United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157 WASHINGTON, WEDNESDAY, OCTOBER 5, 2011 No. 148

Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Almighty God, in whom we live and move and have our being, give our Senators Your blessing as they seek to serve this Nation and all people.

Lord, we lift our hearts and thoughts to You today, for You alone reign over creation and sustain us in good and bad times. Give us a sense of fairness in all we do; that Your message of peace and justice will be known in the lives of all citizens. Give us strength to do what we can do and to be what we can be as we remember that without You, we can do nothing.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

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

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

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will be in a period of morning business for 1 hour. Republicans will control the first half and the majority will control the final half.

Following morning business, the Senate will resume consideration of S. 1619. As a reminder to all Senators, cloture was filed on the bill last night. As a result, the filing deadline for first-degree amendments is 1 p.m. today. Unless an agreement is reached, the vote on cloture will occur tomorrow morning. The Republican leader and I have had a number of discussions, and we will decide if there will be amendments on the China trade legislation. It is my understanding that both Democrats and Republicans will offer some amendments, and certainly we can do that even though there is a cloture motion that has been filed.

AMERICAN JOBS ACT

Mr. REID. Madam President, Franklin Roosevelt said that no man can truly be free without economic security. With 14 million people unemployed—out of work—in America, there are far too many people living in the richest Nation in the world, yet unable to enjoy the full freedom and independence for which America stands. So this Congress has no greater challenge—none—and no more important responsibility than to enact the policies that help American businesses flourish and grow, put American citizens to work, and get our struggling economy back on track to prosperity. So I was disappointed yesterday when my Republican friends chose to play political games with not one but two pieces of important job-creating legislation.

The bill before the Senate will even the odds for American workers and manufacturers in the global marketplace by stopping unfair currency manipulation by the Chinese Government. It would support 1.6 million American jobs, and it has the support of Democrats, Republicans, labor leaders, and business groups. We should pass it quickly so we can move on to other important work facing the Senate this month. But yesterday Republicans threatened to derail this legislation, even though they overwhelmingly support it, and allow China to continue to tilt the playing field.

Also up for debate this work period, which ends in 2 weeks, is commonsense jobs legislation proposed by the President of the United States. President Obama's plan would invest in roads, bridges, dams, and other construction efforts to create jobs. It would put construction crews back to work building and renovating schools. It would extend unemployment insurance for Americans who are still struggling to find work. In that regard, Mark Zandi, who certainly is no Democratic spokesperson—in fact, he was the economic adviser for JOHN MCCAIN's Presidential

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

election—said there is no more important stimulus for the economy than giving an unemployment check to somebody who is out of work. President Obama's legislation would expand the payroll tax credit, which has been very popular. It is a tax credit that will provide immediate relief to middle-class families and businesses. This legislation would revitalize communities that have been devastated by foreclosures.

The President's plan includes some ideas proposed by Republicans and others offered by Democrats. No matter what, this legislation is fully paid for. We may have different ideas on how to pay for it, but we know the President's legislation is a smart, effective way to spur job creation.

Democrats have listened to the American people, and they have been very clear. The American people believe it is time for millionaires and billionaires to pay their fair share to help this country thrive. Americans from every corner of the country and every walk of life agree. Democrats, Republicans, and Independents agree. Asked if they support a plan that would require people who make more than $1 million a year to contribute a little more to ensure this country's economic success, the results were resounding, stunningly strong: Nearly 80 percent of Americans said yes. Wealthy Americans agree. Two-thirds of the people making more than $1 million a year said they would gladly contribute more. A supermajority of Republicans agree, with two-thirds saying they supported the idea. And even a majority—52 percent—of the tea party members agree. So when Democrats bring this commonsense jobs legislation to the floor, we will ask Americans who make more than $1 million a year to contribute a little more to help this country reduce its jobs deficit.

I am sure my Republican colleagues would like the opportunity to debate how this Congress tackles the most important issue facing our Nation today: the unemployment crisis. So I will happily work with the Republican leadership to ensure a fair process that gives Senators the opportunity to be heard. That is why I was so disappointed yesterday when my friend the Republican leader attempted to snuff out debate and prevent a bipartisan discussion about how to move the American Jobs Act forward. Rather than debating this bill on the floor as we usually do, he wants to tack this important job creator onto an unrelated measure simply as an afterthought.

I was willing to proceed to debate on the legislation yesterday, but the Republicans blocked that request. They even blocked that. Instead, they demanded an immediate up-or-down vote, with no opportunity for debate, discussion, or amendments. Again and again during the last few weeks, Republicans have rejected an all-or-nothing approach to this legislation. So imagine my surprise when they were unwilling to engage in the thoughtful debate this bill deserves. Instead, they took the very all-or-nothing approach they were so concerned about only a few hours earlier.

This Nation's unemployment crisis is very serious business, but Republicans are more interested, it seems, in partisan games much of the time and political stunts than serious legislating. Fourteen million unemployed Americans deserve better. We live in a nation founded on the principle that every American has a right to personal liberty. But if Franklin Roosevelt was correct that no man is free who lacks economic security—and I am confident he was right—then we must do better as a Congress and as a country. I assure everyone within the sound of my voice that Democrats will do whatever we can to heal our ailing economy, even if it means the richest of the rich in America have to contribute a little bit more tomorrow than they do today.

RECOGNITION OF THE MINORITY LEADER

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

VOTE ON THE JOBS BILL

Mr. MCCONNELL. Madam President, for the past 3 weeks President Obama has been racing around the country trying to rally public support for a second stimulus bill and demanding that Congress pass it right away. The President has not been demanding that Congress debate the bill or be allowed to amend the bill. He has demanded in no uncertain terms that we hold a vote on the bill as it is, right away.

A couple weeks ago in Denver, the President said he has the pens all ready, lined up on his desk, ready to sign the bill into law. Just yesterday in Texas, he called on Congress to put the bill up for a vote so the entire country knows exactly where every Member of Congress stands. One of the President's top advisers, David Axelrod, summed up the President's position this way: ''We want them to act now on this package,'' David Axelrod said. ''We're not in negotiations to break up the package. It's not an a la carte menu.''

So yesterday I tested the President's rhetoric. I proposed that we do exactly what he wants and vote right away on this second stimulus bill he has proposed as the supposed solution to our jobs crisis. And the Democrats blocked it. In other words, the President's own party is the only obstacle to having a vote on his so-called jobs bill. Now I understand our Democratic friends want to jettison entire parts of the bill altogether, not to make it more effective at growing jobs, not to grow bipartisan support. No, they want to overhaul the bill to sharpen its political edge. So my suggestion to the White House is that if the President wants to keep traveling around the country demanding a vote on this second stimulus, he focus his criticism on Democrats, not Republicans, because they are the ones who are now standing in the way of an immediate vote on this legislation.

But, of course, the President knew as well as I did that many Democrats in Congress do not like the bill any more than Republicans do. Despite his rhetoric, he knew Republicans were not the only obstacle, which means one thing: The President is not engaged right now in a good-faith effort to spur the economy or create jobs through legislation. He is engaged in a reelection campaign. By the way, the election is not until 14 months from now.

Madam President, 1.7 million Americans have lost jobs since the President signed his first stimulus, and his idea of a solution is to propose another one. Even Democrats know it is a nonstarter, which is why so many of them do not want to have to vote for it. That is what we all witnessed here in the Senate yesterday.

It is time the President put an end to this charade. Stop campaigning for a bill written in a way to guarantee it will not pass and work with us on the kind of job-creating legislation both parties can agree on, things such as the trade bills, rolling back overburdensome regulations, domestic energy production, and tax reform. Republicans are ready to act on any and all of those issues.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. MCCONNELL. Madam President, it has come to my attention that the majority leader has written to the chairman and ranking member of the Armed Services Committee asking them to modify the committee-reported National Defense Authorization Act for fiscal year 2012 before he will allow the Senate to consider that bill.

The White House has made it clear that it objects to certain provisions dealing with the detention of unlawful enemy combatants and captured members of al-Qaida and associated groups. As the ranking member of the Armed Services Committee explained to the Senate, the committee voted in favor of those provisions overwhelmingly.

My request to the majority leader would be to move to the National Defense Authorization Act at the soonest possible moment to allow the Senate to debate and amend the bill. If there are Members on the other side who support the White House's effort to bring unlawful enemy combatants into the United States for purposes of detention and civilian trial, the Senate can debate that matter during consideration of the bill. I know many Members on my side would very much appreciate a debate on the importance of keeping detainees currently held at Guantanamo from returning to the battlefield, especially in places such as Yemen.

Once the Senate completes consideration of the Defense Authorization Act,

it could then move to consideration of the Defense appropriations bill—another measure I assume would be subject to debate and amendment.

IN MEMORY OF OWSLEY BROWN II

Mr. MCCONNELL. Madam President, I rise today to pay tribute to a great friend of the city of Louisville, a giant in both business and philanthropy who made Kentucky products famous around the globe, and a man whom I was proud to call a friend for more than 30 years. It is with great sadness that I report to my Senate colleagues that Owsley Brown II of Louisville, KY, passed away September 26 at the age of 69. He will be mourned and missed by many, not only by his family and those fortunate enough to know him but also by the countless Louisvillians who did not get to meet the man personally but benefited from his numerous volunteer efforts and initiatives on behalf of our community.

Owsley Brown II was born in 1942, the son of William Lee Lyons Brown and Sally Shallenberger Brown, who herself passed away just a few months ago at the age of 100, as I noted at the time on the Senate floor. After graduating from Yale University and Stanford University's Graduate School of Business, Owsley spent 37 years at Brown Forman, the company his great-grandfather founded, including 12 years as chief executive and 12 years as chairman. He started at Brown Forman in 1961 as a summer employee.

Owsley continued a family legacy that dates back to Brown Forman's founding in 1870. Brown Forman is one of Louisville's most significant companies and a major corporate citizen of our community. It provides almost 1,200 local jobs and still makes whiskey in Jefferson County.

As CEO, Owsley was a visionary in expanding the company's international footprint and modernizing the marketing of its brands. As a result, labels such as Jack Daniel's and Southern Comfort are now recognized worldwide. Under his leadership, Brown Forman stock more than quadrupled in value.

But to describe Owsley as merely a businessman, even a brilliant one, would be to just scrape the surface of the ice cube in a tall glass of Old Forester bourbon with water—Owsley's favorite drink. With his wife Christy, he did much to improve the quality and character of life in Louisville. He led organizations to support art and music, historic preservation and environmental protection. He was a leader in the founding of Actors Theatre of Louisville and a longtime board member. He served on the board of the Speed Art Museum and was active in the Fund for the Arts and River Fields. His family's Owsley Brown Charitable Foundation, of which he was president, gave millions of dollars to local churches and community groups.

