—Any qualified long term unemployed individual under paragraph (11) will be treated as certified by the designated local agency as having aggregate periods of unemployment if—

''(i) the individual is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date.

''(B) REGULATORY AUTHORITY.—The Secretary in his discretion may provide alternative methods for certification.''.

(d) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—Section 52(c) of the Internal Revenue Code is amended—

(1) by striking the word ''No'' at the beginning of the section and replacing it with ''Except as provided in this subsection, no''; and

(2) the following new paragraphs are inserted at the end of section 52(c)—

''(1) IN GENERAL.—In the case of a tax-exempt employer, there shall be treated as a credit allowable under subpart C (and not allowable under subpart D) the lesser of—

''(A) the amount of the work opportunity credit determined under this subpart with respect to such employer that is related to the hiring of qualified long term unemployed individuals described in subsection (d)(11); or

''(B) the amount of the payroll taxes of the employer during the calendar year in which the taxable year begins.

''(2) CREDIT AMOUNT.—In calculating tax-exempt employers, the work opportunity credit shall be determined by substituting '26 percent' for '40 percent' in section 51(a) and by substituting '16.25 percent' for '25 percent' in section 51(i)(3)(A).

''(3) TAX-EXEMPT EMPLOYER.—For purposes of this subtitle, the term 'tax-exempt employer' means an employer that is—

''(A) an organization described in section 501(c) and exempt from taxation under section 501(a), or

''(B) a public higher education institution (as defined in section 101 of the Higher Education Act of 1965).

''(4) PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'payroll taxes' means—

''(i) amounts required to be withheld from the employees of the tax-exempt employer under section 3401(a),

''(ii) amounts required to be withheld from such employees under section 3101, and

''(iii) amounts of the taxes imposed on the tax-exempt employer under section 3111.''.

(e) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(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 credits that would have been provided by the possession by reason of the application of this section (other than this subsection) 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.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 that is attributable to the credit provided by this section (other than this subsection (e)) shall be taken into account with respect to any person—

(A) to whom a credit is allowed against taxes imposed by the possession of the United States by reason of 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 (e), the term ''possession of the United States'' includes American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin 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, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 shall apply.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

Subtitle C—Pathways Back to Work

SEC. 361. SHORT TITLE.

This subtitle may be cited as the ''Pathways Back to Work Act of 2011''.

SEC. 362. ESTABLISHMENT OF PATHWAYS BACK TO WORK FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund which shall be known as the Pathways Back to Work Fund (hereafter in this Act referred to as ''the Fund'').

(b) DEPOSITS INTO THE FUND.—Out of any amounts in the Treasury of the United States not otherwise appropriated, there are appropriated $5,000,000,000 for payment to the Fund to be used by the Secretary of Labor to carry out this Act.

SEC. 363. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Of the amounts available to the Fund under section 362(b), the Secretary of Labor shall—

(1) allot $2,000,000,000 in accordance with section 364 to provide subsidized employment to unemployed, low-income adults;

(2) allot $1,500,000,000 in accordance with section 365 to provide summer and year-round employment opportunities to low-income youth;

(3) award $1,500,000,000 in competitive grants in accordance with section 366 to local entities to carry out work-based training and other work-related and educational strategies and activities of demonstrated effectiveness to unemployed, low-income adults and low-income youth to provide the skills and assistance needed to obtain employment.

(b) RESERVATION.—The Secretary of Labor may reserve not more than 1 percent of amounts available to the Fund under each of paragraphs (1)–(3) of subsection (a) for the costs of technical assistance, evaluations and Federal administration of this Act.

(c) PERIOD OF AVAILABILITY.—The amounts appropriated under this Act shall be available for obligation by the Secretary of Labor until December 31, 2012, and shall be available for expenditure by grantees and subgrantees until September 30, 2013.

SEC. 364. SUBSIDIZED EMPLOYMENT FOR UNEMPLOYED, LOW-INCOME ADULTS.

(a) IN GENERAL.—

(1) ALLOTMENTS.—From the funds available under section 363(a)(1), the Secretary of Labor shall make an allotment under subsection (b) to each State that has a State plan approved under subsection (c) and to each outlying area and Native American grantee under section 166 of the Workforce Investment Act of 1998 that meets the requirements of this section, for the purpose of providing subsidized employment opportunities to unemployed, low-income adults.

(2) GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor, in coordination with the Secretary of Health and Human Services, shall issue guidance regarding the implementation of this section. Such guidance shall, consistent with this section, include procedures for the submission and approval of State and local plans and the allotment and allocation of funds, including reallotment and reallocation of such funds, that promote the expeditious and effective implementation of the activities authorized under this section.

(b) STATE ALLOTMENTS.—

(1) RESERVATIONS FOR OUTLYING AREAS AND TRIBES.—Of the funds described subsection (a)(1), the Secretary shall reserve—

(A) not more than one-quarter of one percent to provide assistance to outlying areas to provide subsidized employment to low-income adults who are unemployed; and

(B) 1.5 percent to provide assistance to grantees of the Native American programs under section 166 of the Workforce Investment Act of 1998 to provide subsidized employment to low-income adults who are unemployed.

(2) STATES.—After determining the amounts to be reserved under paragraph (1), the Secretary of Labor shall allot the remainder of the amounts described in subsection (a)(1) among the States as follows:

(A) one-third shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(B) one-third shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(C) one-third shall be allotted on the basis of the relative number of disadvantaged adults and youth in each State, compared to the total number of disadvantaged adults and youth in all States.

(3) DEFINITIONS.—For purposes of the formula described in paragraph (2)—

(A) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term ''area of substantial unemployment'' means any contiguous area with a population of at least 10,000 and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary.

(B) DISADVANTAGED ADULTS AND YOUTH.—The term ''disadvantaged adults and youth'' means an individual who is age 16 and older (subject to section 132(b)(1)(B)(v)(I) of the Workforce Investment Act of 1998) who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(i) the poverty line; or

(ii) 70 percent of the lower living standard income level.

(C) EXCESS NUMBER.—The term ''excess number'' means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(4) REALLOTMENT.—If the Governor of a State does not submit a State plan by the time specified in subsection (c), or a State does not receive approval of a State plan, the amount the State would have been eligible to receive pursuant to the formula under paragraph (2) shall be transferred within the Fund and added to the amounts available for the competitive grants under section 363(a)(3).

(c) STATE PLAN.—

(1) IN GENERAL.—For a State to be eligible to receive an allotment of the funds under subsection (b), the Governor of the State shall submit to the Secretary of Labor a State plan in such form and containing such information as the Secretary may require. At a minimum, such plan shall include—

(A) a description of the strategies and activities to be carried out by the State, in coordination with employers in the State, to provide subsidized employment opportunities to unemployed, low-income adults, including strategies relating to the level and duration of subsidies consistent with subsection (e)(2);

(B) a description of the requirements the State will apply relating to the eligibility of unemployed, low-income adults, consistent with section 368(6), for subsidized employment opportunities, which may include criteria to target assistance to particular categories of such adults, such as individuals with disabilities or individuals who have exhausted all rights to unemployment compensation;

(C) a description of how the funds allotted to provide subsidized employment opportunities will be administered in the State and local areas, in accordance with subsection (d);

(D) a description of the performance outcomes to be achieved by the State through

the activities carried out under this section and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes and with section 367(b);

(E) a description of the coordination of activities to be carried out with the funds provided under this section with activities under title I of the Workforce Investment Act of 1998, the TANF program under part A of title IV of the Social Security Act, and other appropriate Federal and State programs that may assist unemployed, low-income adults in obtaining and retaining employment;

(F) a description of the timelines for implementation of the activities described in subparagraph (A), and the number of unemployed, low-income adults expected to be placed in subsidized employment by quarter;

(G) assurances that the State will report such information as the Secretary of Labor may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(H) assurances that the State will ensure compliance with the labor standards and protections described in section 367(a) of this Act.

(2) SUBMISSION AND APPROVAL OF STATE PLAN.—

(A) SUBMISSION WITH OTHER PLANS.—The State plan described in this subsection may be submitted in conjunction with the State plan modification or request for funds required under section 365, and may be submitted as a modification to a State plan that has been approved under section 112 of the Workforce Investment Act of 1998.

(B) SUBMISSION AND APPROVAL.—

(i) SUBMISSION.—The Governor shall submit a plan to the Secretary of Labor not later than 75 days after the enactment of this Act and the Secretary of Labor shall make a determination regarding the approval or disapproval of such plans not later than 45 days after the submission of such plan. If the plan is disapproved, the Secretary of Labor may provide a reasonable period of time in which a disapproved plan may be amended and resubmitted for approval.

(ii) APPROVAL.—The Secretary of Labor shall approve a State plan that the Secretary determines is consistent with requirements of this section and reasonably appropriate and adequate to carry out the purposes of this section. If the plan is approved, the Secretary shall allot funds to States within 30 days after such approval.

(3) MODIFICATIONS TO STATE PLAN.—The Governor may submit a modification to a State plan under this subsection consistent with the requirements of this section.

(d) ADMINISTRATION WITHIN THE STATE.—

(1) OPTION.—The State may administer the funds for activities under this section through—

(A) the State and local entities responsible for the administration of the adult formula program under title I–B of the Workforce Investment Act of 1998;

(B) the entities responsible for the administration of the TANF program under part A of title IV of the Social Security Act; or

(C) a combination of the entities described in subparagraphs (A) and (B).

(2) WITHIN-STATE ALLOCATIONS.—

(A) ALLOCATION OF FUNDS.—The Governor may reserve up to 5 percent of the allotment under subsection (b)(2) for administration and technical assistance, and shall allocate the remainder, in accordance with the option elected under paragraph (1)—

(i) among local workforce investment areas within the State in accordance with the factors identified in subsection (b)(2), except that for purposes of such allocation references to a State in such paragraph shall be deemed to be references to a local workforce investment area and references to all States shall be deemed to be references to all local areas in the State involved, of which not more than 10 percent of the funds allocated to a local workforce investment area may be used for the costs of administration of this section; or

(ii) through entities responsible for the administration of the TANF program under part A of title IV of the Social Security Act in local areas in such manner as the State may determine appropriate.

(B) LOCAL PLANS.—

(i) IN GENERAL.—In the case where the responsibility for the administration of activities is to be carried out by the entities described under paragraph (1)(A), in order to receive an allocation under subparagraph (A)(i), a local workforce investment board, in partnership with the chief elected official of the local workforce investment area involved, shall submit to the Governor a local plan for the use of such funds under this section not later than 30 days after the submission of the State plan. Such local plan may be submitted as a modification to a local plan approved under section 118 of the Workforce Investment Act of 1998.

(ii) CONTENTS.—The local plan described in clause (i) shall contain the elements described in subparagraphs (A)–(H) of subsection (c)(1), as applied to the local workforce investment area.

(iii) APPROVAL.—The Governor shall approve or disapprove the local plan submitted under clause (i) within 30 days after submission, or if later, 30 days after the approval of the State plan. The Governor shall approve the plan unless the Governor determines that the plan is inconsistent with requirements of this section or is not reasonably appropriate and adequate to carry out the purposes of this section. If the Governor has not made a determination within the period specified under the first sentence of this clause, the plan shall be considered approved. If the plan is disapproved, the Governor may provide a reasonable period of time in which a disapproved plan may be amended and resubmitted for approval. The Governor shall allocate funds to local workforce investment areas with approved plans within 30 days after such approval.

(C) REALLOCATION OF FUNDS TO LOCAL AREAS.—If a local workforce investment board does not submit a local plan by the time specified in subparagraph (B) or the Governor does not approve a local plan, the amount the local workforce investment area would have been eligible to receive pursuant to the formula under subparagraph (A)(i) shall be allocated to local workforce investment areas that receive approval of the local plan under subparagraph (B). Such reallocations shall be made in accordance with the relative share of the allocations to such local workforce investment areas applying the formula factors described under subparagraph (A)(i).

(e) USE OF FUNDS.—

(1) IN GENERAL.—The funds under this section shall be used to provide subsidized employment for unemployed, low-income adults. The State and local entities described in subsection (d)(1) may use a variety of strategies in recruiting employers and identifying appropriate employment opportunities, with a priority to be provided to employment opportunities likely to lead to unsubsidized employment in emerging or in-demand occupations in the local area. Funds under this section may be used to provide support services, such as transportation and child care, that are necessary to enable the participation of individuals in subsidized employment opportunities.

(2) LEVEL OF SUBSIDY AND DURATION.—The States or local entities described in subsection (d)(1) may determine the percentage of the wages and costs of employing a participant for which an employer may receive a subsidy with the funds provided under this section, and the duration of such subsidy, in accordance with guidance issued by the Secretary. The State or local entities may establish criteria for determining such percentage or duration using appropriate factors such as the size of the employer and types of employment.

(f) COORDINATION OF FEDERAL ADMINISTRATION.—The Secretary of Labor shall administer this section in coordination with the Secretary of Health and Human Services to ensure the effective implementation of this section.

SEC. 365. SUMMER EMPLOYMENT AND YEAR-ROUND EMPLOYMENT OPPORTUNITIES FOR LOW-INCOME YOUTH.

(a) IN GENERAL.—From the funds available under section 363(a)(2), the Secretary of Labor shall make an allotment under subsection (c) to each State that has a State plan modification (or other form of request for funds specified in guidance under subsection (b)) approved under subsection (d) and to each outlying area and Native American grantee under section 166 of the Workforce Investment Act of 1998 that meets the requirements of this section, for the purpose of providing summer employment and year-round employment opportunities to low-income youth.

(b) GUIDANCE AND APPLICATION OF REQUIREMENTS.—

(1) GUIDANCE.—Not later than 20 days after the date of enactment of this Act, the Secretary of Labor shall issue guidance regarding the implementation of this section. Such guidance shall, consistent with this section, include procedures for the submission and approval of State plan modifications, or for forms of requests for funds by the State as may be identified in such guidance, local plan modifications, or other forms of requests for funds from local workforce investment areas as may be identified in such guidance, and the allotment and allocation of funds, including reallotment and reallocation of such funds, that promote the expeditious and effective implementation of the activities authorized under this section.

(2) REQUIREMENTS.—Except as otherwise provided in the guidance described in paragraph (1) and in this section and other provisions of this Act, the funds provided for activities under this section shall be administered in accordance with subtitles B and E of title I of the Workforce Investment Act of 1998 relating to youth activities.

(c) STATE ALLOTMENTS.—

(1) RESERVATIONS FOR OUTLYING AREAS AND TRIBES.—Of the funds described subsection (a), the Secretary shall reserve—

(A) not more than one-quarter of one percent to provide assistance to outlying areas to provide summer and year-round employment opportunities to low-income youth; and

(B) 1.5 percent to provide assistance to grantees of the Native American programs under section 166 of the Workforce Investment Act of 1998 to provide summer and year-round employment opportunities to low-income youth.

(2) STATES.—After determining the amounts to be reserved under paragraph (1), the Secretary of Labor shall allot the remainder of the amounts described in subsection (a) among the States in accordance with the factors described in section 364(b)(2) of this Act.

(3) REALLOTMENT.—If the Governor of a State does not submit a State plan modification or other request for funds specified in guidance under subsection (b) by the time specified in subsection (d)(2)(B), or a State does not receive approval of such State plan modification or request, the amount the State would have been eligible to receive pursuant to the formula under paragraph (2) shall be transferred within the Fund and added to the amounts available for the competitive grants under section 363(a)(3).

(d) STATE PLAN MODIFICATION.—

(1) IN GENERAL.—For a State to be eligible to receive an allotment of the funds under subsection (c), the Governor of the State shall submit to the Secretary of Labor a modification to a State plan approved under section 112 of the Workforce Investment Act of 1998, or other request for funds described in guidance in subsection (b), in such form and containing such information as the Secretary may require. At a minimum, such plan modification or request shall include—

(A) a description of the strategies and activities to be carried out to provide summer employment opportunities and year-round employment opportunities, including the linkages to educational activities, consistent with subsection (f);

(B) a description of the requirements the States will apply relating to the eligibility of low-income youth, consistent with section 368(4), for summer employment opportunities and year-round employment opportunities, which may include criteria to target assistance to particular categories of such low-income youth, such as youth with disabilities, consistent with subsection (f);

(C) a description of the performance outcomes to be achieved by the State through the activities carried out under this section and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes and with section 367(b);

(D) a description of the timelines for implementation of the activities described in subparagraph (A), and the number of low-income youth expected to be placed in summer employment opportunities, and year-round employment opportunities, respectively, by quarter;

(E) assurances that the State will report such information as the Secretary may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(F) assurances that the State will ensure compliance with the labor standards protections described in section 367(a).

(2) SUBMISSION AND APPROVAL OF STATE PLAN MODIFICATION OR REQUEST.—

(A) SUBMISSION.—The Governor shall submit a modification of the State plan or other request for funds described in guidance in subsection (b) to the Secretary of Labor not later than 30 days after the issuance of such guidance. The State plan modification or request for funds required under this subsection may be submitted in conjunction with the State plan required under section 364.

(B) APPROVAL.—The Secretary of Labor shall approve the plan or request submitted under subparagraph (A) within 30 days after submission, unless the Secretary determines that the plan or request is inconsistent with the requirements of this section. If the Secretary has not made a determination within 30 days, the plan or request shall be considered approved. If the plan or request is disapproved, the Secretary may provide a reasonable period of time in which a disapproved plan or request may be amended and resubmitted for approval. If the plan or request is approved, the Secretary shall allot funds to States within 30 days after such approval.

(3) MODIFICATIONS TO STATE PLAN OR REQUEST.—The Governor may submit further modifications to a State plan or request for funds identified under subsection (b) to carry out this section in accordance with the requirements of this section.

(e) WITHIN-STATE ALLOCATION AND ADMINISTRATION.—

(1) IN GENERAL.—Of the funds allotted to the State under subsection (c), the Governor—

(A) may reserve up to 5 percent of the allotment for administration and technical assistance; and

(B) shall allocate the remainder of the allotment among local workforce investment areas within the State in accordance with the factors identified in section 364(b)(2), except that for purposes of such allocation references to a State in such paragraph shall be deemed to be references to a local workforce investment area and references to all States shall be deemed to be references to all local areas in the State involved. Not more than 10 percent of the funds allocated to a local workforce investment area may be used for the costs of administration of this section.

(2) LOCAL PLAN.—

(A) SUBMISSION.—In order to receive an allocation under paragraph (1)(B), the local workforce investment board, in partnership with the chief elected official for the local workforce investment area involved, shall submit to the Governor a modification to a local plan approved under section 118 of the Workforce Investment Act of 1998, or other form of request for funds as may be identified in the guidance issued under subsection (b), not later than 30 days after the submission by the State of the modification to the State plan or other request for funds identified in subsection (b), describing the strategies and activities to be carried out under this section.

(B) APPROVAL.—The Governor shall approve the local plan submitted under subparagraph (A) within 30 days after submission, unless the Governor determines that the plan is inconsistent with requirements of this section. If the Governor has not made a determination within 30 days, the plan shall be considered approved. If the plan is disapproved, the Governor may provide a reasonable period of time in which a disapproved plan may be amended and resubmitted for approval. The Governor shall allocate funds to local workforce investment areas with approved plans within 30 days after approval.

(3) REALLOCATION.—If a local workforce investment board does not submit a local plan modification (or other request for funds identified in guidance under subsection (b)) by the time specified in paragraph (2), or does not receive approval of a local plan, the amount the local workforce investment area would have been eligible to receive pursuant to the formula under paragraph (1)(B) shall be allocated to local workforce investment areas that receive approval of the local plan modification or request for funds under paragraph (2). Such reallocations shall be made in accordance with the relative share of the allocations to such local workforce investment areas applying the formula factors described under paragraph (1)(B).

(f) USE OF FUNDS.—

(1) IN GENERAL.—The funds provided under this section shall be used—

(A) to provide summer employment opportunities for low-income youth, ages 16 through 24, with direct linkages to academic and occupational learning, and may include the provision of supportive services, such as transportation or child care, necessary to enable such youth to participate; and

(B) to provide year round employment opportunities, which may be combined with other activities authorized under section 129 of the workforce investment act of 1998,to low-income youth, ages 16 through 24, with a priority to out-of school youth who are—

(i) high school dropouts; or

(ii) recipients of a secondary school diploma or its equivalent but who are basic skills deficient unemployed or underemployed.

(2) PROGRAM PRIORITIES.—In administering the funds under this section, the local board and local chief elected officials shall give a priority to—

(A) identifying employment opportunities that are—

(i) in emerging or in-demand occupations in the local workforce investment area; or

(ii) in the public or nonprofit sector that meet community needs; and

(B) linking year-round program participants to training and educational activities that will provide such participants an industry-recognized certificate or credential.

(3) PERFORMANCE ACCOUNTABILITY.—For activities funded under this section, in lieu of the requirements described in section 136 of the Workforce Investment Act of 1998, State and local workforce investment areas shall provide such reports as the Secretary of Labor may require regarding the performance outcomes described in section 367(a)(5).

SEC. 366. WORK-BASED EMPLOYMENT STRATEGIES OF DEMONSTRATED EFFECTIVENESS.

(a) IN GENERAL.—From the funds available under section 363(a)(3), the Secretary of Labor shall award grants on a competitive basis to eligible entities to carry out work-based strategies of demonstrated effectiveness.

(b) USE OF FUNDS.—The grants awarded under this section shall be used to support strategies and activities of demonstrated effectiveness that are designed to provide unemployed, low-income adults or low-income youth with the skills that will lead to employment as part of or upon completion of participation in such activities. Such strategies and activities may include—

(1) on-the-job training, registered apprenticeship programs, or other programs that combine work with skills development;

(2) sector-based training programs that have been designed to meet the specific requirements of an employer or group of employers in that sector and where employers are committed to hiring individuals upon successful completion of the training;

(3) training that supports an industry sector or an employer-based or labor-management committee industry partnership which includes a significant work-experience component;

(4) acquisition of industry-recognized credentials in a field identified by the State or local workforce investment area as a growth sector or demand industry in which there are likely to be significant job opportunities in the short-term;

(5) connections to immediate work opportunities, including subsidized employment opportunities, or summer employment opportunities for youth, that includes concurrent skills training and other supports;

(6) career academies that provide students with the academic preparation and training, including paid internships and concurrent enrollment in community colleges or other postsecondary institutions, needed to pursue a career pathway that leads to postsecondary credentials and high-demand jobs; and

(7) adult basic education and integrated basic education and training models for low-

skilled adults, hosted at community colleges or at other sites, to prepare individuals for jobs that are in demand in a local area.

(c) ELIGIBLE ENTITY.—An eligible entity shall include a local chief elected official, in collaboration with the local workforce investment board for the local workforce investment area involved (which may include a partnership with of such officials and boards in the region and in the State), or an entity eligible to apply for an Indian and Native American grant under section 166 of the Workforce Investment Act of 1998, and may include, in partnership with such officials, boards, and entities, the following:

(1) employers or employer associations;

(2) adult education providers and postsecondary educational institutions, including community colleges;

(3) community-based organizations;

(4) joint labor-management committees;

(5) work-related intermediaries; or

(6) other appropriate organizations.

(d) APPLICATION.—An eligible entity seeking to receive a grant under this section shall submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall—

(1) describe the strategies and activities of demonstrated effectiveness that the eligible entities will carry out to provide unemployed, low-income adults and low-income youth with the skills that will lead to employment upon completion of participation in such activities;

(2) describe the requirements that will apply relating to the eligibility of unemployed, low-income adults or low-income youth, consistent with paragraphs (4) and (6) of section 368, for activities carried out under this section, which may include criteria to target assistance to particular categories of such adults and youth, such as individuals with disabilities or individuals who have exhausted all rights to unemployment compensation;

(3) describe how the strategies and activities address the needs of the target populations identified in paragraph (2) and the needs of employers in the local area;

(4) describe the expected outcomes to be achieved by implementing the strategies and activities;

(5) provide evidence that the funds provided may be expended expeditiously and efficiently to implement the strategies and activities;

(6) describe how the strategies and activities will be coordinated with other Federal, State and local programs providing employment, education and supportive activities;

(7) provide evidence of employer commitment to participate in the activities funded under this section, including identification of anticipated occupational and skill needs;

(8) provide assurances that the grant recipient will report such information as the Secretary may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(9) provide assurances that the use of the funds provided under this section will comply with the labor standards and protections described section 367(a).