Owsley did a lot more than just write checks. He was passionately involved in everything he took part in. As the Actors Theatre board president, he was often seen cleaning the windows or moving props. His deep knowledge of art came in handy on visits to art fairs on behalf of the Speed Art Museum. He could inspire others to donate more of their time, efforts, and resources on behalf of the causes he cared so deeply about just by setting the example.

I first met Owsley more than 30 years ago and saw then that he represented the very best Louisville and the Commonwealth of Kentucky have to offer. Elaine and I send our deepest condolences to his family, including his wife Christy, his three children: Owsley III, Brooke Barzun, and Augusta Holland, and his many other beloved family members and friends.

Madam President, the Louisville Courier-Journal published recently an obituary of Owsley Brown II that only begins to describe a full life well lived. I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Courier-Journal, Sept. 29, 2011]

BROWN, OWSLEY II

Brown, Owsley II, 69, died September 26, 2011, in Louisville with his family by his side.

Mr. Brown was born September 10, 1942, the son of William Lee Lyons Brown and Sara ''Sally'' Shallenberger. He was a graduate of Woodberry Forest School, Yale University, where he received his B.A. in history in 1964, and Stanford University's Graduate School of Business.

The great-grandson of Brown-Forman Corporation founder George Garvin Brown, Owsley spent 37 years of his professional life with the company, starting as a summer employee in 1961. He became president in 1983, chief executive officer from 1993–2005 and chairman from 1995 until 2007. While at the helm of the company, he led efforts to dramatically expand its international presence and significantly modernized its marketing efforts. The strategy worked exceptionally well, as brands such as Jack Daniel's, Southern Comfort and Finlandia became internationally recognized names, producing stellar financial returns.

He served as an Army intelligence officer at the Pentagon from 1966–1968 and in 2010 was appointed by the Obama Administration to serve on the U.S. Department of Defense Business Board. In addition to his service on the Brown-Forman board, Owsley served on the board of NACCO Industries, Inc.

Owsley was a leader in the founding of Actors Theatre of Louisville and a longtime board member, twice serving as president during major fund drives as it built its facilities. He served on the boards of the Speed Art Museum, where he most recently headed up the Capital Campaign and Building Committee for its expansion; Fund for the Arts (as chairman and president); Kentucky Center for the Performing Arts; and Partnership for Creative Economies. Previous boards he served on include River Fields, the Advisory Council of the Yale School of Forestry and Environment and the National Council of the National Trust for Historic Preservation. He also served on the International Council of Trustees for the World Conference of Religions for Peace. He was a former director of the Louisville Gas and Electric Company and its successor LG&E.

He received the Governor's Milner Award, Kentucky's highest award for contributions to the culture of his state, and this year received the Woodrow Wilson Award for Corporate Citizenship. Also this year he and his wife Christy received the Greater Louisville Inc.'s Gold Cup Award for distinguished service to Louisville. He earned the J. Russell Groves Citizens Laureate Award, honoring individuals who consistently encourage quality architecture in their communities. His lifetime interest in historic preservation was demonstrated in many projects, including the restoration and expansion of Actors Theatre of Louisville.

He is survived by his wife, Christina Lee; son, Owsley III (Victoire) and their children Chiara, William and Catalina; daughters, Brooke Barzun (Matthew) and their children, Jacques, Eleanor and Charles; and Augusta Holland (Gill) and their children Cora, Owsley and Lila; brothers, W. L. Lyons Brown Jr. (Alice Cary) and Martin S. Brown; sister, Ina Brown Bond (Mac); brother-in-law, O'Donnell Lee (Jeanie); and numerous nephews, nieces, great-nephews and great-nieces.

Owsley will be remembered as profoundly wise, earned from a life of curiosity, honesty, and discipline. From his wisdom flowed humility and passionate kindness. It made him a great leader, father, husband and friend, and it made him a great man.

He loved and supported the things that enrich the soul and spirit—his wife and children, the creative arts, the natural world, public-spirited enterprises, and, above all, Louisville. Nothing pleased him more than bringing all these things together at a party—welcoming all with his special brand of Kentucky hospitality. He knew how to find joy in work and obligations. Owsley knew when to listen and when to laugh.

He will be missed.

The funeral will be celebrated 10 a.m. Friday at Christ Church Cathedral, Episcopal, 421 S. Second St., with private burial to follow. Visitation will be 3–6 p.m. Thursday at the Speed Art Museum, 2035 S. Third St. Funeral arrangements are being handled by A.D. Porter & Sons, Inc.

In lieu of flowers, expressions of sympathy may be made to either Fund for the Arts or Metro United Way.

Mr. MCCONNELL. 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 Republicans controlling the first half and the majority controlling the second half.

The Senator from Tennessee.

JOBS

Mr. ALEXANDER. Madam President, our country has endured a 9-percent unemployment rate for a longer period of time than at any other time since

the Great Depression. Yet, unfortunately, the Democratic leader is reluctant to address this problem of joblessness in a serious way.

One way to address it would have been to take the three trade agreements, which were negotiated 4 and 5 years ago—one with Colombia, one with South Korea, one with Panama—and send them up to the Senate and House and let us ratify them and let us move ahead to avoid losing 350,000 jobs—that is an estimate of the U.S. Chamber of Commerce—or create as many as a quarter of a million jobs—that is the estimate of the White House. Yet those three trade agreements had been sitting on the President's desk since the day he took office nearly 3 years ago. They arrived yesterday—or Monday, I suppose it was—and they are here waiting for us to act on them.

Every day we do not act on them delays the day when we avoid losing 350,000 jobs or create 250,000 jobs. That has been the case every day for the last nearly 1,000 days. That would be a good way to address the jobs issue, but we have not. Instead, we had the President going around the country during the summer blaming Republicans for not acting on the three trade agreements when, in fact, the President had not sent them to us. There is no way the Congress can act on them until the President forwards them, which he now has. And if he has, why are we not debating them today? That would be a good way to deal with the jobs issue.

Here is another example. On September 8, the President came before the Congress and proposed his jobs bill. He said, if I counted correctly, and I was sitting respectfully in the second row, almost in the front row—I think he said as many as 17 times: Pass this jobs bill now. And if that were not enough, he has said it almost every day since then. The Republican leader mentioned it a few times. He was in Dallas yesterday. Pass this jobs bill now; I am ready to enact it, said the President of the United States. Well, it has been sitting there on the Democratic leader's desk for the last couple of weeks, ever since the President sent it up here. He spoke about it on September 8.

The person in this body whose job it is to set the agenda is the Democratic leader, a member of the President's own Democratic Party. Why doesn't he bring it up? So yesterday the Republican leader said: I will show courtesy to the President. I will ask the Senate to do what the President has asked that we do, which is pass this jobs bill now, and the Democratic leader objected.

So here for the second time we have the President running around the country saying one thing, and then we try to do it, and his leader in the Senate objects. What are we doing instead? Well, a couple weeks ago the Democrats manufactured a crisis over disaster aid when we could have been debating the trade bill, the jobs bill, and we could have been offering the Republican proposals we have to encourage trade, to give this President and future Presidents new trade authority, to reform the tax law, and to have a timeout on regulations that are throwing a big, wet blanket, making it more expensive and harder to create new jobs in America. That would have been the kind of debate we could have had on the Republican proposals we believe would make a difference in this urgent jobs situation which has given us 9-percent unemployment for a longer period of time than at any other time since the Great Depression.

So now this week, what are we doing? Well, we are debating a piece of legislation. The Democratic leader has decided this is the important piece of legislation to deal with jobs this week. And what will it do? It will give a punch in the nose to China, our second largest trading partner, our third largest export market, our fastest growing export market, and the second largest economy in the world. History teaches us what will happen. We saw that during the Great Depression. Perhaps it was the cause of the Great Depression. We remember the Smoot-Hawley tariff, the trade war that developed, the reciprocal punches in the nose that countries gave to themselves over trade, plunging the world into a depression.

So here we are in a fragile moment, when headlines are saying we may be about to dip into a second recession, and what do we do? The Democratic majority says their best idea about creating jobs is to punch in the nose our second largest trade partner, our third largest export market, and our fastest growing export market, even though we know exactly what they will do to us. History teaches us they will punch us right back in the nose, and the result will be a trade war, which destroys jobs rather than creates jobs.

Such legislation as that now pending on this floor is not how the world's strongest economy, the United States of America, should conduct itself. Such legislation is a sign of weakness or lack of self-confidence or defeatism that is not worthy of the United States of America.

In Tennessee, we see the advantages of trading with the world, including with China. China is our third largest export market, after Canada and Mexico. Our leading exports are chemicals and agricultural products. Tennessee exports to China totaled $1.85 billion, a 43-percent increase over 2009. A little over 7 percent of all of our exports went to China. In Tennessee, 116,000 jobs are related to the export of manufactured goods; 5.3 million jobs in America. At a time of joblessness, why should we be punching in the nose someone to whom we might sell goods and that would create jobs in the United States?

What should we do instead? Of course, there is legitimate concern about the way China values its currency. The administration should work with China to change that. China should accelerate the appreciation of its currency. But what else should the United States of America do? We might take a lesson from history.

I remember 30 years ago, when I was just beginning my time as Governor of Tennessee, China was not the country in the news. It was Japan. There were books written: Japan, No. 1. The United States was, as it is today, the world's largest economy, but everybody was predicting: Watch out for Japan. Japan is becoming No. 1. The United States cannot keep up with Japan, it was said. Their autos, their computers, their electronic goods, their other sophisticated goods were going to overwhelm our markets, and we would quickly fall behind.

There was in the early 1980s a $46 billion trade deficit with Japan. What did we do? Well, we did not act defeatist. We did not play games. We did not act as if we were the fifteenth largest economy in the world instead of the first. We asserted ourselves. We went to Japan and said to them: Make in the United States what you sell in the United States and take down your trade barriers so we can sell in your country what we make in ours.

I went there myself. I remember vividly going to Tokyo in 1979, in November. I met with the Nissan officials. They were considering locating a manufacturing plant in the United States. At that time, they were making all of the Nissan cars and all the Nissan trucks in Japan that they sold in the United States. But they wanted to be in this market, which was and is the most profitable automobile market in the world. So we said to them: Make here what you sell here. And they did. They came to the United States. And where are we 30 years later? Nissan is saying to us that they have operated for 25 years now the most efficient automobile and truck plant in North America, and they are going to be making 85 percent of what they sell in the United States here in the United States.