(e) PRIORITY IN AWARDS.—In awarding grants under this section, the Secretary of Labor shall give a priority to applications submitted by eligible entities from areas of high poverty and high unemployment, as defined by the Secretary, such as Public Use Microdata Areas (PUMAs) as designated by the Census Bureau.

(f) COORDINATION OF FEDERAL ADMINISTRATION.—The Secretary of Labor shall administer this section in coordination with the Secretary of Education, Secretary of Health and Human Services, and other appropriate agency heads, to ensure the effective implementation of this section.

SEC. 367. GENERAL REQUIREMENTS.

(a) LABOR STANDARDS AND PROTECTIONS.—Activities provided with funds under this Act shall be subject to the requirements and restrictions, including the labor standards, described in section 181 of the Workforce Investment Act of 1998 and the nondiscrimination provisions of section 188 of such Act, in addition to other applicable federal laws.

(b) REPORTING.—The Secretary may require the reporting of information relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out with funds provided under this Act. At a minimum, grantees and subgrantees shall provide information relating to—

(1) the number individuals participating in activities with funds provided under this Act and the number of such individuals who have completed such participation;

(2) the expenditures of funds provided under the Act;

(3) the number of jobs created pursuant to the activities carried out under this Act;

(4) the demographic characteristics of individuals participating in activities under this Act; and

(5) the performance outcomes of individuals participating in activities under this act, including—

(A) for adults participating in activities funded under section 364 of this act—

(i) entry in unsubsidized employment,

(ii) retention in unsubsidized employment, and

(iii) earnings in unsubsidized employment;

(B) for low-income youth participating in summer employment activities under sections 365 and 366—

(i) work readiness skill attainment using an employer validated checklist; or

(ii) placement in or return to secondary or postsecondary education or training, or entry into unsubsidized employment;

(C) for low-income youth participating in year-round employment activities under section 365 or in activities under section 366—

(i) placement in or return to post-secondary education;

(ii) attainment of high school diploma or its equivalent;

(iii) attainment of an industry-recognized credential; and

(iv) entry into unsubsidized employment, retention, and earnings as described in subparagraph (A);

(D) for unemployed, low-income adults participating in activities under section 366—

(i) entry into unsubsidized employment, retention, and earnings as described in subparagraph (A); and

(ii) the attainment of industry-recognized credentials.

(c) ACTIVITIES REQUIRED TO BE ADDITIONAL.—Funds provided under this Act shall only be used for activities that are in addition to activities that would otherwise be available in the State or local area in the absence of such funds.

(d) ADDITIONAL REQUIREMENTS.—The Secretary of Labor may establish such additional requirements as the Secretary determines may be necessary to ensure fiscal integrity, effective monitoring, and the appropriate and prompt implementation of the activities under this Act.

(e) REPORT OF INFORMATION AND EVALUATIONS TO CONGRESS AND THE PUBLIC.—The Secretary of Labor shall provide to the appropriate Committees of the Congress and make available to the public the information reported pursuant to subsection (b) and the evaluations of activities carried out pursuant to the funds reserved under section 363(b).

SEC. 368. DEFINITIONS.

In this Act:

(1) LOCAL CHIEF ELECTED OFFICIAL.—The term ''local chief elected official'' means the chief elected executive officer of a unit of local government in a local workforce investment area or in the case where more than one unit of general government, the individuals designated under an agreement described in section 117(c)(1)(B) of the Workforce Investment Act of 1998.

(2) LOCAL WORKFORCE INVESTMENT AREA.—The term ''local workforce investment area'' means such area designated under section 116 of the Workforce Investment Act of 1998.

(3) LOCAL WORKFORCE INVESTMENT BOARD.—The term ''local workforce investment board'' means such board established under section 117 of the Workforce Investment Act of 1998.

(4) LOW-INCOME YOUTH.—The term ''low-income youth'' means an individual who—

(A) is aged 16 through 24;

(B) meets the definition of a low-income individual provided in section 101(25) of the Workforce Investment Act of 1998, except that States, local workforce investment areas under section 365 and eligible entities under section 366(c), subject to approval in the applicable State plans, local plans, and applications for funds, may increase the income level specified in subparagraph (B)(i) of such section to an amount not in excess of 200 percent of the poverty line for purposes of determining eligibility for participation in activities under sections 365 and 366 of this Act; and

(C) is in one or more of the categories specified in section 101(13)(C) of the Workforce Investment Act of 1998.

(5) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(6) UNEMPLOYED, LOW-INCOME ADULT.—The term ''unemployed, low-income adult'' means an individual who—

(A) is age 18 or older;

(B) is without employment and is seeking assistance under this Act to obtain employment; and

(C) meets the definition of a ''low-income individual'' under section 101(25) of the Workforce Investment Act of 1998, except that for that States, local entities described in section 364(d)(1) and eligible entities under section 366(c), subject to approval in the applicable State plans, local plans, and applications for funds, may increase the income level specified in subparagraph (B)(i) of such section to an amount not in excess of 200 percent of the poverty line for purposes of determining eligibility for participation in activities under sections 364 and 366 of this Act.

(7) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, and Puerto Rico.

Subtitle D—Prohibition of Discrimination in Employment on the Basis of an Individual's Status as Unemployed

SEC. 371. SHORT TITLE.

This subtitle may be cited as the ''Fair Employment Opportunity Act of 2011''.

SEC. 372. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that denial of employment opportunities to individuals because of their status as unemployed is discriminatory and burdens commerce by—

(1) reducing personal consumption and undermining economic stability and growth;

(2) squandering human capital essential to the Nation's economic vibrancy and growth;

(3) increasing demands for Federal and State unemployment insurance benefits, reducing trust fund assets, and leading to higher payroll taxes for employers, cuts in benefits for jobless workers, or both;

(4) imposing additional burdens on publicly funded health and welfare programs; and

(5) depressing income, property, and other tax revenues that the Federal Government, States, and localities rely on to support operations and institutions essential to commerce.

(b) PURPOSES.—The purposes of this Act are—

(1) to prohibit employers and employment agencies from disqualifying an individual from employment opportunities because of that individual's status as unemployed;

(2) to prohibit employers and employment agencies from publishing or posting any advertisement or announcement for an employment opportunity that indicates that an individual's status as unemployed disqualifies that individual for the opportunity; and

(3) to eliminate the burdens imposed on commerce due to the exclusion of such individuals from employment.

SEC. 373. DEFINITIONS.

As used in this Act—

(1) the term ''affected individual'' means any person who was subject to an unlawful employment practice solely because of that individual's status as unemployed;

(2) the term ''Commission'' means the Equal Employment Opportunity Commission;

(3) the term ''employee'' means—

(A) an employee as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(B) a State employee to which section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)) applies;

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301) or section 411(c) of title 3, United States Code; or

(D) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies;

(4) the term ''employer'' means—

(A) a person engaged in an industry affecting commerce (as defined in section 701(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(h)) who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but does not include a bona fide private membership club that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986;

(B) an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 applies;

(C) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995 or section 411(c) of title 3, United States Code; or

(D) an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies;

(5) the term ''employment agency'' means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for individuals opportunities to work as employees for an employer and includes an agent of such a person, and any person who maintains an Internet website or print medium that publishes advertisements or announcements of openings in jobs for employees;

(6) the term ''person'' has the meaning given the term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)); and

(7) the term ''status as unemployed'', used with respect to an individual, means that the individual, at the time of application for employment or at the time of action alleged to violate this Act, does not have a job, is available for work and is searching for work.

SEC. 374. PROHIBITED ACTS.

(a) EMPLOYERS.—It shall be an unlawful employment practice for an employer to—

(1) publish in print, on the Internet, or in any other medium, an advertisement or announcement for an employee for any job that includes—

(A) any provision stating or indicating that an individual's status as unemployed disqualifies the individual for any employment opportunity; or

(B) any provision stating or indicating that an employer will not consider or hire an individual for any employment opportunity based on that individual's status as unemployed;

(2) fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or

(3) direct or request that an employment agency take an individual's status as unemployed into account to disqualify an applicant for consideration, screening, or referral for employment as an employee.

(b) EMPLOYMENT AGENCIES.—It shall be an unlawful employment practice for an employment agency to—

(1) publish, in print or on the Internet or in any other medium, an advertisement or announcement for any vacancy in a job, as an employee, that includes—

(A) any provision stating or indicating that an individual's status as unemployed disqualifies the individual for any employment opportunity; or

(B) any provision stating or indicating that the employment agency or an employer will not consider or hire an individual for any employment opportunity based on that individual's status as unemployed;

(2) screen, fail or refuse to consider, or fail or refuse to refer an individual for employment as an employee because of the individual's status as unemployed; or

(3) limit, segregate, or classify any individual in any manner that would limit or tend to limit the individual's access to information about jobs, or consideration, screening, or referral for jobs, as employees, solely because of an individual's status as unemployed.

(c) INTERFERENCE WITH RIGHTS, PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any employer or employment agency to—

(1) interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this Act; or

(2) fail or refuse to hire, to discharge, or in any other manner to discriminate against any individual, as an employee, because such individual—

(A) opposed any practice made unlawful by this Act;

(B) has asserted any right, filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this Act;

(C) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Act; or

(D) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this Act.

(d) CONSTRUCTION.—Nothing in this Act is intended to preclude an employer or employment agency from considering an individual's employment history, or from examining the reasons underlying an individual's status as unemployed, in assessing an individual's ability to perform a job or in otherwise making employment decisions about that individual. Such consideration or examination may include an assessment of whether an individual's employment in a similar or related job for a period of time reasonably proximate to the consideration of such individual for employment is job-related or consistent with business necessity.

SEC. 375. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c),

in the case of an affected individual who would be covered by such title, or by section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), respectively;

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of an affected individual who would be covered by such title;

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301)) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of an affected individual who would be covered by section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1));

(4) the Attorney General shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c);

in the case of an affected individual who would be covered by such title, or of section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), respectively;

(5) the President, the Commission, and the Merit Systems Protection Board shall have the same powers as the President, the Commission, and the Board, respectively, have to administer and enforce chapter 5 of title 3, United States Code, in the case of an affected individual who would be covered by section 411 of such title; and

(6) a court of the United States shall have the same jurisdiction and powers as the court has to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title;

(B) sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b and 2000e–16c) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e–16b(a)(1));

(C) the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)); and

(D) chapter 5 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of section 411 of such title.

(b) PROCEDURES.—The procedures applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a

claim alleged by such individual for a violation of such title;

(2) the procedures applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)) in the case of a claim alleged by such individual for a violation of such section;

(3) the procedures applicable for a violation of section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in the case of a claim alleged by such individual for a violation of such section; and

(4) the procedures applicable for a violation of section 411 of title 3, United States Code, in the case of a claim alleged by such individual for a violation of such section.

(c) REMEDIES.—

(1) In any claim alleging a violation of Section 374(a)(1) or 374(b)(1) of this Act, an individual, or any person acting on behalf of the individual as set forth in Section 375(a) of this Act, may be awarded, as appropriate—

(A) an order enjoining the respondent from engaging in the unlawful employment practice;

(B) reimbursement of costs expended as a result of the unlawful employment practice;

(C) an amount in liquidated damages not to exceed $1,000 for each day of the violation; and

(D) reasonable attorney's fees (including expert fees) and costs attributable to the pursuit of a claim under this Act, except that no person identified in Section 103(a) of this Act shall be eligible to receive attorney's fees.

(2) In any claim alleging a violation of any other subsection of this Act, an individual, or any person acting on behalf of the individual as set forth in Section 375(a) of this Act, may be awarded, as appropriate, the remedies available for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), section 302(a)(1) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b(a)(1)), section 201(a)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1311(a)(1)), and section 411 of title 3, United States Code, except that in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the individual, damages may be awarded in an amount not to exceed $5,000.