Nothing has done more to create higher incomes and better jobs in Tennessee than the arrival of Nissan and the Japanese industry, followed by the American auto industry, in our State over the last 30 years. That is how a strong and confident country asserts itself in world competition. That is not just true with automobiles, it is true with many other manufacturing companies that have come to our State from Japan and from other places. That is exactly the way we ought to deal with China.

Our administration can assert itself in a variety of ways about the currency issue. But we should not act as though we are afraid of China anymore than we were afraid of Japan 30 years ago. We should seize this as a moment of opportunity. We should not escalate a trade war that no one will win. We should grow trade in sales and investment in China and urge them to make

in the United States what they sell in the United States. If they should do that, that will create jobs here rather than destroy jobs, as history teaches us a trade war will do.

I hope the Senate will decisively reject the legislation that is being proposed to initiate a trade war with China.

REPEAL OBAMACARE

Mr. ALEXANDER. Madam President, in February of last year, we had a fairly extraordinary event at the Blair House here in Washington. The President invited a large number of Members of Congress—must have been 20 or 30 of us around the table. He sat there the whole day, and we sat around the table and we talked about health care. It was called the Health Care Summit.

A great many Americans watched that live on television, and because of the Internet and other explosions of new media, they still watch some of the things that were said that day. The reason I know that is because people have come up to me often and talked about an exchange I had with the President of the United States.

The issue was about health care premiums in the individual market. Citing a Congressional Budget Office letter, I said to the President: ''Mr. President, respectfully, your new health care law that you propose is going to increase individual premiums.''

He stopped me and said:

Now Lamar, let's get our facts straight. You are wrong about that.

He proceeded to explain to me why I was wrong and he was right. With all respect, I believe I was right and even just a little year later, what the Congressional Budget Office was saying then, which was that individual premiums would go up as a result of the health care law, the last 17 months have shown that we were exactly right. This last week the Kaiser Family Foundation released a survey that showed the average family premium for employer-sponsored insurance was $15,000 in 2011, a 9-percent increase over the previous year. Let me quickly say that employer-sponsored insurance is not the same as the individual insurance I was talking about with the President a year ago. But it is the same subject. Republicans were saying that we opposed the health care bill because it would increase premiums, and what we wanted to do was to lower the cost of health care for Americans by going step by step in that direction rather than expanding an expensive health care system that was already too expensive for more Americans, and doing it in a way that would increase premiums for many Americans.

ABC News said the Kaiser Family Foundation report ''underlines that many of the promises surrounding President Obama's health care legislation remain unfulfilled. Though the White House argues that change is coming.''

Even the New York Times on September 27 said: The steep increase in rates is particularly unwelcome at a time when the economy is still sputtering. Many businesses cite the high cost of coverage as a factor in their decision not to hire. And health insurance has become increasingly unaffordable for many Americans.

I reported on this Senate floor my conversations with the chief executive officers of restaurant chains around the country. Together they are the second largest employer in the country after the government, and they employ a great many young people and low-income people, the kind of men and women who are looking for jobs today. What they were telling me was that the mandates of the health care law will make it more difficult for them to hire people. In one specific example, one of the largest of the restaurant chains was saying that he operates his store with 90 employees today, and because of the health care mandates, he will seek to operate his store with 70 employees a day. That is not a way to increase the number of jobs.

But there are other provisions in the health care law that cause premiums to go up, which was the point of my discussion with the President in February of 2010.

The CMS Chief Actuary predicted in 2010, saying that by 2014—still a couple of years away, 3 years away—growth in private health insurance premiums is expected to accelerate to 9.4 percent, 4.4 percent higher than in the absence of health reform.

The President had said in his discussion with me that under the law he proposed, the individual market would cost 40 to 20 percent less. That was also in the Congressional Budget Office letter. But those reductions were overwhelmed by other costs that were identified in the CBO letter that would produce a 27- to 30-percent increase. So the net result, according to the predictions in November 2009 by the Congressional Budget Office, was there would be an increase in individual premiums of 10 to 13 percent.

These individual market premiums, premiums that individuals buy without an employer's help, are not the largest share of insurance policies in America, but they affect roughly 12 to 15 million Americans. That is a lot of people who are having their insurance costs go up.

Aon Hewitt's recently released 2011 Health Insurance Trend Driver Survey reports that for 2011, individual health care plans reported estimated 4.7-percent increases directly due to the new health care law.

Then according to the September 8, 2010 Wall Street Journal article:

Health insurers say they plan to raise premiums for some Americans as a direct result of the health overhaul in coming weeks, complicating Democrats' efforts to trumpet their significant achievement before the mid-term elections. Aetna, some Blue Cross Blue Shield plans and other smaller carriers have asked for premium increases of between 1 and 9 percent to pay for extra benefits required under the law.

In the same article it says Aetna said that extra benefits forced it to seek rate increases for individual plans of 5 to 7 percent in California, and 5.5 to 6 to 8 percent in Nevada. That was precisely the discussion I was having with the President in February 2010, when I said that under the health care law, because of the mandates in the law, individual health care premium costs will go up.

In Wisconsin and North Carolina, according to that same article, Celtic Insurance Company says half of the 18-percent increase it is seeking comes from complying with health care mandates.

Then in a September 16 article last year in the Hartford Courant, ConnectiCare is seeking an average 22-percent hike for its individual market HMO plans. Anthem Blue Cross and Blue Shield in Connecticut say in a letter, it expects the Federal health reform law to increase rates by as much as 22.9 percent for just a single provision.

These increases happen for predictable reasons. Because of the requirements in the law for minimum credible coverage—in other words, if you are required to buy a better kind of health insurance, if you are required to buy a Cadillac instead of a Chevrolet, it is going cost more. And it does cost more.

Another factor that will cause insurance premiums to rise is the new taxes on insurance, lifesaving medical devices and medicines in the health reform law. Someone has to pay for those costs, and the ones who are going to pay for them are the people who buy health insurance.

Then there is the question of what we call cost shift. When we add 25 million Americans to Medicaid, premiums will increase because the costs will shift to private insurers to help pay for those costs. That is according to the Chief Actuary of CMS which is in this administration.

Then, finally, age rating is going to cause insurance premiums to go up. What it basically says is that older Americans will not have to pay as much, so younger Americans are going to have to pay more. It is no surprise that under the new health care law, health insurance premiums are going up, becoming an even bigger drag on employment and on family budgets. This was predicted by the Congressional Budget Office while we were debating the health care law. It was predicted by Republicans who offered an alternative to take steps to decrease costs in health care, instead of this big, comprehensive law that expanded the system that already costs too much.

It offers even more reasons why we should repeal or make significant changes in the health care law if we want to create an environment in which we can make it easier and cheaper to grow private sector jobs, and in which more Americans can afford a reasonable cost health insurance.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. It is rare that I am down here on the floor with the senior Senator from Tennessee, but it is always a pleasure. I certainly appreciate his great leadership and especially today. I enjoyed all of his comments. But his comments about the China currency bill probably should be labeled the China trade war bill, because I think that is where it would lead.

(The remarks of Mr. CORKER pertaining to the introduction of S. 1655 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

CURRENCY EXCHANGE

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Madam President, as a cosponsor, I rise today in strong support of the Currency Exchange Rate Oversight Reform Act. This is a bipartisan effort that will protect U.S. manufacturers from economic harm caused by unfair and damaging currency manipulation.

Unemployment throughout Rhode Island and the Nation has been persistently high and corrosive. It is caused in part by the effects of currency manipulation, particularly China's devaluation of the yuan. This is one of the challenges that manufacturers and hard-working individuals in Rhode Island and across the Nation face each day.

The effects of unfair currency manipulation have caused far too much harm for far too long. It has resulted in distorted trade balances that hurt U.S. workers and our Nation's economy as a whole.

Confronting Chinese currency manipulation sends a very strong signal. If implemented correctly, it will create jobs, aid our economic recovery, and lead to the creation of an estimated 1.6 million American jobs. Free trade only works when it is fair. China is not playing by the rules, and U.S. workers are harmed as a result.

China is, by any measure, keeping its currency artificially weak and engaging in trade practices that are harming the U.S. economy. By devaluing the yuan relative to the dollar, China is essentially subsidizing its exports and taxing U.S. imports at the expense of U.S. companies and workers.

It has been estimated that the yuan is undervalued relative to the dollar by as much as 40 percent, effectively subsidizing Chinese manufacturers and spurring our $273 billion trade deficit with China.

The Economic Policy Institute has estimated that the trade deficit with China has cost the U.S. economy 2.8 million jobs—1.9 million of these were manufacturing jobs—between 2001 and 2010. This resulted in approximately 12,000 jobs lost in Rhode Island.

A recent study by a team of three economists confirmed what many in my State already know: Jobs in Rhode Island are among the most vulnerable to cheap Chinese imports. And job losses are directly attributable to the U.S. trade deficit with China, which has been exacerbated by China's persistently undervalued currency.

Our trade deficit with China, which grew over 10 years from $83 billion to $273 billion, has had an outsized impact on my State because Chinese goods compete directly with many products that were produced and that will continue to be produced in Rhode Island. From textiles to toys, Rhode Island has been harmed as the artificially cheap yuan and exports from China have hollowed out industries, jobs, and communities.

If China and other Asian economies such as Singapore, Taiwan, Malaysia, and Hong Kong let their currency float freely against the dollar, U.S. GDP would increase by as much as $287.5 billion, that is a 1.9-percent increase, creating up to 2.25 million jobs in the United States.

So much of our efforts are focused today, and they should be, on growing our economy, measured not just by GDP but, more importantly, by jobs. This bill is one of those measures that is consistent with growing jobs in America and also respects the fact that in order for trade to work in the world, the trade has to be fair as well as free—that everybody has to follow the rules, and there is no exception. What we expect of ourselves, we should demand of others. That is at the heart of this bill.

Currently, private businesses in the United States are not able to compete on a level playing field with Chinese manufacturers and exporters who have an unfair advantage because the Chinese Government is manipulating its currency. Undervaluing the yuan isn't even in the best interest of the Chinese economy because it wastes resources and erodes wages of Chinese workers. The benefits of an undervalued yuan primarily flow to politically powerful Chinese companies dependent on trade, many of which are state owned.

According to China's own national economic census, Chinese state-owned enterprises control over 40 percent of the assets in their industrial sector. When countries stack the deck for companies and industries they control, it hurts businesses in the United States. This is not free trade or fair trade. Those who hold up China's economic growth and favorable tax conditions, as one Fortune 500 company CEO recently did, should realize this: After all, China has little reason to tax corporations when so many of the country's largest corporations are state owned.