SEC. 376. FEDERAL AND STATE IMMUNITY.

(a) ABROGATION OF STATE IMMUNITY.—A State shall not be immune under the 11th Amendment to the Constitution from a suit brought in a Federal court of competent jurisdiction for a violation of this Act.

(b) WAIVER OF STATE IMMUNITY.—

(1) IN GENERAL.—

(A) WAIVER.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th Amendment to the Constitution or otherwise, to a suit brought by an employee or applicant for employment of that program or activity under this Act for a remedy authorized under Section 375(c) of this Act.

(B) DEFINITION.—In this paragraph, the term ''program or activity'' has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

(2) EFFECTIVE DATE.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(c) REMEDIES AGAINST STATE OFFICIALS.—An official of a State may be sued in the official capacity of the official by any employee or applicant for employment who has complied with the applicable procedures of this Act, for relief that is authorized under this Act.

(d) REMEDIES AGAINST THE UNITED STATES AND THE STATES.—Notwithstanding any other provision of this Act, in an action or administrative proceeding against the United States or a State for a violation of this Act, remedies (including remedies at law and in equity) are available for the violation to the same extent as such remedies would be available against a non-governmental entity.

SEC. 377. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or regulation or any law or regulation of a State or political subdivision of a State.

SEC. 378. SEVERABILITY.

If any provision of this Act, or the application of the provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of the provision to any other person or circumstances shall not be affected by the invalidity.

SEC. 379. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act and shall not apply to conduct occurring before the effective date.

TITLE IV—OFFSETS

Subtitle A—28 Percent Limitation on Certain Deductions and Exclusions

SEC. 401. 28 PERCENT LIMITATION ON CERTAIN DEDUCTIONS AND EXCLUSIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 69. LIMITATION ON CERTAIN DEDUCTIONS AND EXCLUSIONS.

''(a) IN GENERAL.—In the case of an individual for any taxable year, if—

''(1) the taxpayer's adjusted gross income is above—

''(A) $250,000 in the case of a joint return within the meaning of section 6013,

''(B) $225,000 in the case of a head of household return,

''(C) $125,000 in the case of a married filing separately return, or

''(D) $200,000 in all other cases; and

''(2) the taxpayer's adjusted taxable income for such taxable year exceeds the minimum marginal rate amount,

then the tax imposed under section 1 with respect to such taxpayer for such taxable year shall be increased by the amount determined under subsection (b). If the taxpayer is subject to tax under section 55, then in lieu of an increase in tax under section 1, the tax imposed under section 55 with respect to such taxpayer for such taxable year shall be increased by the amount determined under subsection (c).

''(b) ADDITIONAL AMOUNT.—The amount determined under this subsection with respect to any taxpayer for any taxable year is the excess (if any) of—

''(1) the tax which would be imposed under section 1 with respect to such taxpayer for such taxable year if 'adjusted taxable income' were substituted for 'taxable income' each place it appears therein, over

''(2) the sum of—

''(A) the tax which would be imposed under such section with respect to such taxpayer for such taxable year on the greater of—

''(i) taxable income, or

''(ii) the minimum marginal rate amount, plus

''(B) 28 percent of the excess (if any) of the taxpayer's adjusted taxable income over the greater of—

''(i) the taxpayer's taxable income, or

''(ii) the minimum marginal rate amount.

''(c) ADDITIONAL AMT AMOUNT.—

''(1) The amount determined under this subsection with respect to any taxpayer for any taxable year is the additional amount computed under subsection (b) multiplied by the ratio that—

''(A) the result of—

''(i) all itemized deductions (before the application of section 68), plus

''(ii) the specified above-the-line deductions and specified exclusions, minus

''(iii) the amount of deductions disallowed under section 56(b)(1)(A) and (B), minus

''(iv) the non-preference disallowed deductions, bears to

''(B) the sum of—

''(i) the total of itemized deductions (after the application of section 68), plus

''(ii) the specified above-the-line deductions and specified exclusions.

''(2) If the top of the AMT exemption phase-out range for the taxpayer exceeds the minimum marginal rate amount for the taxpayer and if the taxpayer's alternative minimum taxable income does not exceed the top of the AMT exemption phase-out range, the taxpayer must increase its additional AMT amount by 7 percent of the excess of—

''(A) the lesser of—

''(i) the top of the AMT exemption phase-out range, or

''(ii) the taxpayer's alternative minimum taxable income, computed—

''(I) without regard to any itemized deduction or any specified above-the-line deduction, and

''(II) by including the amount of any specified exclusion; over

''(B) the greater of—

''(i) the taxpayer's alternative minimum taxable income, or

''(ii) the minimum marginal rate amount.

''(d) MINIMUM MARGINAL RATE AMOUNT.—For purposes of this section, the term 'minimum marginal rate amount' means, with respect to any taxpayer for any taxable year, the highest amount of the taxpayer's taxable income which would be subject to a marginal rate of tax under section 1 that is less than 36 percent with respect to such taxable year.

''(e) ADJUSTED TAXABLE INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'adjusted taxable income' means taxable income computed—

''(A) without regard to any itemized deduction or any specified above-the-line deduction, and

''(B) by including in gross income any specified exclusion.

''(2) SPECIFIED ABOVE-THE-LINE DEDUCTION.—The term 'specified above-the-line deduction' means—

''(A) the deduction provided under section 162(l) (relating to special rules for health insurance costs of self-employed individuals),

''(B) the deduction provided under section 199 (relating to income attributable to domestic production activities), and

''(C) the deductions provided under the following paragraphs of section 62(a):

''(i) Paragraph (2) (relating to certain trade and business deductions of employees), other than subparagraph (A) thereof.

''(ii) Paragraph (15) (relating to moving expenses).

''(iii) Paragraph (16) (relating to Archer MSAs).

''(iv) Paragraph (17) (relating to interest on education loans).

''(v) Paragraph (18) (relating to higher education expenses).

''(vi) Paragraph (19) (relating to health savings accounts).

''(3) SPECIFIED EXCLUSION.—The term 'specified exclusion' means—

''(A) any interest excluded under section 103,

''(B) any exclusion with respect to the cost described in section 6051(a)(14) (without regard to subparagraph (B) thereof), and

''(C) any foreign earned income excluded under section 911.

''(f) NON-PREFERENCE DISALLOWED DEDUCTIONS.—For purposes of this section, the term 'AMT-allowed deductions' means all itemized deductions disallowed by section 68 multiplied by the ratio that—

''(1) a taxpayer's itemized deductions for the taxable year that are subject to section 68 (that is, not including those excluded under section 68(c)) and that are not limited under section 56(b)(1)(A) or (B), bears to

''(2) the taxpayer's itemized deductions for the taxable year that are subject to section 68 (that is, not including those excluded under section 68(c)).

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations which provide appropriate adjustments to the additional AMT amount.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 2013.

Subtitle B—Tax Carried Interest in Investment Partnerships as Ordinary Income

SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) MODIFICATION TO ELECTION TO INCLUDE PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF TRANSFER.—Subsection (c) of section 83 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary—

''(A) IN GENERAL.—In the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

''(i) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

''(ii) the person receiving such interest shall be treated as having made the election under subsection (b)(1) unless such person makes an election under this paragraph to have such subsection not apply.

''(B) ELECTION.—The election under subparagraph (A)(ii) shall be made under rules similar to the rules of subsection (b)(2).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after December 31, 2012.

SEC. 412. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIPS.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIPS.

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) an amount equal to the net capital gain with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

''(B) subject to the limitation of paragraph (2), an amount equal to the net capital loss with respect to such interest for any partnership taxable year shall be treated as an ordinary loss.

''(2) RECHARACTERIZATION OF LOSSES LIMITED TO RECHARACTERIZED GAINS.—The amount treated as ordinary loss under paragraph (1)(B) for any taxable year shall not exceed the excess (if any) of—

''(A) the aggregate amount treated as ordinary income under paragraph (1)(A) with respect to the investment services partnership interest for all preceding partnership taxable years to which this section applies, over

''(B) the aggregate amount treated as ordinary loss under paragraph (1)(B) with respect to such interest for all preceding partnership taxable years to which this section applies.

''(3) ALLOCATION TO ITEMS OF GAIN AND LOSS.—

''(A) NET CAPITAL GAIN.—The amount treated as ordinary income under paragraph (1)(A) shall be allocated ratably among the items of long-term capital gain taken into account in determining such net capital gain.

''(B) NET CAPITAL LOSS.—The amount treated as ordinary loss under paragraph (1)(B) shall be allocated ratably among the items of long-term capital loss and short-term capital loss taken into account in determining such net capital loss.

''(4) TERMS RELATING TO CAPITAL GAINS AND LOSSES.—For purposes of this section—

''(A) IN GENERAL.—Net capital gain, long-term capital gain, and long-term capital loss, with respect to any investment services partnership interest for any taxable year, shall be determined under section 1222, except that such section shall be applied—

''(i) without regard to the recharacterization of any item as ordinary income or ordinary loss under this section,

''(ii) by only taking into account items of gain and loss taken into account by the holder of such interest under section 702 with respect to such interest for such taxable year,

''(iii) by treating property which is taken into account in determining gains and losses to which section 1231 applies as capital assets held for more than 1 year, and

''(iv) without regard to section 1202.

''(B) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from such sales or exchanges. Rules similar to the rules of clauses (i) through (iv) of subparagraph (A) shall apply for purposes of the preceding sentence.

''(5) SPECIAL RULES FOR DIVIDENDS.—

''(A) INDIVIDUALS.—Any dividend allocated to any investment services partnership interest shall not be treated as qualified dividend income for purposes of section 1(h).

''(B) CORPORATIONS.—No deduction shall be allowed under section 243 or 245 with respect to any dividend allocated to any investment services partnership interest.

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—

''(A) IN GENERAL.—Any gain on the disposition of an investment services partnership interest shall be—

''(i) treated as ordinary income, and

''(ii) recognized notwithstanding any other provision of this subtitle.

''(B) EXCEPTIONS—CERTAIN TRANSFERS TO CHARITIES AND RELATED PERSONS.—Subparagraph (A) shall not apply to—

''(i) a disposition by gift,

''(ii) a transfer at death, or

''(iii) other disposition identified by the Secretary as a disposition with respect to which it would be inconsistent with the purposes of this section to apply subparagraph (A),

if such gift, transfer, or other disposition is to an organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any fund or account described in section 4966(d)(2)) or a person with respect to whom the transferred interest is an investment services partnership interest.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate amount treated as ordinary income under subsection (a) with respect to such interest for all partnership taxable years to which this section applies, over

''(B) the aggregate amount treated as ordinary loss under subsection (a) with respect to such interest for all partnership taxable years to which this section applies.

''(3) ELECTION WITH RESPECT TO CERTAIN EXCHANGES.—Paragraph (1)(A)(ii) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

''(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and

''(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

''(4) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—

''(A) IN GENERAL.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner, the partner receiving such property shall recognize gain equal to the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of such partner (determined without regard to subparagraph (C)).

''(B) TREATMENT OF GAIN AS ORDINARY INCOME.—Any gain recognized by such partner under subparagraph (A) shall be treated as ordinary income to the same extent and in the same manner as the increase in such partner's distributive share of the taxable income of the partnership would be treated under subsection (a) if, immediately prior to the distribution, the partnership had sold the distributed property at fair market value and all of the gain from such disposition were allocated to such partner. For purposes of applying paragraphs (2) and (3) of subsection (a), any gain treated as ordinary income under this subparagraph shall be treated as an amount treated as ordinary income under subsection (a)(1)(A).

''(C) ADJUSTMENT OF BASIS.—In the case a distribution to which subparagraph (A) applies, the basis of the distributed property in the hands of the distributee partner shall be the fair market value of such property.

''(D) SPECIAL RULES WITH RESPECT TO MERGERS, DIVISIONS, AND TECHNICAL TERMINATIONS.—In the case of a taxpayer which satisfies requirements similar to the requirements of subparagraphs (A) and (B) of paragraph (3), this paragraph and paragraph (1)(A)(ii) shall not apply to the distribution of a partnership interest if such distribution is in connection with a contribution (or deemed contribution) of any property of the partnership to which section 721 applies pursuant to a transaction described in paragraph (1)(B) or (2) of section 708(b).

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in an investment partnership acquired

or held by any person in connection with the conduct of a trade or business described in paragraph (2) by such person (or any person related to such person). An interest in an investment partnership held by any person—

''(A) shall not be treated as an investment services partnership interest for any period before the first date on which it is so held in connection with such a trade or business,

''(B) shall not cease to be an investment services partnership interest merely because such person holds such interest other than in connection with such a trade or business, and

''(C) shall be treated as an investment services partnership interest if acquired from a related person in whose hands such interest was an investment services partnership interest.

''(2) BUSINESSES TO WHICH THIS SECTION APPLIES.—A trade or business is described in this paragraph if such trade or business primarily involves the performance of any of the following services with respect to assets held (directly or indirectly) by the investment partnership referred to in paragraph (1):

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

''(3) INVESTMENT PARTNERSHIP.—

''(A) IN GENERAL.—The term 'investment partnership' means any partnership if, at the end of any calendar quarter ending after December 31, 2012—

''(i) substantially all of the assets of the partnership are specified assets (determined without regard to any section 197 intangible within the meaning of section 197(d)), and

''(ii) more than half of the contributed capital of the partnership is attributable to contributions of property by one or more persons in exchange for interests in the partnership which (in the hands of such persons) constitute property held for the production of income.

''(B) SPECIAL RULES FOR DETERMINING IF PROPERTY HELD FOR THE PRODUCTION OF INCOME.—Except as otherwise provided by the Secretary, for purposes of determining whether any interest in a partnership constitutes property held for the production of income under subparagraph (A)(ii)—

''(i) any election under subsection (e) or (f) of section 475 shall be disregarded, and

''(ii) paragraph (5)(B) shall not apply.

''(C) ANTIABUSE RULES.—The Secretary may issue regulations or other guidance which prevent the avoidance of the purposes of subparagraph (A), including regulations or other guidance which treat convertible and contingent debt (and other debt having the attributes of equity) as a capital interest in the partnership.

''(D) CONTROLLED GROUPS OF ENTITIES.—

''(i) IN GENERAL.—In the case of a controlled group of entities, if an interest in the partnership received in exchange for a contribution to the capital of the partnership by any member of such controlled group would (in the hands of such member) constitute property not held for the production of income, then any interest in such partnership held by any member of such group shall be treated for purposes of subparagraph (A) as constituting (in the hands of such member) property not held for the production of income.

''(ii) CONTROLLED GROUP OF ENTITIES.—For purposes of clause (i), the term 'controlled group of entities' means a controlled group of corporations as defined in section 1563(a)(1), applied without regard to subsections (a)(4) and (b)(2) of section 1563. A partnership or any other entity (other than a corporation) shall be treated as a member of a controlled group of entities if such entity is controlled (within the meaning of section 954(d)(3)) by members of such group (including any entity treated as a member of such group by reason of this sentence).

''(4) SPECIFIED ASSET.—The term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), cash or cash equivalents, or options or derivative contracts with respect to any of the foregoing.

''(5) RELATED PERSONS.—

''(A) IN GENERAL.—A person shall be treated as related to another person if the relationship between such persons is described in section 267(b) or 707(b).

''(B) ATTRIBUTION OF PARTNER SERVICES.—Any service described in paragraph (2) which is provided by a partner of a partnership shall be treated as also provided by such partnership.

''(d) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(1) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of gain and loss (and any dividends) which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

''(A) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in subsection (c)(2) and who are not related to the partner holding the qualified capital interest, and

''(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

''(2) AUTHORITY TO PROVIDE EXCEPTIONS TO ALLOCATION REQUIREMENTS.—To the extent provided by the Secretary in regulations or other guidance—

''(A) ALLOCATIONS TO PORTION OF QUALIFIED CAPITAL INTEREST.—Paragraph (1) may be applied separately with respect to a portion of a qualified capital interest.

''(B) NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—In any case in which the requirements of paragraph (1)(B) are not satisfied, items of gain and loss (and any dividends) shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

''(C) ALLOCATIONS TO SERVICE PROVIDERS' QUALIFIED CAPITAL INTERESTS WHICH ARE LESS THAN OTHER ALLOCATIONS.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.

''(3) SPECIAL RULE FOR CHANGES IN SERVICES AND CAPITAL CONTRIBUTIONS.—In the case of an interest in a partnership which was not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership or by reason of a change in the capital contributions to such partnership, becomes an investment services partnership interest, the qualified capital interest of the holder of such partnership interest immediately after such change shall not, for purposes of this subsection, be less than the fair market value of such interest (determined immediately before such change).

''(4) SPECIAL RULE FOR TIERED PARTNERSHIPS.—Except as otherwise provided by the Secretary, in the case of tiered partnerships, all items which are allocated in a manner which meets the requirements of paragraph (1) to qualified capital interests in a lower-tier partnership shall retain such character to the extent allocated on the basis of qualified capital interests in any upper-tier partnership.

''(5) EXCEPTION FOR NO-SELF-CHARGED CARRY AND MANAGEMENT FEE PROVISIONS.—Except as otherwise provided by the Secretary, an interest shall not fail to be treated as satisfying the requirement of paragraph (1)(A) merely because the allocations made by the partnership to such interest do not reflect the cost of services described in subsection (c)(2) which are provided (directly or indirectly) to the partnership by the holder of such interest (or a related person).

''(6) SPECIAL RULE FOR DISPOSITIONS.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

''(A) the distributive share of gain or loss that would have been allocated to the qualified capital interest (consistent with the requirements of paragraph (1)) if the partnership had sold all of its assets at fair market value immediately before the disposition, bears to

''(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

''(7) QUALIFIED CAPITAL INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified capital interest' means so much of a partner's interest in the capital of the partnership as is attributable to—

''(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)),

''(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

''(iii) the excess (if any) of—

''(I) any items of income and gain taken into account under section 702 with respect to such interest, over

''(II) any items of deduction and loss so taken into account.

''(B) ADJUSTMENT TO QUALIFIED CAPITAL INTEREST.—

''(i) DISTRIBUTIONS AND LOSSES.—The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest and by the excess (if any) of the amount described in subparagraph (A)(iii)(II) over the amount described in subparagraph (A)(iii)(I).

''(ii) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY.—In the case of any contribution of property described in subparagraph (A)(i) with respect to which the fair market value of such property is not equal to the adjusted basis of such property immediately before such contribution, proper adjustments shall be made to the qualified capital interest to take into account such difference consistent with such regulations or other guidance as the Secretary may provide.

''(C) TECHNICAL TERMINATIONS, ETC., DISREGARDED.—No increase or decrease in the qualified capital interest of any partner shall result from a termination, merger, consolidation, or division described in section 708, or any similar transaction.

''(8) TREATMENT OF CERTAIN LOANS.—

''(A) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS QUALIFIED CAPITAL INTEREST OF SERVICE PROVIDING PARTNERS.—For purposes of this subsection, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership). The preceding sentence shall not apply to the extent the loan or other advance is repaid before January 1, 2013 unless such repayment is made with the proceeds of a loan or other advance described in the preceding sentence.

''(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE-PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(2) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

''(e) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any investment entity,

''(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(5) and (d) shall apply for purposes of this subsection.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—

''(i) IN GENERAL.—The term 'disqualified interest' means, with respect to any investment entity—

''(I) any interest in such entity other than indebtedness,

''(II) convertible or contingent debt of such entity,

''(III) any option or other right to acquire property described in subclause (I) or (II), and

''(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) a partnership interest,

''(II) except as provided by the Secretary, any interest in a taxable corporation, and

''(III) except as provided by the Secretary, stock in an S corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation substantially all of the income of which is—

''(I) effectively connected with the conduct of a trade or business in the United States, or

''(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(2).

''(D) INVESTMENT ENTITY.—The term 'investment entity' means any entity which, if it were a partnership, would be an investment partnership.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

''(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section, and

''(2) coordinate this section with the other provisions of this title.

''(g) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) APPLICATION OF SECTION 751 TO INDIRECT DISPOSITIONS OF INVESTMENT SERVICES PARTNERSHIP INTERESTS.—

(1) IN GENERAL.—Subsection (a) of section 751 of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of paragraph (1), by inserting ''or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

''(3) investment services partnership interests held by the partnership,''.

(2) CERTAIN DISTRIBUTIONS TREATED AS SALES OR EXCHANGES.—Subparagraph (A) of section 751(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) investment services partnership interests held by the partnership,''.

(3) APPLICATION OF SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS.—Subsection (f) of section 751 of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of paragraph (1), by inserting ''or'' at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

''(3) investment services partnership interests held by the partnership,''.

(4) INVESTMENT SERVICES PARTNERSHIP INTERESTS; QUALIFIED CAPITAL INTERESTS.—Section 751 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) INVESTMENT SERVICES PARTNERSHIP INTERESTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' has the meaning given such term by section 710(c).

''(2) ADJUSTMENTS FOR QUALIFIED CAPITAL INTERESTS.—The amount to which subsection (a) applies by reason of paragraph (3) thereof shall not include so much of such amount as is attributable to any portion of the investment services partnership interest which is a qualified capital interest (determined under rules similar to the rules of section 710(d)).

''(3) RECOGNITION OF GAINS.—Any gain with respect to which subsection (a) applies by reason of paragraph (3) thereof shall be recognized notwithstanding any other provision of this title.

''(4) COORDINATION WITH INVENTORY ITEMS.—An investment services partnership interest held by the partnership shall not be treated as an inventory item of the partnership.

''(5) PREVENTION OF DOUBLE COUNTING.—Under regulations or other guidance prescribed by the Secretary, subsection (a)(3) shall not apply with respect to any amount to which section 710 applies.''.

(c) TREATMENT FOR PURPOSES OF SECTION 7704.—Subsection (d) of section 7704 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) INCOME FROM CERTAIN CARRIED INTERESTS NOT QUALIFIED.—

''(A) IN GENERAL.—Specified carried interest income shall not be treated as qualifying income.

''(B) SPECIFIED CARRIED INTEREST INCOME.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'specified carried interest income' means—

''(I) any item of income or gain allocated to an investment services partnership interest (as defined in section 710(c)) held by the partnership,

''(II) any gain on the disposition of an investment services partnership interest (as so defined) or a partnership interest to which (in the hands of the partnership) section 751 applies, and

''(III) any income or gain taken into account by the partnership under subsection (b)(4) or (e) of section 710.

''(ii) EXCEPTION FOR QUALIFIED CAPITAL INTERESTS.—A rule similar to the rule of section 710(d) shall apply for purposes of clause (i).

''(C) COORDINATION WITH OTHER PROVISIONS.—Subparagraph (A) shall not apply to any item described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)).

''(D) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

''(i) CERTAIN PARTNERSHIPS OWNED BY REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

''(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNERSHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

''(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

''(E) TRANSITIONAL RULE.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after January 1, 2013.''.

(d) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (7) the following new paragraph:

''(8) The application of section 710(e) or the regulations or other guidance prescribed under section 710(h) to prevent the avoidance of the purposes of section 710.''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(k) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(8), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended by striking ''or (i)'' and inserting '', (i), or (k)''.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by striking ''paragraph (3)'' in paragraph (5)(A), as so redesignated, and inserting ''paragraph (4)''; and

(C) by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which section 6662 applies by reason of subsection (b)(8) unless—

''(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

''(ii) there is or was substantial authority for such treatment, and

''(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(B) RULES RELATING TO REASONABLE BELIEF.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).''.

(e) INCOME AND LOSS FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Section 1402(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ''; and'', and by inserting after paragraph (17) the following new paragraph:

''(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(2) with respect to any entity, investment services partnership income or loss (as defined in subsection (m)) of such individual with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(B) INVESTMENT SERVICES PARTNERSHIP INCOME OR LOSS.—Section 1402 of the Internal Revenue Code is amended by adding at the end the following new subsection:

''(m) INVESTMENT SERVICES PARTNERSHIP INCOME OR LOSS.—For purposes of subsection (a)—

''(1) IN GENERAL.—The term 'investment services partnership income or loss' means, with respect to any investment services partnership interest (as defined in section 710(c)), the net of—

''(A) the amounts treated as ordinary income or ordinary loss under subsections (b) and (e) of section 710 with respect to such interest,

''(B) all items of income, gain, loss, and deduction allocated to such interest, and

''(C) the amounts treated as realized from the sale or exchange of property other than a capital asset under section 751 with respect to such interest.