We would not dare to suggest the form of ownership or government intervention in our economy China uses consistently and persistently as a major way to fund their government and fund their activities. So I think we have to recognize what is being posed in the guise of their version of free trade.

It is not fair trade, it is not free trade, and it doesn't even help the people of China. But it certainly helps the powerful forces of the Chinese Government and their favored business partners.

So we have a clear choice, and we have legislation that will be effective because it is consistent with what we do, which is follow the rules. We are simply asking every nation to follow the rules when it comes to currency.

The legislation before us today would level the playing field for businesses in Rhode Island and throughout the country. It requires the Department of Treasury to identify misaligned currencies using objective criteria and requires the administration to take action if countries fail to correct this misalignment.

It ensures that our trade laws can address currency undervaluation when it harms American workers and manufacturers by offsetting the benefit foreign producers and exporters receive from their country's currency manipulation.

The effects of unfair currency manipulation have caused far too much harm for far too long. It has resulted in distorted trade balances that have hurt U.S. workers and our Nation's economy as a whole. This legislation will strengthen the tools we have to make sure our businesses can compete on a fair and level playing field against foreign companies that benefit from undervalued currency.

Let me be clear that this is not a silver bullet for our economy, and there are many other steps we have to take. As we continue to press for solutions to revitalize our economy—with a front-and-center focus on saving and creating jobs—addressing unfair subsidies and trade practices must be part of this effort. So I would urge swift passage of the Currency Exchange Rate Oversight Reform Act.

With that, 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.

Mr. BLUMENTHAL. 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.

Mr. BLUMENTHAL. Madam President, I rise as a proud cosponsor of the Currency Exchange Rate Oversight Reform Act, S. 1619. We are all aware, in this Chamber and around the country, that China has been manipulating its currency flagrantly and blatantly at the expense of our businesses in Connecticut and New York and around the country at the expense of American workers. This measure is necessary to protect American jobs and American workers.

Chinese currency manipulation is a job killer, very simply. At a time when so many are desperate for work and so many Americans and citizens of Connecticut are seeking good jobs, this

measure will help protect American workers and save American jobs, which is why I am proud to be a cosponsor of this measure.

I am proud to have begun this fight well before I became a Senator and well before I even thought of becoming a Senator, when I was attorney general of the State of Connecticut, because I heard from Connecticut businesses about the effects of Chinese currency manipulation in their efforts to sell their goods and services not only in China but around the world and even in America. Undervaluing Chinese currency puts American businesses at a disadvantage. It is a hidden export subsidy. It is a means of underpricing Chinese goods and services at the expense of ours. That affects not only our exports to China, but it affects our sales of airplanes in Europe, it affects the sales of all kinds of products—both high-tech and others—in this country, and it deprives the United States and its businesses of a level playing field.

The extent of that undervaluation is actually unknown, even as we speak. It is probably in the range of 25 percent. Economists tell us it is anywhere between 20 percent and 50 percent. The Chinese have permitted their currency to rise slowly, perhaps about 6 percent since June of 2010, but the extreme undervaluation before that period of time—in the years that led to June 2010—was relentless and tireless and successful. One of the great success stories of currency undervaluation is the Chinese doing so with theirs. We are at a point where, rightly, we have lost patience.

When I first asked the Treasury of the United States to label and conclude that China is a currency manipulator—months, even years ago—there was an opportunity to take the kind of action this measure would readily lead it to do, and it must do it now. This bill provides consequences for countries that fail to adopt appropriate policies to eliminate currency misalignment and includes tools to address the impact of currency misalignment on American manufacturers, including the use of countervailing duty law to impose tariffs on imports benefiting from government subsidies.

Very simply, it provides tools that the American Government can and should use when there are misalignments of currency that result from government policies, and it eliminates some of the barriers in our current law that now exist and restrict the American Government from taking action to protect American businesses. So it is a good measure, a commonsense step toward fairness and a level playing field for American businesses, and it means we would protect ourselves, as we have a right to do in an ongoing trade war. It is a war, not a shooting war—perhaps not explicit—but it is a trade war we should acknowledge and recognize as a fact of life for our businesses.

All this talk about currency and renminbi and the abstract and seemingly arcane discussion, in economic terms, may seem far away to many citizens of Connecticut, but it is not arcane or abstract to Steve Wilson at Crescent Manufacturing of Burlington—a company that makes precision fasteners, many of them used in defense of our country, sold in this country as well as abroad. Crescent Manufacturing has hard-working, skilled workers who compete with Chinese manufacturers whose production costs are dramatically lower because of the undervalued Chinese currency. Steve Wilson came to me and said, in effect: Give us a level playing field. That is what this bill does. He said it not only on his own behalf, as a manager and an owner, but on behalf of his workers because the number of those workers was reduced as a result of the lack of a level playing field.

Earlier this year, I worked with my colleague in the House of Representatives, Congressman CHRIS MURPHY, to conduct a survey of Connecticut manufacturers. We gathered data from 151 different companies all across the State of Connecticut, and the information they shared paints a dramatic picture of the business climate for companies in Connecticut and America today and the challenges they face as they seek to create jobs and stay competitive. Of 151 manufacturers that participated in our survey, 73 percent say they have Chinese competition—73 percent are competing with Chinese companies—and 57 percent—almost 60 percent of all those companies—said China's refusal to operate on a level playing field is harming their businesses. The majority of those companies that responded to that survey—manufacturers in Connecticut—say they want a level playing field or they are harmed by unfair practices in China's undervaluing their currency.

We all know, at this point, China deliberately manipulates its currency to boost its exports, and Connecticut manufacturers know it better than anyone. They have made it clear, if we are serious about keeping American manufacturing competitive, if we want to make it in America, if we want ''Made in America'' to mean what it should, and if we want our economy to grow, we need to stand up to countries that rig the system in their favor—unfairly in their favor.

The Alliance for American Manufacturing estimates our surging trade deficit with China—largely caused by Chinese currency manipulation—cost 2.8 million American jobs over the last decade, and that is 31,600 in Connecticut alone. These were jobs lost to our workers unfairly.

On March 25, 2011, the IMF declared that China's currency remains ''substantially undervalued.'' That is a serious charge from an international agency that is not biased toward one country or another, and it implies that China, in failing to address the undervaluing of their currency, is in direct violation of the General Agreement on Tariffs and Trade, which it has signed. Far from being contradictory to international law, this bill serves the interests and intent of the General Agreement on Tariffs and Trade. It serves article XXI of the GATT Uruguay Round and allows a member of the World Trade Organization and America to take action which it considers necessary for the protection of essential security interests.

Nothing is more essential to our security than jobs. Nothing is more critical than dealing with our trade deficit. Nothing is more important than stopping the undervaluation of the Chinese currency that consistently, unfairly, and unacceptably works against our exporters. We must fight these fundamentally unfair trade practices of China. American manufacturers deserve this level playing field, and this bill will help to assure that for them.

I will continue to fight to protect Connecticut manufacturers and businesses against any unfair trade practices anywhere in the world, and this bill stops China and any other country that would misalign its currency to the detriment of our security as a country and Connecticut's manufacturers and businesses as well as those in the country as a whole.

I thank the Chair, I yield the floor, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

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

Mrs. HAGAN. Madam President, I come to the floor as one of a bipartisan group of my colleagues, proud to be a cosponsor of the Currency Exchange Rate Oversight Act, legislation that will send a clear and direct message to China that the time for playing games with American jobs is over.

As many of my colleagues have already explained on the floor, the effects of China's currency manipulation are damaging to our economy. It is estimated that China is undervaluing their yuan by more than 28 percent.

What does that mean? It means Chinese goods coming into the United States are unfairly cheap, while goods made in the United States are unfairly expensive when they are exported to China. In other words, it means U.S. goods are less competitive in China, and Chinese goods do have an unfair advantage in the United States. The results of this distorted arrangement are harrowing: reduced American wages, decreased GDP, and lost American jobs.

Since China entered the World Trade Organization in 2001, our trade deficit with them went from $84 billion in 2001 to $273 billion in 2010, an increase of

close to $200 billion. Madam President, $273 billion is larger than the U.S. trade deficit with the OPEC countries, the EU countries, Canada, Japan, and Mexico combined. This trade deficit has eliminated or displaced over 2.8 million American jobs over the last 10 years. That is an average of 310,000 jobs every year, and 70 percent of those jobs lost from our trade with China were in one sector—manufacturing.

Ask anyone in my home State, and they will say the same thing: North Carolina is a manufacturing State. From furniture to yarn, we are known throughout the country and throughout the world for the quality of the work we produce. But we are hurting. Between 2001 and 2010, North Carolina has lost over 107,000 jobs. Those are 107,000 jobs due to trade with China. Only five States in the entire country have suffered a greater net job loss from our country's trade with China. Across the country, the Nation has lost approximately 6 million manufacturing jobs and has seen 57,000 manufacturing plants across our country shut down.

Last week, I traveled throughout the foothill regions in North Carolina, in Burke, Rutherford, and Gaston Counties, three of our counties with some of the deepest manufacturing and textile roots in the State. The unemployment rate in these counties is close to 13 percent in Burke, close to 15 percent in Rutherford, and 11.3 percent in Gaston, even higher than the all-too-high 10.4 percent average across the State of North Carolina.

The No. 1, No. 2, and No. 3 concerns I heard at every stop I made last week were: jobs, jobs, jobs. There were people, many of them former manufacturing employees, who have lost their jobs. Many of them are continuing to work hard, fighting for small businesses that they now run and looking for survival. At the same time, so many people are attending every job fair they can make. They cannot afford for Washington to continue to allow China to get away with economic deceit and manipulation. They cannot afford for us to continue competing with China with one hand tied behind our back. What they need is for Washington to draw a hard line, to act now, and to get tough on China's currency manipulation.

The Currency Exchange Rate Oversight Act is straightforward. If the Treasury Department, using objective criteria, determines that the value of a currency is fundamentally misaligned, it will trigger a process to correct that unfair misalignment. In other words, it allows the United States to use every tool in our toolbox, including countervailing duties, to ensure that American workers and companies are competing on a level playing field.

Even though the legislation is simple, its positive effects would ripple through the economy.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. HAGAN. I ask for 2 more minutes.

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

Mrs. HAGAN. I thank you, Madam President.