''(2) EXCEPTION FOR QUALIFIED CAPITAL INTERESTS.—A rule similar to the rule of section 710(d) shall apply for purposes of applying paragraph (1)(B)(ii).''.

(2) SOCIAL SECURITY ACT.—Section 211(a) of the Social Security Act is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; and'', and by inserting after paragraph (16) the following new paragraph:

''(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(2) of the Internal Revenue Code of 1986 with respect to any entity, investment services partnership income or loss (as defined in section 1402(m) of such Code) shall be taken into account in determining the net earnings from self-employment of such individual.''.

(f) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 of the Internal Revenue Code of 1986 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' after ''to the extent otherwise provided by''.

(2) Section 741 of the Internal Revenue Code of 1986 is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnerships)'' before the period at the end.

(3) The table of sections for part I of subchapter K of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnerships.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2012.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes January 1, 2013, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

(A) IN GENERAL.—Section 710(b) of such Code (as added by this section) shall apply to dispositions and distributions after December 31, 2012.

(B) INDIRECT DISPOSITIONS.—The amendments made by subsection (b) shall apply to transactions after December 31, 2012.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(e) of such Code (as added by this section) shall take effect on January 1, 2013.

Subtitle C—Close Loophole for Corporate Jet Depreciation

SECTION 421. GENERAL AVIATION AIRCRAFT TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by striking ''and'' at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

''(v) any general aviation aircraft, and''.

(b) CLASS LIFE.—Paragraph (3) of section 168(g) Internal Revenue Code of 1986 is amended by inserting after subparagraph (E) the following new subparagraph:

''(F) GENERAL AVIATION AIRCRAFT.—In the case of any general aviation aircraft, the recovery period used for purposes of paragraph (2) shall be 12 years.''.

(c) GENERAL AVIATION AIRCRAFT.—Subsection (i) of section 168 Internal Revenue Code of 1986 is amended by inserting after paragraph (19) the following new paragraph:

''(20) GENERAL AVIATION AIRCRAFT.—The term 'general aviation aircraft' means any airplane or helicopter (including airframes and engines) not used in commercial or contract carrying of passengers or freight, but which primarily engages in the carrying of passengers.''.

(d) EFFECTIVE DATE.—This section shall be effective for property placed in service after December 31, 2012.

Subtitle D—Repeal Oil Subsidies

SEC. 431. REPEAL OF DEDUCTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.

(a) IN GENERAL.—Section 263(c) of the Internal Revenue Code of 1986 (relating to intangible drilling and development costs) is amended by adding at the end the following new sentence: ''This subsection shall not apply in the case of oil and gas wells with respect to amounts paid or incurred after December 31, 2012.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2012.

SEC. 432. REPEAL OF DEDUCTION FOR TERTIARY INJECTANTS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by striking section 193 (relating to tertiary injectants).

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 193.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2012.

SEC. 433. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Section 613A of the Internal Revenue Code of 1986 (relating to limitation on percentage depletion in the case of oil and gas wells) is amended to read as follows:

''SEC. 613A. PERCENTAGE DEPLETION NOT ALLOWED IN CASE OF OIL AND GAS WELLS.

''The allowance for depletion under section 611 with respect to any oil and gas well shall be computed without regard to section 613.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 434. SECTION 199 DEDUCTION NOT ALLOWED WITH RESPECT TO OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to income attributable to domestic production activities) is amended—

(1) by striking ''or'' at the end of clause (ii),

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof '', or'', and

(3) by adding at the end thereof the following new clause:

''(iv) the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof.''.

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 199(d) is amended to read as follows:

''(9) PRIMARY PRODUCT.—For purposes of subsection (c)(4)(B)(iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C) as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 435. REPEAL OIL AND GAS WORKING INTEREST EXCEPTION TO PASSIVE ACTIVITY RULES.

(a) IN GENERAL.—Paragraph (3) of section 469(c) of the Internal Revenue Code of 1986

(relating to passive activity defined) is amended by adding at the end thereof the following new subparagraph—

''(C) TERMINATION.—Subparagraph (A) shall not apply for any taxable year beginning after December 31 2012.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 436. UNIFORM SEVEN-YEAR AMORTIZATION FOR GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Paragraph (1) of section 167(h) of the Internal Revenue Code of 1986 (relating to amortization of geological and geophysical expenditures) is amended by striking ''24-month'' and inserting in lieu thereof ''7-year''.

(b) CONFORMING AMENDMENTS.—Section 167(h) is amended—

(1) by striking ''24-month'' in paragraph (4) and inserting in lieu thereof ''7-year'', and

(2) by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2012.

SEC. 437. REPEAL ENHANCED OIL RECOVERY CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1of the Internal Revenue Code of 1986 (relating to business related credits) is amended by striking section 43 (relating to enhanced oil recovery credit).

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 43.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 438. REPEAL MARGINAL WELL PRODUCTION CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1of the Internal Revenue Code of 1986 (relating to business related credits) is amended by striking section 45I (relating to credit for producing oil and gas from marginal wells).

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 45I.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

Subtitle E—Dual Capacity Taxpayers

SEC. 441. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer or any member of the worldwide affiliated group of which such dual capacity taxpayer is also a member to any foreign country or to any possession of the United States for any period shall not be considered a tax to the extent such amount exceeds the amount (determined in accordance with regulations) which would have been required to be paid if the taxpayer were not a dual capacity taxpayer.

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

''(3) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection.''.

(b) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts that, if such amounts were an amount of tax paid or accrued, would be considered paid or accrued in taxable years beginning after December 31, 2012.

SEC. 442. SEPARATE BASKET TREATMENT TAXES PAID ON FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 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:

''(C) combined foreign oil and gas income (as defined in section 907(b)(1)).''.

(b) COORDINATION.—Section 904(d)(2)of such Code is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) COORDINATION WITH COMBINED FOREIGN OIL AND GAS INCOME.—For purposes of this section, passive category income and general category income shall not include combined foreign oil and gas income (as defined in section 907(b)(1)).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 907(a) is hereby repealed.

(2) Section 907(c)(4) is hereby repealed.

(3) Section 907(f) is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

(2) TRANSITIONAL RULES.—

(A) CARRYOVERS.—Any unused foreign oil and gas taxes which under section 907(f) of such Code (as in effect before the amendment made by subsection (c)(3)) would have been allowable as a carryover to the taxpayer's first taxable year beginning after December 31, 2012 (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(B) LOSSES.—The amendment made by subsection (c)(2) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

Subtitle F—Increased Target and Trigger for Joint Select Committee on Deficit Reduction

SEC. 451. INCREASED TARGET AND TRIGGER FOR JOINT SELECT COMMITTEE ON DEFICIT REDUCTION.

(a) INCREASED TARGET FOR JOINT SELECT COMMITTEE.—Section 401(b)(2) of the Budget Control Act of 2011 is amended by striking ''$1,500,000,000,000'' and inserting ''$1,950,000,000,000''.

(b) TRIGGER FOR JOINT SELECT COMMITTEE.—Section 302 of the Budget Control Act of 2011 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) TRIGGER.—If a joint committee bill achieving an amount greater than '$1,650,000,000,000' in deficit reduction as provided in section 401(b)(3)(B)(i)(II) of this Act is enacted by January 15, 2012, then the amendments to the Internal Revenue Code of 1986 made by subtitles A through E of title IV of the American Jobs Act of 2011, shall not be in effect for any taxable year.''.

By Mr. KIRK (for himself, Mr. ALEXANDER, Mr. RUBIO, and Mr. WYDEN):

S. 1551. A bill to establish a smart card pilot program under the Medicare program; to the Committee on Finance.

Mr. KIRK. Mr. President, I am pleased to stand here today and introduce the Medicare Common Access Card Act of 2011 with my colleague from Oregon, Senator RON WYDEN. Every year, at least $60 billion in the Medicare program is attributed to waste, fraud, and abuse in the Medicare program. One of the fundamental steps Congress can take to address this is to upgrade the beneficiary's Medicare card using secure smart card technology, similar to the one already used for Department of Defense personnel.

Verifying identity through a secure smart card will protect a beneficiary's personal information, prevent fraud among beneficiaries and providers, and legitimize Medicare claims. The Department of Defense has issued over 20 million secure smart cards as their ''Common Access Card,'' CAC, to authenticate and verify users for access to programs and facilities. To date, DoD reports that not a single Common Access Card has been counterfeited. We cannot stop or prevent fraud in the system until we find a way to know and verify who is authorized to provide and receive benefits.

The Medicare Common Access Card Act of 2011 builds on the success of the DoD CAC card to establish a program that simply and securely verifies the identity of both Medicare beneficiaries and providers. By implementing well-established Common Access Card technology to protect the Medicare program, we can save U.S. taxpayers billions of dollars while securing the privacy of America's seniors. I urge my colleagues to join us in supporting the Medicare Common Access Card Act—a common sense approach to reforming Medicare, protecting seniors and preventing millions of dollars in waste, fraud, and abuse.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 261—DESIGNATING THE MONTH OF OCTOBER 2011 AS ''NATIONAL MEDICINE ABUSE AWARENESS MONTH''

Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mr. DURBIN, Mr. ROCKEFELLER, Mr. MANCHIN, and Mr. PORTMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 261

Whereas over-the-counter and prescription medicines approved by the Food and Drug Administration have been determined to be safe and effective when used properly;

Whereas the abuse of such medicines can be extremely dangerous and produce serious side effects;

Whereas according to the Substance Abuse and Mental Health Services Administration's 2010 National Survey on Drug Use and Health, the nonmedical use of prescription drugs has risen, with 2.5 percent of the population engaging in nonmedical use of prescription drugs in 2008 and 2.8 percent of the population engaging in such use in 2009;

Whereas the 2010 National Survey on Drug Use and Health illustrates that the abuse of prescription medications such as pain relievers, tranquilizers, stimulants, and sedatives is second only to marijuana, the most commonly abused illegal drug in the United States;

Whereas the 2010 Monitoring the Future survey, funded by the National Institutes of Health, indicates that approximately 5 percent of teenagers in the United States report having abused an over-the-counter cough medicine to get high, and prescription and over-the-counter drugs account for 8 of the 14 most frequently abused drugs by students in grade 12;

Whereas the 2010 Monitoring the Future survey also indicates that the intentional abuse of cough medicine among students in grades 8, 10, and 12 is at 3.2 percent, 5.1 percent, and 6.6 percent, respectively;

Whereas according to research from The Partnership at DrugFree.org, more than one-third of teenagers mistakenly believe that taking prescription drugs, even if not prescribed by a doctor, is much safer than using street drugs;

Whereas the lack of understanding by teenagers and parents of the potential harm of such powerful medicines makes it more critical than ever to raise public awareness about the dangers of the abuse of such drugs;

Whereas when prescription drugs are abused, such drugs are most often obtained through friends and relatives;

Whereas parents should be aware that the Internet gives teenagers access to websites that promote the abuse of medicines;

Whereas the designation of ''National Medicine Abuse Awareness Month'' promotes the message that over-the-counter and prescription medicines should be taken only as labeled or prescribed, and such medicines can have serious or life-threatening consequences when used to get high or in large doses;

Whereas the designation of ''National Medicine Abuse Awareness Month'' will encourage parents to educate themselves about the problem of abuse of over-the-counter and prescription medicines, and talk to their teens about all types of substance abuse;

Whereas observance of ''National Medicine Abuse Awareness Month'' should be encouraged at the national, State, and local levels to increase awareness of the abuse of medicines;

Whereas educational tools, training programs, and strategies have been developed by the national organization that represents 5,000 anti-drug coalitions nationwide and the association representing makers of over-the-counter medicines, in order to help local coalitions demonstrate the best ways to engage and educate parents and grandparents, teachers, law enforcement officials, doctors, other healthcare professionals, and retailers about the potential harms of cough medicine abuse;

Whereas a partnership of nonprofit associations specializing in raising media awareness about substance abuse and organizations that represent the leading makers of over-the-counter drugs have developed a nationwide prevention campaign that utilizes research-based educational advertisements, public relations and news media, and the Internet to inform parents about the negative teen behavior of intentional abuse of medicines, in order to empower parents to effectively communicate with their children about this dangerous trend and to take necessary steps to safeguard prescription and over-the-counter medicines in their homes; and

Whereas educating the public on the dangers of medicine abuse and promoting prevention of medicine abuse are critical components of what must be a multi-pronged effort to curb prescription and over-the-counter medicine abuse: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2011 as ''National Medicine Abuse Awareness Month''; and

(2) urges communities to carry out appropriate programs and activities to educate parents and youth about the potential dangers associated with medicine abuse.

Mrs. FEINSTEIN. Mr. President, I rise to introduce a resolution designating October 2011 as National Medicine Abuse Awareness Month with my colleagues and friends, Senators CHARLES GRASSLEY, RICHARD BLUMENTHAL, SHELDON WHITEHOUSE, DICK DURBIN, JAY ROCKEFELLER, JOE MANCHIN and ROB PORTMAN.

According to the Office of National Drug Control Policy, prescription drug abuse is our Nation's fastest-growing drug problem. The U.S. Substance Abuse and Mental Health Services Administration's 2010 National Survey on Drug Use and Health found that the non-medical use of prescription drugs rose from 2.5 percent of the population in 2008 to 2.8 percent in 2009. The 2010 National Survey on Drug Use and Health illustrates that the abuse of prescription medications such as pain relievers, tranquilizers, stimulants, and sedatives is second only to marijuana, the number one illegal drug of abuse in the United States.

Sadly the number of people who have unintentionally overdosed on prescription drugs is rising rapidly. The misconception that taking prescription drugs, even if not prescribed by a doctor is safer than using street drugs is becoming more and more widespread, as seen in the number of visits by individuals to hospital emergency rooms involving the misuse or abuse of pharmaceutical drugs which has doubled over the past five years.

Throughout National Medicine Abuse Awareness Month, we encourage communities to promote the message that over-the-counter and prescription medicines are to be taken only as labeled or prescribed and to encourage safe disposal of unused medications. Educating the public on the dangerous consequences of taking prescription drugs to get high or in large doses is critical.

We applaud the efforts of the Drug Enforcement Administration, DEA, and local and State law enforcement agencies across the country to collect potentially dangerous, expired, unused or unwanted medications during their nationwide prescription drug ''take back'' campaign. We invite our colleagues to join us in continuing the efforts of the DEA and partnering organizations to combat the misuse of psychotherapeutic medications by designating October 2011 as National Medicine Abuse Awareness Month. This is an opportunity for Americans to reaffirm our national, State and local level commitment to living healthy, drug-free lifestyles.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator FEINSTEIN in cosponsoring a resolution designating the month of October 2011 as National Medicine Abuse Awareness Month. The abuse of prescription drugs and cold medicine is currently the fastest growing drug abuse trend in the country. According to the most recent National Survey of Drug Use and Health (NSDUH), more and more people are turning to using controlled substances without a doctor's prescription. The same survey shows that nearly one-third of all respondents who initiated drug use in the past year used prescription drugs. People between the ages of 12 and 25 are the most common group to abuse these drugs.

More people are dying because of this abuse. The Centers for Disease Control and Prevention reports that the unintentional deaths involving prescription narcotics increased 117 percent from the years 2001 to 2005. In my home State of Iowa, the Governor's Office of Drug Control Policy reports that at least 40 people died from an overdose of prescription painkillers in 2009. This represents a sharp increase in the last decade when only three people died from painkiller overdoses in 2000.

Abuse of over-the-counter, OTC, cough and cold medicines is also alarming. While these common cold medicines are safe and effective if used properly, the abuse of these medicines can also be destructive. According to a study conducted by the Partnership for a Drug-Free America, nearly 1 in 10 young people between the ages of 12 and 17 have intentionally abused cough medicine to get high off its main ingredient dextromethorphan. This is a problem that cannot be ignored.

Millions of Americans use these medicines every year to treat a variety of symptoms due to injury, depression, insomnia, and the effects of the common cold. Many legitimate users of these drugs often do not use as much medication as the prescription contains. As a result, these drugs remain in the family medicine cabinet for months or years because people forget about them or do not know how to properly dispose of them. However, many of these drugs, when not properly used or administered, are just as addictive and deadly as street drugs like methamphetamine or cocaine.

According to the NSDUH, more than half of the people who abuse these drugs reported that they obtained OTC

and prescription drugs from a friend or relative or from the family medicine cabinet. As a result, groups and organizations like the Drug Enforcement Administration, the Office of National Drug Control Policy, the Community Anti-Drug Coalitions of America, the Consumer Healthcare Products Association, and the Partnership for a Drug-Free America have been reaching out to communities throughout the Nation to raise awareness of this growing drug abuse trend and encourage communities to tackle the problem head on. Many community antidrug coalitions, including those in Iowa, public health officials, and law enforcement officials have been holding townhalls, organizing community ''clean out your medicine cabinet'' events, and holding many other events to raise awareness of this growing abuse in an effort to reverse this trend.

We can stop the growing trend of medicine abuse in its tracks, but it will require all sectors of the community to join together to make it happen. The National Medicine Abuse Awareness Month resolution promotes the message that over-the-counter and prescription medicines must be taken as directed, and when used recreationally or in large doses they can have serious and deadly consequences. This resolution will help remind parents that access to drugs that are abused doesn't just happen in alleys and on the streets, but can often occur right in the home. I urge all my colleagues to join me in supporting this resolution.

SENATE RESOLUTION 262—DESIGNATING THE WEEK BEGINNING ON SEPTEMBER 12, 2011, AND ENDING ON SEPTEMBER 16, 2011, AS ''NATIONAL HEALTH INFORMATION TECHNOLOGY WEEK'' TO RECOGNIZE THE VALUE OF HEALTH INFORMATION TECHNOLOGY IN IMPROVING HEALTH QUALITY

Ms. STABENOW (for herself and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 262

Whereas healthcare information technology and management systems have been recognized as essential tools for improving patient care, ensuring patient safety, stopping duplicative tests and paperwork, and reducing health care costs;

Whereas the Center for Information Technology Leadership has estimated that the implementation of national standards for interoperability and the exchange of health information would save the United States approximately $77,000,000,000 in expenses relating to healthcare each year;

Whereas Congress has made a commitment to leveraging the benefits of healthcare information technology and management systems, including supporting the adoption of electronic health records that will help to reduce costs and improve quality while ensuring the privacy of patients;

Whereas Congress has emphasized improving the quality and safety of delivery of healthcare in the United States; and

Whereas since 2006, organizations across the United States have united to support National Health Information Technology Week to improve public awareness of the benefits of improved quality and cost efficiency of the healthcare system that the implementation of health information technology could achieve: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning on September 12, 2011, and ending on September 16, 2011, as ''National Health Information Technology Week'';

(2) recognizes the value of information technology and management systems in transforming healthcare for the people of the United States; and

(3) calls on all interested parties to promote the use of information technology and management systems to transform the healthcare system of the United States.

SENATE RESOLUTION 263—DESIGNATING THE WEEK BEGINNING SEPTEMBER 11, 2011, AS ''NATIONAL DIRECT SUPPORT PROFESSIONALS RECOGNITION WEEK''

Mr. NELSON of Nebraska (for himself and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 263

Whereas direct support professionals, direct care workers, personal assistants, personal attendants, in-home support workers, and paraprofessionals (referred to in this preamble as ''direct support professionals'') are the primary providers of publicly-funded long term supports and services for millions of individuals;

Whereas a direct support professional must build a close, trusted relationship with an individual with disabilities;

Whereas a direct support professional assists an individual with disabilities with the most intimate needs, on a daily basis;

Whereas direct support professionals provide a broad range of support, including preparation of meals, helping with medications, bathing, dressing, mobility, transportation to school, work, religious, and recreational activities, and general daily affairs;

Whereas a direct support professional provides essential support to help keep an individual with disabilities connected to such individual's family and community;

Whereas direct support professionals enable individuals with disabilities to live meaningful, productive lives;

Whereas direct support professionals are the key to allowing an individual with disabilities to live successfully in such individual's community, and to avoid more costly institutional care;

Whereas the majority of direct support professionals are female, and many are the sole breadwinners of their families;

Whereas direct support professionals work and pay taxes, but many such professionals remain impoverished and are eligible for the same Federal and State public assistance programs on which the individuals with disabilities served by such direct support professionals must depend;

Whereas Federal and State policies, as well as the Supreme Court, in Olmstead v. L.C., 527 U.S. 581 (1999), assert the right of an individual to live in the home and community of the individual;

Whereas, in 2011, the majority of direct support professionals are employed in home and community-based settings and this trend is projected to increase over the decade;

Whereas there is a documented critical and growing shortage of direct support professionals in every community throughout the United States; and

Whereas many direct support professionals are forced to leave jobs due to inadequate wages and benefits, creating high turnover and vacancy rates that research demonstrates adversely affects the quality of supports to individuals with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 11, 2011, as ''National Direct Support Professionals Recognition Week'';

(2) recognizes the dedication and vital role of direct support professionals in enhancing the lives of individuals with disabilities of all ages;

(3) appreciates the contribution of direct support professionals in supporting the needs that reach beyond the capacities of millions of families in the United States;

(4) commends direct support professionals as integral in supporting the long-term support and services system of the United States; and

(5) finds that the successful implementation of the public policies of the United States depends on the dedication of direct support professionals.

SENATE RESOLUTION 264—DESIGNATING SEPTEMBER 12, 2011, AS ''NATIONAL DAY OF ENCOURAGEMENT''

Mr. PRYOR (for himself and Mr. BOOZMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 264

Whereas negative images, stories, and influences in the day-to-day lives of the people of the United States can detrimentally affect their emotional well-being, interactions with others, and general demeanor;

Whereas a group of teenagers participating in a leadership forum at Harding University in Searcy, Arkansas, identified a lack of encouragement as one of the greatest problems facing young people today;

Whereas the youth of the United States need guidance, inspiration, and reassurance to counteract this negativity and to develop the qualities of character essential for future leadership in the United States;

Whereas a National Day of Encouragement would serve as a reminder to counterbalance and overcome negative influences, and would also provide much-needed encouragement and support to others;

Whereas, following the events of September 11, 2001, thousands of people made sacrifices in order to bring help and healing to the victims and their families, inspiring and encouraging the people of the United States; and

Whereas the renewed feelings of unity, hope, selflessness, and encouragement that began on September 12, 2001, are the same feelings that the National Day of Encouragement is meant to recapture and spread: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 12, 2011, as ''National Day of Encouragement'';

(2) acknowledges the importance of encouragement and positive influences in the lives of all people; and

(3) urges the people of the United States to encourage others, whether through an act of service, a thoughtful letter, or words of kindness and inspiration, and by that encouragement to boost the morale of all people of the United States.