A full revaluation of the yuan would mean 2.25 million jobs in the United States, reducing the U.S. unemployment rate by at least 1 full percentage point; an increase of the U.S. GDP of about $285 billion, a nearly 2-percent boost; and a reduction to our budget deficit by as much as $857 billion over 10 years. These are new jobs, more growth, and lower deficits. That is exactly the kind of bill our country needs right now.

It is going to require us to be tough. That is why America's workers and North Carolina workers need us to draw this line in the sand. They have always been told that if they work hard and play by the rules, they can get ahead. But now China is not playing by the rules, and it is undermining the ability of our workers and companies to succeed. We need to hold them accountable.

American and North Carolina workers are some of the best and most productive in the world. We know this. China knows this. If we compete on a level playing field, we can prosper together. I encourage all my colleagues to join in this bipartisan measure and vote for this bill. It is what America's workers and companies need, and it is what they deserve.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1619, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1619) to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

Pending:

Reid amendment No. 694, to change the enactment date.

Reid amendment No. 695 (to amendment No. 694), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 696, to change the enactment date.

Reid amendment No. 697 (to (the instructions) amendment No. 696) of the motion to commit), of a perfecting nature.

Reid amendment No. 698 (to amendment No. 697), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I rise to urge my colleagues to support the Currency Exchange Rate Oversight Reform Act, S. 1619, of which I am proud to be an original cosponsor. I wish to thank my colleague and friend, Mr. BROWN, the Senator from Ohio, for his leadership in bringing forward this very important legislation.

This legislation is about jobs. We all talk about ways we can increase job opportunity in America. Yes, we have to do a better job in our infrastructure and rebuilding America, our roads, our bridges, our schools, our energy infrastructure, our water infrastructure. That is a very important part of job growth in America. We have to help our small businesses.

The President is right to focus a program that will help small businesses because that is the job growth energy in America. But another area that is critically important for us on job growth is trade.

I represent the State of Maryland. The Port of Baltimore is an economic engine of our State, where we employ many people because of the Port of Baltimore. We want to see products that not only come into America, but we want to see products that leave America for the international marketplace. American manufacturers, producers, and farmers can outcompete their competition anywhere in the world as long as we have a level playing field. If we have a level playing field, we will not only keep jobs in America, we will create new jobs in America because we can outcompete the world. But we can't do it if we give away a huge advantage to other countries. Currency manipulation allows other countries to have unfair competitive advantage over American manufacturers, producers, and farmers. That is what this bill is aimed at: to give us a level playing field, to allow us to be able to compete fairly.

I also wish to acknowledge that this legislation is bipartisan. I think it is nonpartisan. This is legislation that makes sense for our country to keep jobs and create jobs. The legislation provides necessary mechanisms to help halt currency manipulation committed by any country. Currency manipulation is an unfair trade practice that reduces the price of imported goods while raising the price of American goods.

We are talking about giving a discount to our competitors. How do we expect an American manufacturer to be able to compete with an imported product if they get a discount on the price? That is what happens when they arbitrarily undervalue their currency as a foreign competitor, and that is what is happening to American manufacturers. Trying to end this practice is just common sense and will finally allow us to address our net exports, helping us reduce trade imbalances and, most importantly, create jobs in America.

Of course, China is one of the largest abusers of this type of manipulation. Despite a pledge from China in 2001 to adhere to open and fair trade, it continues to violate global trade rules which, in turn, erodes the U.S. manufacturing base and economy.

One of these market-distorting practices is China's effort to keep its currency severely undervalued. Unlike other currencies, the Chinese yuan does not fluctuate freely against the dollar but is artificially pegged in order to boost China's exports. Bringing the Chinese yuan to its equilibrium level at 28.5 appreciation is essential to creating much needed jobs in this country as well as a fair and global marketplace.

Let me repeat this. Because of what China does on pegging its currency to ours, not allowing it to freely fluctuate, Chinese products, in effect, get a 28.5-percent discount. If a company is manufacturing a product and trying to compete with an imported Chinese product, how can they do that if their competitor gets a 28.5-percent discount? That is what is happening in America today.

This legislation would allow those who are being harmed by this unfair trade practice to be able to bring a trade remedy against that unfairly imported product.

Inexpensive Chinese imports have caused a great deal of harm to the U.S. manufacturing sector. New studies show that 2.8 million American jobs, including 1.9 million manufacturing jobs, were lost or displaced over the past decade due to the growing U.S. trade deficit with China, fueled, in part, by currency manipulation.

So we have documented millions of jobs that we have lost and that have been lost because we have allowed, without challenge, China to give discounts to its manufacturers bringing products into America. Again, if it is a level playing field, American manufacturers and producers can compete. But they can't compete with such an unfair trading practice.

Many U.S. industries have been hard hit by unfair trade practices and currency manipulation, impeding their ability to compete here and abroad. The Alliance for American Manufacturing says that addressing this currency manipulation would lead to the creation of up to 2.25 million American jobs, an increase in the U.S. gross domestic product of $285.7 billion, a 1.9-percent—or $190 billion—reduction in our annual trade deficit; finally, an annual deficit of $71 billion, or between $600 to $800 billion over the next 10 years, if sustained.

No wonder this is bipartisan. No wonder this is nonpartisan. Here, by just standing up for American manufacturers and allowing them to be on a level playing field, we can not only increase jobs in America, we can not only reduce the trade imbalance, we can also reduce the budget imbalance. All that can be done if we can establish a level playing field to give our manufacturers, producers, and farmers the opportunity to challenge this unfair practice. That is what this legislation does.

With figures such as this, this bill is seemingly a noncost, bipartisan, long-term jobs measure. This would not only spur economic growth but economic stability that would ensure a better and more secure future for U.S. manufacturers, workers, and communities. This is to keep jobs here in America but also give us the opportunity to create more jobs, helping our economy grow. Simply put, this legislation will allow U.S. manufacturers the ability to use existing countervailing duty laws to obtain relief from injury caused by imported goods which benefit from currency manipulation as export subsidies while also providing the U.S. Treasury a new framework by which to identify misaligned currency.

In September 2010, the House adopted a similar measure with overwhelming bipartisan support. Passage here in the Senate will lead to real consequences for countries that abuse currency manipulation, and empower the United States to create a more level economic playing field.

We can get this done. This is something that can get done. The House has already passed it. We have bipartisan support in the Senate. We have the votes to pass it. I urge my colleagues, let us get this done. Don't try to put other amendments on it. All they are going to do is make it difficult for us to achieve something great for our economy and great for American production. Let's get this matter up for a vote and not try to do all these unrelated amendments.

I applaud my colleague Senator BROWN from Ohio. He is on the floor. I mentioned earlier I thank him for his leadership for not only bringing this bill together but keeping the bipartisan group together so we can show we can get this done. Now we need the Members of the Senate to say it is time for us to vote on this bill. Let's get it done. Let's send it to the President for the President to sign it. Let's do something that will not only create jobs but help us deal with our trade imbalance and deal with our budget imbalance.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, I appreciate the words of Senator CARDIN. He sits on the Finance Committee and was a long-time member of the House Ways and Means Committee and understands these issues as well or better than almost any Member of the Senate. I appreciate his work on that, and his leadership. He said a couple of things I want to emphasize.

He said, first of all, this is the biggest bipartisan jobs bill we have considered this year, 79 votes out of 98 when it advanced to being considered on the Senate floor. He has talked about this is a discount we give to our competitors. Imagine two gas stations in Schenectady, NY, or in Frederick, MD, or in Akron, OH. One gets its gasoline and pays 25 or 30 percent less for its gasoline than does the station across the street. The station that does not get the 25- or 30-or 35-percent subsidy goes out of business almost in a matter of days. That is the kind of unfair competition we face because we have given this discount to our competitors.

The second is Senator CARDIN mentioned what this does with our budget deficit. It is pretty clear this is not a jobs bill that costs a lot of money. That is why we got 79 votes. That is why so many Republicans joined all but three Democrats in moving this bill forward. We save money. If a thousand more people go to work in Cleveland, OH, or in Buffalo, NY, or in Baltimore, MD, that is a thousand people who are not receiving unemployment benefits, who do not have to apply for food stamps, a thousand people who are paying taxes instead of being consumers of public services.

When you look at the lost jobs because of this trade policy, because China has gamed the currency system for so many years and administrations of both parties have failed to enforce laws or use the tools they have—in addition to this extra tool, this very compelling, very effective tool we are giving them—it clearly has meant that we have been behind the eight ball in that way and we have lost the opportunity when we have not enforced these trade laws.

When you look at the number of jobs lost and the number of jobs estimated to be gained, it is in the millions over time. This is exactly what the Senate should be doing this week, moving this bill to the House. There are 250 cosponsors in the House, 60 Republicans, roughly, 190 Democrats, roughly. Republican leadership has some difficulty with this bill, apparently. In the Senate, that is not an issue. In the House, among rank-and-file Members there is huge support.

As we pass this bill later this week, next week at the latest, we hope to move it to the House where it can be passed quickly.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BLUMENTHAL). Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, as the manager of this bill and the sponsor of S. 1619, I am, first of all, pleased with the bipartisan support we have seen. We have five Republican and five Democratic sponsors as the lead 10 sponsors and another dozen or so sponsors in addition to that.

The support from Senators GRAHAM and SESSIONS and BURR—all three southern Republicans—and Senators SNOWE and COLLINS—northern Republicans—joining with the first five Democratic sponsors, Senators SCHUMER, STABENOW, CASEY, HAGAN, and myself, have set the bipartisan tone here. That is why we had 79 votes in the first go-round on the bill.

But what concerns me most, and what I hear from people in the House of Representatives—and I have heard it from opponents in the Senate, and I have heard it from large multinational corporations that have outsourced so many jobs to China—is this is going to start a trade war with China. That seems to be the thrust of their comments: This is going to start a trade war.

First of all, I don't know where they are that they think that because most of America thinks we are in a trade war right now with China and, frankly, China is doing pretty darn well. It is not going that well for American workers, and it is not going that well for American manufacturers.

Go to downstate Illinois or Albuquerque or Akron and look at the number of plant closings. In many cases, companies—large companies especially, because smaller companies can't do this the same way—will shut down their production in the United States—they will shut down production in Youngstown or Dayton—and they will move to Wuhan or Xian, China, start production there, and then sell their products back to the United States. I don't know that that has ever been done in world history.

So the trade war was started by the Chinese, waged by the Chinese, and that is why we have lost 100,000 manufacturing jobs in my State. That is why we have seen the trade deficit triple in the last 10 years with China. That is why we go to the store and darned near everything we pick up, including sometimes American flags and things you can buy at the Capitol Visitor Center, are made in China. It is clear China has cheated. They cheat on currency. They just cheat, pure and simple. It is long overdue that we do something about it.

They were admitted to the World Trade Organization because of a very bad vote 10 years ago that too many of my colleagues cast in support of China doing that for PNTR. The Presiding Officer, as I did, voted against it. The Presiding Officer from New Mexico was prescient enough to see that. But they said, if you let China into the WTO, they are then going to be a trading partner and they will play fair. Well, they never have accepted, frankly, the basic governing rules from the World Trade Organization. They don't follow the rule of law. So when we say, no, we are not going to let them do that, we are accused of a trade war. Excuse me, I don't understand that.

It is a little bit like two sort of real-life examples. If somebody is eating your lunch and you take their dessert away, they are complaining? Of course they are going to complain. They want their dessert. But they can't say you are starting a war when they are already eating your lunch.

Or if you have two gas stations, you go to Springfield, OH, and there is a gas station on one side of the street and another gas station on the other side of the street, the one gets a 30-percent discount on its oil for its gasoline from Shell, and the one from Exxon on the other side of the street doesn't get a subsidy on its oil or its gasoline, of course, the one is going to put the other out of business.

That is what we do to China. We give them a 20- to 30-percent discount because they cheat on currency. And you call that a trade war because we are saying, no, we are taking that discount away? It is China that has played this protectionist game.

Mr. Fred Bergsten, who is the director of the Institute for National Economics, the Peterson Institute, hardly a flaming liberal—free fair trade group; it is a conservative, generally free trade organization—said that China's currency policy is the most protectionist policy of any major country in the world since World War II. And for us to say, Let's play fair, we are starting a trade war? It doesn't make sense.

Let's debate the real issues. Let's not call names. Let's not say so-and-so is starting a trade war, so-and-so is protectionist, so-and-so is doing class warfare. We want more exports, we want more trade. But, remember, currency undervaluation makes our exports more expensive when we sell them into China and puts our manufacturers at a competitive disadvantage.

I think this legislation makes so much sense. That is why it got 79 votes. That is why it has such a high number of bipartisan cosponsors. That is why people in this country understand that passing this legislation to level the playing field, to give our manufacturers an opportunity, makes so much sense.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Delaware.

(The remarks of Mr. CARPER are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Illinois is recognized.

Mr. KIRK. Mr. President, I would like to take this time to talk on the pending legislation with regard to China. In these times of deficit and debt, I think we should not launch a trade war with China. We are here because we borrowed too much. We have a spending habit that has weakened our economy. That spending habit was aided by China, but we can only blame ourselves for much of the economic weakness the United States now faces.

A trade war with China would put in jeopardy a number of jobs from my State of Illinois. Illinois exports to China in 2000 totaled about $533 million. Roughly 2,500 people received their employment by virtue of sales to China 10 years ago. Today, exports to China total about $3.18 billion. The number of people employed by sales to China has grown from around 2,500 jobs to 15,000. In a State with a higher than average unemployment, where unemployment is growing faster than almost any other region of the country, I do not think we should put these jobs at risk with an unnecessary trade war with China.

When we look at Illinois very directly, we see a major Peoria employer like Caterpillar, whose sales to China last year totaled about $3.2 billion roughly related to about 10,000 jobs in the direct and contractor and subcontractor area for sales to China. With Motorola, based in Schaumburg, sales totaled about $2 billion directly to China, impacting about 7,000 jobs. For Boeing, headquartered in Illinois, sales to China totaled about $3 billion—around 10,000 jobs directly related to sales into the Chinese market.

This bill would seek to blame all of our economic ills on a power overseas despite so much of the weaknesses related to our own overregulation, a flawed health care bill, and too many taxes that are causing small employers—the engine of employment in our country—to hold back on hiring an American full time. I believe this bill places the blame in the wrong place and diverts the needed attention of the Senate from where it should be placed in fixing our economy.

For 10 years, I served in the House of Representatives. In 2005, during that rendition of anti-Chinese legislation, I decided to form a bipartisan caucus, the China Working Group, with Democratic Representative RICK LARSEN of Washington. We decided to bring together the three warring China tribes of the House of Representatives. That would be the panda huggers, a very small number of Members; the dragon slayers, a very large number of Members, especially on my side; and the panda slayers, who are growing in number, who dislike almost anything related to China. We welcomed everyone to discuss China because of its growing role in the world because, according to one of our leading banks, China could be the largest economy on Earth, replacing a status that the United States had until our policy was misplaced and that we have had since around the 1870s.

Should we trigger a trade war with the coming largest economy on Earth? I would say we should not. In the 21st century, China can be the source of the greatest ill or greatest good for the United States, depending on how we manage this relationship.

One of the key audiences I listened to, as chairman of the China Working Group, with Congressman LARSEN, was Americans who actually sold American-manufactured goods in China. Oftentimes, we would ask: Is your No. 1 concern with regard to selling more

goods in China related to the currency? Overwhelmingly, they would say it was not their No. 1 concern. Their No. 1 concern instead was the comprehensive theft of intellectual property by Chinese entities from U.S. patent holders. This is most clearly evidenced in the Hollywood DVD industry but also elsewhere. When you look at this issue in a serious way, you find currency is not the No. 1 issue, although I admit it polls rather well. But our job is to actually add employment to the United States, and one of the key audiences we should listen to is people who sell U.S. goods in China.

If you delve into the intellectual property issue and the comprehensive theft of intellectual property, you will find that China has some fairly reputable intellectual property laws, but they are not enforced. A common thing you hear about China is a phrase that is often used in the Chinese language. It goes something like this: The mountains are very high and the Emperor is far away, meaning despite laws that may be on the books in Beijing, they are not enforced in the provinces where so much theft of intellectual property happens.

I would argue that a bipartisan agenda that would add to jobs and strengthen our relation with China would be a greater enforcement of intellectual property laws between the United States and China. There, we would actually have allies, such as the man who is most likely to become President of China, Xi Jinping, who wants China to be a strong innovator, and he knows China cannot be an innovative nation if it represents a comprehensive theft of intellectual property worldwide. He knows China's intellectual property law has to be actually enforced in the provinces if they are to have technological development. His interests are actually in line with the interests of U.S. exporters, and here we could have a very productive dialog which actually stops the theft of intellectual property in China and enhances the export potential of Americans.

I worry that we are diverting the time of the Senate from the big game, which is the joint committee and its work on reducing the deficit. I have heard that the President of the United States has called Senators, asking that this bill not come up. When you look at the prospects for this legislation in the House, you will learn the prospects for this legislation are dim at best.

What should we do rather than trigger a trade war with a country that is about to be the largest economy on Earth? What should we do rather than trigger job losses at Caterpillar and Motorola and Boeing, at Schaumburg and Peoria and in Chicagoland? I think instead we should focus the Senate legislation on passing the Gang of 6 legislation that would reduce the net borrowing of the United States by $4 trillion. We should adopt the Collins moratorium on job-killing regulations costing over $100 million to reassure the engine of our job economy—small businesses—that they should go ahead and begin to hire Americans again. We should do the big idea that is in the bipartisan deficit commission report of tax reform, wiping out all special interest tax provisions and then using the money, A, to lower the deficit and, B, to lower the top rate from 39 percent to 29 percent. We should also rapidly pass, as has now been proposed, the Panama and Colombia and South Korea Free Trade Agreements that open new markets for the United States. Particularly in the case of Colombia, the markets would be opened for Illinois corn growers. For South Korea, I think it would end the beef impasse we have had and also open high-technology aviation markets for the United States.

When I talk about the Gang of 6, when I talk about the Collins amendment, when I talk about tax reform, when I talk about free-trade agreements—these are all positive agreements on which large numbers of Democrats and Republicans in the Senate can agree and which would pass the House of Representatives, rather than the underlying legislation which the President of the United States has indicated he would rather not come up, which has a dismal future in the House of Representatives, and which directly puts at risk any job subject to Chinese retaliation from this legislation.

I also note that when you read the basic text of this legislation, it is not serious because it has a big waiver in it. Even if it made it to the President's desk, given his calls to legislators on this issue, there is no doubt in my mind that the President would execute the waivers in this legislation.

So what are we doing? We are probably advancing a well and poll-tested piece of legislation in the Senate. I imagine some people would want to take advantage of that dialog. But have we made it into enacted law? Overwhelmingly, likely no. Are we actually going to take any legitimate action? Even by the terms of the legislation and its waiver, it would be exercised by the chief executive officer of the United States, and therefore no action would be taken. But we would open the very people whom we want to crawl this economy out of recession—U.S. exporters—to vulnerabilities for retaliation by the Chinese. Sometimes you have to think about the basic principle of medicine when you look at legislation; that is, first, do no harm.

As Europe crumbles in a wave of outdated and out-of-gas socialism, threatening our economy, as we teeter on the edge of a new recession because of too many regulations—10 new taxes in the health care bill—and an uncertain political future for deficit reduction under the bipartisan joint committee, ladling onto that—and our markets and the future of our retirement savings—a trade war with the second largest economy on Earth would be unwise at best and put the jobs of many Americans at risk at worst.

That is why I oppose this legislation. That is why, regardless of the action in the Senate, I do not think it is going anywhere in the House. Certainly, given the action and calls of the President to certain legislators, it doesn't appear to have any real future in enforcement if it ever even did make its way to the White House.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I appreciate the words of my freshman colleague, Senator KIRK. I think he recognizes from his days as a foreign policy expert, when he worked for the government on foreign policy, that a Presidential waiver is essential. My guess is he would have attacked this bill if it had not had a waiver for the President, saying there is no way the President could possibly look out for national security at the same time as he executes this legislation.

So that clearly is a nonstarter around here. Everybody recognizes that not having a Presidential waiver—because there is a case sometimes when the President does need the authority when it comes to national security, and I am concerned about national security in our trade with China. I have seen China, over a period of years—with our acquiescence as a nation, frankly—I have seen China build more and more national security infrastructure and in some cases seeing our national security infrastructure weakened because we don't do as well with steel and chemicals and all the things that go into our national security apparatus. So I am, in fact, concerned about that.

I am also concerned; I hear two things, two main arguments. I have sat on the Senate floor as the manager of this bill for several hours over the last couple or 3 days and listened to this debate. It seems the Republicans' opposition—most Republicans voted for this, so I don't want to say it is overwhelming, but the people who have spoken against it have mostly been conservative Republicans who seem to pay a lot of attention to Club for Growth and those most conservative parts of their party. But I have heard two things. I have heard ''trade war, trade war, trade war,'' and that is interesting because that echoes the words of the People's Bank of China. It echoes the words of the Ministry of Commerce of the People's Republic of China. It echoes the words of the Foreign Affairs Ministry of the Communist Party of the People's Republic of China. It mimics their words when I hear them say ''trade war, trade war, trade war.''