SENATE RESOLUTION 265—HONORING THE LIFETIME ACHIEVEMENTS OF E. THOM RUMBERGER

Mr. NELSON of Florida (for himself and Mr. RUBIO) submitted the following resolution; which was considered and agreed to:

S. RES. 265

Whereas E. Thom Rumberger served in the United States Marine Corps;

Whereas Thom Rumberger earned a bachelor's degree, with honors, and a J.D. from the University of Florida;

Whereas Thom Rumberger was a founding partner of the law firm Rumberger, Kirk & Caldwell, which has represented multinational corporations such as American Airlines, Inc., Sears, Roebuck and Co., and Toyota Motor Corporation;

Whereas Thom Rumberger was listed in Florida Super Lawyers every year from 2007 to 2010;

Whereas Thom Rumberger was appointed Circuit Judge in the 18th Judicial Circuit of Florida in 1969;

Whereas Thom Rumberger committed himself to numerous acts of public service, including serving on the Federal Judicial Advisory Commission of Florida and the Board of Supervisors of the Spaceport Florida Authority;

Whereas Thom Rumberger was one of the most steadfast champions of the Everglades in Florida;

Whereas Thom Rumberger served as lead counsel for the Everglades Foundation since 1999;

Whereas Thom Rumberger was instrumental in the passage of 2 amendments to the Florida Constitution and of section 601 of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2680), known as the Comprehensive Everglades Restoration Plan;

Whereas Thom Rumberger was instrumental in obtaining several billion dollars in funding for Everglades restoration; and

Whereas Thom Rumberger served on the Florida Governor's 2001 Select Task Force on Elections and the 2002 Select Task Force on Election Procedures, Standards and Technology, and was Chairman of the Legislature's Study Committee on Public Records in 2002: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the professional success of E. Thom Rumberger; and

(2) recognizes and honors the lifelong dedication of Thom Rumberger to the protection of the Florida Everglades.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 13, 2011, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 13, 2011, at 10 a.m. to conduct a hearing entitled ''Housing Finance Reform: Should There Be a Government Guarantee?''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on September 13, 2011, at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled ''Is Poverty a Death Sentence?'' on September 13, 2011, at 10 a.m., in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Afffairs be authorized to meet during the session of the Senate on September 13, 2011, at 10 a.m. to conduct a hearing entitled ''Ten Years After 9/11: Are We Safer?''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on September 13, 2011, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Civil Rights Division Oversight.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 13, 2011, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISCAL RESPONSIBILITY AND ECONOMIC GROWTH

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Fiscal Responsibility and Economic Growth of the Committee on Finance be authorized to meet during the session of the Senate on September 13, 2011, at 2 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The Role of Tax Reform in Comprehensive Deficit Reduction and U.S. Fiscal Policy.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on September 13, 2011, at 2:30 p.m. to conduct a hearing entitled, ''Agro-Defense: Responding to Threats Against America's Agriculture and Food System.''

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 128; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nomination; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Mara E. Rudman, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

NATIONAL NURSE-MANAGED HEALTH CLINIC WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 256 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 256) designating the week of October 2 through October 8, 2011, as ''National Nurse-Managed Health Clinic Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any related statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 256) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 256

Whereas nurse-managed health clinics are nonprofit community-based health care sites that offer primary care and wellness services based on the nursing model;

Whereas the nursing model emphasizes the protection, promotion, and optimization of health, the prevention of illness, the alleviation of suffering, and the diagnosis and treatment of illness;

Whereas nurse-managed health clinics are led by advanced practice nurses and staffed by an interdisciplinary team of highly qualified health care professionals;

Whereas nurse-managed health clinics offer a broad scope of services including treatment for acute and chronic illnesses, routine physical exams, immunizations for adults and children, disease screenings, health education, prenatal care, dental care, and drug and alcohol treatment;

Whereas nurse-managed health clinics have a proven track record, as the first federally funded nurse-managed health clinic was created more than 35 years ago;

Whereas, as of June 2011, more than 250 nurse-managed health clinics provided care across the United States and recorded more than 2,000,000 client encounters annually;

Whereas nurse-managed health clinics serve a unique dual role as both health care safety net access points and health workforce development sites, given that the majority of nurse-managed health clinics are affiliated with schools of nursing and serve as clinical education sites for students entering the health profession;

Whereas nurse-managed health clinics strengthen the health care safety net by expanding access to primary care and chronic disease management services for vulnerable and medically underserved populations in diverse rural, urban, and suburban communities;

Whereas research has shown that nurse-managed health clinics experience high-patient retention and patient satisfaction rates, and nurse-managed health clinic patients experience higher rates of generic medication fills and lower hospitalization rates when compared to similar safety net providers; and

Whereas the use of nurse-managed health clinics offering both primary care and wellness services will help meet this increased demand in a cost-effective manner: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of October 2 through October 8, 2011, as ''National Nurse-Managed Health Clinic Week'';

(2) supports the ideals and goals of National Nurse-Managed Health Clinic Week; and

(3) encourages the expansion of nurse-managed health clinics so that nurse-managed health clinics may continue to serve as health care workforce development sites for the next generation of primary care providers.

RESOLUTIONS SUBMITTED TODAY

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration en bloc of the following resolutions, which were submitted earlier today: S. Res. 262, S. Res. 263, S. Res. 264, and S. Res. 265.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. DURBIN. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any related statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 262

Designating the week beginning on September 12, 2011, and ending on September 16, 2011, as ''National Health Information Technology Week'' to recognize the value of health information technology in improving health quality

Whereas healthcare information technology and management systems have been recognized as essential tools for improving patient care, ensuring patient safety, stopping duplicative tests and paperwork, and reducing health care costs;

Whereas the Center for Information Technology Leadership has estimated that the implementation of national standards for interoperability and the exchange of health information would save the United States approximately $77,000,000,000 in expenses relating to healthcare each year;

Whereas Congress has made a commitment to leveraging the benefits of healthcare information technology and management systems, including supporting the adoption of electronic health records that will help to reduce costs and improve quality while ensuring the privacy of patients;

Whereas Congress has emphasized improving the quality and safety of delivery of healthcare in the United States; and

Whereas since 2006, organizations across the United States have united to support National Health Information Technology Week to improve public awareness of the benefits of improved quality and cost efficiency of the healthcare system that the implementation of health information technology could achieve: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning on September 12, 2011, and ending on September 16, 2011, as ''National Health Information Technology Week'';

(2) recognizes the value of information technology and management systems in transforming healthcare for the people of the United States; and

(3) calls on all interested parties to promote the use of information technology and management systems to transform the healthcare system of the United States.

S. RES. 263

Designating the week beginning September 11, 2011, as ''National Direct Support Professionals Recognition Week''

Whereas direct support professionals, direct care workers, personal assistants, personal attendants, in-home support workers, and paraprofessionals (referred to in this preamble as ''direct support professionals'') are the primary providers of publicly-funded long term supports and services for millions of individuals;

Whereas a direct support professional must build a close, trusted relationship with an individual with disabilities;

Whereas a direct support professional assists an individual with disabilities with the most intimate needs, on a daily basis;

Whereas direct support professionals provide a broad range of support, including preparation of meals, helping with medications, bathing, dressing, mobility, transportation to school, work, religious, and recreational activities, and general daily affairs;

Whereas a direct support professional provides essential support to help keep an individual with disabilities connected to such individual's family and community;

Whereas direct support professionals enable individuals with disabilities to live meaningful, productive lives;

Whereas direct support professionals are the key to allowing an individual with disabilities to live successfully in such individual's community, and to avoid more costly institutional care;

Whereas the majority of direct support professionals are female, and many are the sole breadwinners of their families;

Whereas direct support professionals work and pay taxes, but many such professionals remain impoverished and are eligible for the same Federal and State public assistance programs on which the individuals with disabilities served by such direct support professionals must depend;

Whereas Federal and State policies, as well as the Supreme Court, in Olmstead v. L.C., 527 U.S. 581 (1999), assert the right of an individual to live in the home and community of the individual;

Whereas, in 2011, the majority of direct support professionals are employed in home and community-based settings and this trend is projected to increase over the decade;

Whereas there is a documented critical and growing shortage of direct support professionals in every community throughout the United States; and

Whereas many direct support professionals are forced to leave jobs due to inadequate wages and benefits, creating high turnover and vacancy rates that research demonstrates adversely affects the quality of supports to individuals with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 11, 2011, as ''National Direct Support Professionals Recognition Week'';

(2) recognizes the dedication and vital role of direct support professionals in enhancing the lives of individuals with disabilities of all ages;

(3) appreciates the contribution of direct support professionals in supporting the needs that reach beyond the capacities of millions of families in the United States;

(4) commends direct support professionals as integral in supporting the long-term support and services system of the United States; and

(5) finds that the successful implementation of the public policies of the United States depends on the dedication of direct support professionals.

S. RES. 264

Designating September 12, 2011, as ''National Day of Encouragement''

Whereas negative images, stories, and influences in the day-to-day lives of the people of the United States can detrimentally affect

their emotional well-being, interactions with others, and general demeanor;

Whereas a group of teenagers participating in a leadership forum at Harding University in Searcy, Arkansas, identified a lack of encouragement as one of the greatest problems facing young people today;

Whereas the youth of the United States need guidance, inspiration, and reassurance to counteract this negativity and to develop the qualities of character essential for future leadership in the United States;

Whereas a National Day of Encouragement would serve as a reminder to counterbalance and overcome negative influences, and would also provide much-needed encouragement and support to others;

Whereas, following the events of September 11, 2001, thousands of people made sacrifices in order to bring help and healing to the victims and their families, inspiring and encouraging the people of the United States; and

Whereas the renewed feelings of unity, hope, selflessness, and encouragement that began on September 12, 2001, are the same feelings that the National Day of Encouragement is meant to recapture and spread: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 12, 2011, as ''National Day of Encouragement'';

(2) acknowledges the importance of encouragement and positive influences in the lives of all people; and

(3) urges the people of the United States to encourage others, whether through an act of service, a thoughtful letter, or words of kindness and inspiration, and by that encouragement to boost the morale of all people of the United States.

S. RES. 265

Honoring the lifetime achievements of E. Thom Rumberger

Whereas E. Thom Rumberger served in the United States Marine Corps;

Whereas Thom Rumberger earned a bachelor's degree, with honors, and a J.D. from the University of Florida;

Whereas Thom Rumberger was a founding partner of the law firm Rumberger, Kirk & Caldwell, which has represented multinational corporations such as American Airlines, Inc., Sears, Roebuck and Co., and Toyota Motor Corporation;

Whereas Thom Rumberger was listed in Florida Super Lawyers every year from 2007 to 2010;

Whereas Thom Rumberger was appointed Circuit Judge in the 18th Judicial Circuit of Florida in 1969;

Whereas Thom Rumberger committed himself to numerous acts of public service, including serving on the Federal Judicial Advisory Commission of Florida and the Board of Supervisors of the Spaceport Florida Authority;

Whereas Thom Rumberger was one of the most steadfast champions of the Everglades in Florida;

Whereas Thom Rumberger served as lead counsel for the Everglades Foundation since 1999;

Whereas Thom Rumberger was instrumental in the passage of 2 amendments to the Florida Constitution and of section 601 of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2680), known as the Comprehensive Everglades Restoration Plan;

Whereas Thom Rumberger was instrumental in obtaining several billion dollars in funding for Everglades restoration; and

Whereas Thom Rumberger served on the Florida Governor's 2001 Select Task Force on Elections and the 2002 Select Task Force on Election Procedures, Standards and Technology, and was Chairman of the Legislature's Study Committee on Public Records in 2002: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the professional success of E. Thom Rumberger; and

(2) recognizes and honors the lifelong dedication of Thom Rumberger to the protection of the Florida Everglades.

MEASURES READ THE FIRST TIME—S. 1549, H.R. 2832, AND H.R. 2887

Mr. DURBIN. Mr. President, I understand there are three bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. Without objection, the clerk will report the bills by title.

The bill clerk read as follows:

A bill (S. 1549) to provide tax relief for American workers and businesses, to put workers back on the job while rebuilding and modernizing America, and to provide pathways back to work for Americans looking for jobs.

A bill (H.R. 2832) to extend the Generalized System of Preferences, and for other purposes.

A bill (H.R. 2887) to provide an extension of Surface and Air Transportation Programs, and for other purposes.

Mr. DURBIN. I now ask for a second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will have their second reading on the next legislative day.

ORDERS FOR WEDNESDAY, SEPTEMBER 14, 2011

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Wednesday, September 14; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of the motion to proceed to H.J. Res. 66, a joint resolution regarding Burma sanctions and the legislative vehicle for additional FEMA funds postcloture; finally, that all time during adjournment, morning business, and recess count postcloture on the motion to proceed to H.J. Res. 66.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, we expect to begin the consideration of H.J. Res. 66 during Wednesday's session. We also hope to consider the FAA and highway extensions which were received from the House.

Senators will be notified when votes are scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:50 p.m., adjourned until Wednesday, September 14, 2011, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 13, 2011:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

MARA E. RUDMAN, OF MASSACHUSETTS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.