But what also concerns me is I listen to this debate and hear some of the opponents of this bill kind of playing the ''blame America first'' game. They seem to say this is not China doing this to us, this is us doing this to us—or perhaps we doing this to us, to be more grammatically correct. I am aghast

that China games its currency system, that China undercuts our manufacturing because they ''cheat,'' and that there are some Members of the Senate who stood up right here and took the oath of office to the United States of America who are blaming America first for what China is doing to us.

I can see blaming our government for not enforcing trade rules better. President Obama, while he has not come out yet for this bill, has enforced trade laws better than any President since Ronald Reagan, who actually probably set the gold standard for trade enforcement. We haven't seen it since President Obama. I am a bit intrigued that my colleagues are blaming the United States for this. It is a little like if there are gas stations on Detroit Avenue in Cleveland, in Westlake or in Rocky River or in Cleveland, one on each side of the road and one gets the gas 25 percent cheaper than the other from the supplier—from ExxonMobil or Shell—they can put the other one out of business. Do we blame the one that doesn't get the discount for going out of business? Is that what we are doing? To blame America first on this is blaming the United States when China cheats, and I don't buy that. I don't think there is any credence in that argument.

I appreciate Senator KIRK's admonition, and I appreciate his celebration, if you will, of Caterpillar and many of these companies that are exporting tens of millions and, in a few cases, billions of dollars to China. More power to them. I want them to do more exports.

Look at this chart. Look what happened. Exports to China have gone up. The year 2000 was when this Senate and the House—where the Presiding Officer from New Mexico and I sat—voted no on this when PNTR, permanent normal trade relations, with China was passed. Look what happened since then. Exports to China went up. I am glad U.S. exports with companies all over our States—Senator KIRK mentioned a handful in Illinois—went up. Look what happened to imports. Look at the number of imports that went up. Do we know why? Part of that reason is China has cheated on currency. When we did the first vote on Monday night—and all of us predicted what the Chinese Government is going to do. They are going to squawk and say: trade war, trade war, trade war. I didn't know a bunch of American politicians would mimic what they said and say: trade war, trade war, trade war.

Here is what happened—listen to this—an article in the South China Morning Post on October 5, the day after that vote: In a rare move, the central bank, the People's Bank of China, the China Ministry of Commerce, the People's Republic of China's Foreign Affairs Ministry took simultaneous, coordinated action yesterday to express Beijing's strong opposition to the bill, aimed at forcing Beijing to let its currency float. They accused Washington of politicizing global currency issues.

Where I come from, they say when you throw a rock at a pack of dogs, the one that yelps is the one you hit. Of course, the Chinese are going to yelp because they don't like this. We are saying to them they have to follow the rules—no more breaking the rules. They cannot cheat the way they have cheated.

Of course, in the Communist Party, in the People's Republic of China, the Ministry of Commerce is going to squawk. Of course, the People's Bank of China is going to squawk. These are all arms of the Chinese Communist Party and arms of the Chinese Government. Of course, they are not happy when we do this. It does not mean it is not the right thing to do.

It bothers me when I see American politicians mimic what the Chinese Communist Party officials are saying, their government is saying: trade war, trade war, trade war. This is not a trade war. Fred Bergsten, head of the Peterson Institute for International Economics, is a trade official—I believe an economist. He is very smart. The Peterson Institute for International Economics is a generally conservative operation that generally plays it straight on trade. If anything, they are a bit too free trade, in my mind, instead of fair trade. Fred Bergsten said:

I regard China's current policy as the most protectionist measure taken by any major country since World War II. Its currency manipulation has been undervalued by 20 to 30 percent.

Here is the key point:

That is equivalent to a 20 to 30 percent subsidy on all exports and a tariff on all imports by the largest trading country in the world.

The 30-percent penalty is why our exports don't go up very much. The 25-percent bonus for the Chinese is why our imports go up so much. We cannot sell into China's market very well because they are cheating. That is why our exports don't grow as much, and they can sell so much into our markets because we are giving that 25 or 30 percent bonus.

This isn't a trade war—well, it is a trade war. The Chinese declared trade war on us in 2000 and look how they benefited from this trade war, and we are just going to stand here and allow them to do that? It doesn't work. That is why this legislation is so important.

Last point. There are an awful lot of American businesses that think we need to fix this. I hear my friend from Illinois and other Senators come to the floor who oppose this bill. There are only 19 who voted no out of the 98 who voted. I have heard them come to this floor and talk about exports, that their businesses have exported. Some have and more power to them. I hope they can export more and create more jobs in the United States. We need to understand that those are mostly large companies that have in some cases the wherewithal to outsource jobs to China and in other cases to be able to export large numbers.

There was a historic split in the National Association of Manufacturers, the largest trade organization for American manufacturers, over the last several years on what to do about this.

Many of the small companies such as Automation Tool & Die in Brunswick, OH, and a company in Dayton that does printing, where I just spoke to Jeff Cottrell, who owns that company and has a number of employees in Dayton, OH—those companies understand currency undercuts them. The Bennett brothers at this company in Brunswick told me in Cleveland a couple days ago why they support this bill. They said they had a contract they thought was a million-dollar contract, and they began to change their assembly line, their production facilities, their production operation capacity. At the last minute, a Chinese company came in and underpriced them by 20 percent and got the contract. Why did they underprice them 20 percent? Because we gave them a 25-percent bonus to do it. We have disarmed this trade war that we are not beginning. We are playing defense and we are fighting back.

I think the American public overwhelmingly says fight back when they play the games, fight back when they game the system. Don't blame America on this one. Stand for American interest. It is good for our exporters, big companies and small companies alike. It is good for American manufacturing. We know what that means to workers in Chillicothe, Zanesville, and Toledo. We know what it means for our local vitality and prosperity. It means so much as we begin to restore American manufacturing.

I ask for support for S. 1619.

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.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. PORTMAN. Mr. President, exports are absolutely critical to our economic growth in this country. In fact, there are nearly 10 million good-paying American jobs that are related to exports. The President, Members of Congress, and so on talk about that a lot. But I am disappointed we are not moving forward with an aggressive agenda to actually open new markets for our exports.

I am encouraged that the administration, finally, this week, sent forward three trade agreements that do just that—the Korea, Colombia, and Panama trade agreements. These open markets to U.S. workers and farmers, those who provide services, so it is going to be good for jobs in this country. The President's own metrics indicate these three agreements alone will create 250,000 new jobs. We need them badly.

I also want to congratulate Chairman DAVE CAMP and the House Ways and

Means Committee for reporting out all three of these agreements this afternoon. My understanding is, each agreement received a strong bipartisan vote, and I am hopeful those agreements will now come to the Senate for us to be able to move forward—again, opening these critical markets that will create over 200,000 jobs for Americans.

I will tell you, these three agreements were all negotiated and signed over 4 years ago. During that interim period, the United States has been absent from the kind of trade-opening negotiations we ought to be involved with. This President—for the first time since Franklin Delano Roosevelt—has not asked, as his predecessors did, for trade promotion authority to be able to negotiate new agreements. So we are losing market share.

Every day there are American workers who do not have the same opportunities to compete in foreign markets as those workers from other countries do because the United States is not actively engaged in opening markets. We need to do that.

Right now, we have no ongoing bilateral trade agreements. We have one multilateral agreement, which I support moving forward on—the Trans-Pacific Partnership—but, frankly, there are over 100 bilateral negotiations going on right now, and America is not a partner in any of them. We need to get engaged because it is so critical to growing our economy.

During the debate we have had over the last couple of weeks on trade adjustment assistance, where I was supportive of a version of trade adjustment assistance to get the trade agreements moving, we had a discussion about giving the President trade promotion authority. We were not able to get support from the administration for that. This is critical to move forward. It is because growing goods and services is absolutely critical to our economic health.

Over 95 percent of consumers in the world, of course, live outside of our borders. We want to access those consumers, we want to sell more to them. Export growth and a healthy trading system depends on these export-opening agreements, but it also depends on having a healthy international trading system where all the players play by the international rules. So the export-expanding agreements are good. We need to do more of that. We should be much more engaged, but we also have to insist that everybody plays by the same rules.

Today the Senate is debating legislation that has to do with one of those rules, and that is the issue of currency, and specifically the issue of China and their currency manipulation. China is a country, as you know, where we have a persistent and unprecedented trade deficit. It is also a very important trading partner for us. So it is critical we keep that strong trade relationship but do it on a basis that is fair for us and for China.

I consistently hear about this China currency issue when I am back in Ohio. I hear about it a lot from manufacturers and the workers at those plants who tell me it is just not fair that in the global marketplace Ohio products are not able to compete on a level playing field.

Just this year I have worked with a lot of Ohio companies that are facing various problems, including Ohio candle makers, steel manufacturers, diamond saw blade producers, rare earth magnet manufacturers, and others who are concerned about getting a fair shake in the global economy and want to be sure they are not competing with unfair Chinese competition.

Again, I believe in the benefits of trade. I know they work. I believe in reducing barriers, but I also believe opening export markets and vigorous enforcement of trade laws go hand in hand. They both should be something that the United States pursues.

China's undervalued currency does provide, in my view, an export subsidy, making Chinese exports to the United States less expensive in the global marketplace and making our exports to China relatively more expensive.

I have long had concerns about this. Actually, when I was before the Senate Finance Committee in my confirmation hearings to be U.S. Trade Representative years ago I stated that I believed China currency does affect trade, and I stated that China should revalue their currency. I still believe that. I believe this administration should label China a currency manipulator because I think it is clear there continues to be manipulation.

The legislation before us today is not the perfect answer, and I do hope the Senate will permit my colleague, Senator HATCH, to offer his amendment, which I think is a constructive amendment to improve parts of the legislation. But I do support the bill with the expectation that it is compliant with our international trade obligations and that it gives the administration the flexibility it needs to implement this bill in a smart and sensible way.

However, I would also say this bill has been described on this floor many times over the last couple days as I have listened to the debate as doing more than it does. We should not overstate it. It does not address some other issues that, frankly, I think would make a bigger difference in our important trade relationship with China.

One of these issues would be indigenous innovation, which I believe to be an unfair practice that China is currently practicing. Also, there is the issue of violations of intellectual property rights. It is not so much that the laws are not in place; it is that many times there is not adequate enforcement of the intellectual property laws that are in place. Of course, there is the issue of anticompetitive practices and subsidies that continue with regard to state-owned enterprises. I am also working with Senator WYDEN and others—a bipartisan group of Senators—on combatting transshipment and customs duty evasion problems, which involve companies from various countries but include China.

So we have a growing list of complex issues facing our relationship with China. I believe they should all be addressed together. I hope the next round of diplomatic and commercial negotiations with China will bring about some of that discussion and bring about some solutions, not just more broken promises.

I understand the JCCT, called the Joint Commission on Commerce and Trade, between the United States and China will meet in November—next month—and that the next round of the U.S.-China Strategic and Economic Dialogue will take place next year. I urge the administration to use these negotiations as leverage to get some of these real results that are so necessary.

We should also look at multilateral approaches, including the World Trade Organization, and certainly the International Monetary Fund. I will tell you, as someone who has sat across the table in negotiations with tough Chinese negotiators, endless dialog is not the answer. Sometimes that is what occurs. We are not just looking for more talk. I think it is important we get serious—both U.S. leaders and Chinese leaders—about some of our lingering trade problems that we have had through the years so we can have a healthy trade relationship based on mutual respect.

Each country is important to the other. We cannot overlook the fact that China continues to be a very vital U.S. export market, despite the issues I talked about. Right now, China is the third largest export market for Ohio goods, for instance. The State I represent sends over $2.2 billion a year in exports to China. With 25 percent of Ohio manufacturing jobs dependent upon exports, this is incredibly important to us.

One out of every three acres of land in Ohio is planted for export, so agricultural exports are also important. There is also an important issue with China that relates to investment both ways: our investment in China and Chinese investment here. Let me read to you from an editorial that was in the Cleveland Plain Dealer last Thursday. Its title is: ''Chinese investors are welcome here.''

> If Greater Cleveland is going to prosper in the 21st century, it has to build strong two-way connections with the rest of the world. The region has to sell more of its services and products abroad and welcome talent and capital from overseas. That's the path to jobs and wealth.

The editorial goes on to talk about the collaboration between Chinese companies and investors looking to build relationships with Cleveland's world-renowned medical device industry.

Just last week, the mayor of Toledo, OH, Mike Bell, returned from a 12-day

trade mission to Asia in order to boost job creation in northwest Ohio. Since Mayor Bell's trip, plans have been announced for increased commercial ties between Chinese and Ohio job creators and companies, including launching a new international business center in downtown Toledo.

These are just a couple of examples in my State of the importance of this relationship and why it needs to be taken so seriously. This relationship is vital to the future not just of our two countries but, in my view, to the global economy. So we need to be sure, again, it is a healthy relationship. It needs to be fair. It needs to be on a basis where, again, there is a level playing field on both sides. So it is time for our trading partners to play by the rules so that, indeed, we can have a fair trading system.

Trade is key to growth. But, again, it is only one part of a broader problem that is holding back our economy today, holding back Ohio manufacturers from hiring and innovating. Another big issue that has come to the attention of this Senate time and time again is the incredible regulatory burden that is placed on Ohio's job creators. So in order to be successful in trade, we need to have more open markets. We talked about that: a level playing field. But, also, we need to be more competitive at home or else we are not going to be able to create the jobs in this century that we need to keep our economy moving forward.

At a time when we have over 9 percent unemployment, it is critical we be sure our economy is more competitive. This regulatory burden is one issue that I think all sides can agree ought to be addressed.

I am joined today by the junior Senator from Nevada, my friend and colleague, to offer a couple of amendments designed to give American employers some relief from the regulatory mandates that continue to hold back our economy and hinder job creation.

There is no official counting of this total regulatory burden on our economy, and estimates do vary. But one study that is often cited is from the Obama administration's own Small Business Administration where they report the regulatory costs exceed $1.75 trillion annually. That is, of course, even more than is collected by the IRS in income taxes every year. So it is a huge burden. We can talk about what the exact number is, but the fact is this is something that is forcing Ohio companies and other companies around our country to have higher costs of creating a job.

The Office of Management and Budget estimates that the annual cost of a narrow set of rules—these are just what are called the major rules that are reviewed by OMB over one 10-year period—registers at $43 billion to $55 billion per year.

I have been encouraged by what the current administration has recently been saying about regulations. I have been less encouraged about what they have done. The new regulatory costs on the private sector are real, and they are mounting.

Compared to historic trends, we have seen a sharp uptick over the last 2 years in these new so-called major or economically significant rules that have an economic impact of over $100 million on the economy. They also have an impact, of course, on consumer prices and American competitiveness.

George Washington University Regulatory Studies recently told us that this administration has been regulating at an average of 84 new major rules per year, which, by way of comparison, is about a 35-percent increase from the last administration and about a 50-percent increase from the Clinton administration.

These figures do include the independent agencies which must be included in the calculations. So there has been an uptick in regulations, and continues to be, again, despite much of the rhetoric to the contrary. One commonsense step we can take to address this issue is to improve and strengthen what is called the Unfunded Mandates Reform Act of 1995, UMRA.

I worked on this along with some of my colleagues who are now in the Senate back when I was in the House. It was a bipartisan effort that basically said Federal regulators ought to know the costs of what they are imposing. We also ought to know what the benefits are, and we ought to know if there are less costly alternatives.

The two amendments I am offering today are drawn from a bill that I introduced back in June called the Unfunded Mandates Accountability Act. It is an effort that now has over 20 cosponsors. Again, it seems to me it is a commonsense effort that should be bipartisan.

The first amendment would strengthen the analysis that is required in some very important ways. First, it requires agencies to specifically assess the potential effect of new regulations on job creation, which is not currently a requirement, and in this economy it must be. Also, to consider market-based and nongovernmental alternatives to regulation, again, something we need to look at.

It also broadens the scope of UMRA to require a cost-benefit analysis of rules that impose direct or indirect economic costs of $100 million or more. It requires agencies to adopt the least costly and least burdensome alternative to achieve the policy goal that has been set out. So, currently, agencies have to consider that, but they do not have to follow the least costly alternative. We simply cannot afford that, again, because of the tough economic times we have.

The second amendment extends those same requirements to the independent agencies. This is incredibly important, and these are agencies such as the Commodity Futures Trading Commission, the newly formed Consumer Financial Protection Bureau, agencies that are very important on the regulatory side and are currently exempt from these cost-benefit rules that affect all other agencies.

On this issue I was very pleased to see that President Obama issued an Executive order in July which was specifically related to independent agencies. That order and the accompanying Presidential memorandum called on independent agencies to participate in a look-back, but also, very importantly, called on independent agencies to evaluate the costs and benefits of new regulation just as, again, all executive agencies were already required to do.

It is a step in the right direction, but the problem is that the President's order is entirely nonbinding because a President cannot require independent agencies to do that. Congress can. We can do it by statute. And independent agencies do not answer to the President. So since this order was issued in July—by the way, we have not seen a rush by independent agencies to pledge to comply with these principles. Again, they are not required to, so this amendment, this second amendment, would effectively write the President's new request into law so it can be effective.

Independent agencies would be required under UMRA to evaluate regulatory costs, benefits, and less costly alternatives before issuing any rule that would impose a cost of $100 million on the private sector or on State, local, and tribal governments. The fact is, independent agencies are not doing this on their own. According to a 2011 OMB report, not one of the 17 major rules issued by independent agencies in 2010 included an assessment of both cost and benefit. Not one.

Closing this independent agency loophole is a reform we should be able to agree with on both sides of the aisle. Certainly, the President should agree with it since it is part of his Executive order and memorandum, and this is the right vehicle to do it.

This a jobs issue again and a commonsense approach. No major regulation, whatever its source, should be imposed on American employers on State and local governments without a serious consideration of the costs, the benefits, and the availability of less burdensome alternatives. These amendments move us further to that goal.

I would urge my colleagues on both sides of the aisle to support them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, I rise today to speak in favor of the two amendments filed by my good friend from Ohio, Senator PORTMAN, my amendment No. 674, and above all the issue of the day, jobs.

Americans have had to endure great hardship over the past few years. This recession has robbed millions of people of their jobs, their homes, their businesses, and their sense of security. No

State has been hit harder than the State of Nevada. My State has the unfortunate distinction of leading the Nation in unemployment, foreclosures, and bankruptcies. And there is no question that the status quo of dysfunctional government must end.

People from all over the country are struggling just to get by and are desperate for real solutions. The underlying legislation takes the wrong approach to job creation and can be very detrimental to economic growth in our country. Inciting a trade war with China will not create jobs.

In my home State of Nevada, a trade war would hurt tourism. It would stifle growth in renewable energy development and increase costs to consumers at a time when they can least afford it.

Working to sell American goods in foreign markets is what we should be fighting for. Instead, it seems job creation and economic growth have taken a back seat to political posturing and grandstanding in Washington. It is clear that the approach this administration and its supporters have taken for economic recovery has failed miserably. Out-of-control spending, a health care law no one can afford, and seemingly endless streams of regulation are crippling employers, stifling economic growth, and killing jobs. Instead of fighting for measures that create and protect jobs, this administration has created more government that continues to impede economic growth at every turn.

This government continues to tax too much, spend too much, and borrow too much. The American public and businesses alike are waiting on a plan that can plant the seeds of economic growth and bolster job creation. Instead, all they get from this government when it comes to job creation is a big wet blanket.

They need Washington to provide relief from new burdensome and overly intrusive regulations. Congress must help job creators by ensuring every regulation is vetted with a full understanding of the impact it will have on businesses across the country.

So I am pleased to join with Senator PORTMAN in this fight to rein in excessive government regulation and to implement a market-benefit analysis for all agencies, both executive and independent, so the American public will know the true cost of these regulations. As President Obama said: We must rein in government agencies and force them to help businesses when they refuse to do so. I could not agree more.

There are a number of actions Congress can take immediately to help bolster our Nation's economy. The adoption of Senator PORTMAN's amendments is one of those actions. I look forward to continuing to work with him on these issues. I believe our best days are still ahead, but we need to change course now. We need to roll back the regulations that are tying the hands of entrepreneurs across America. We can help hasten an economic recovery by embracing progrowth policies that place more money in the pockets of Americans.

I would also like to highlight another issue that would help create jobs and provide certainty for the businesses across the country; that is, Congress should pass a budget. Congress has not passed a budget in nearly 2½ years. Passing a comprehensive budget is one of the most basic responsibilities of Congress, but it has failed to accomplish this task.

America desperately needs a comprehensive 10-year plan that offers real solutions to the economic and fiscal problems in this country. We cannot lower unemployment rates in Nevada or restore the housing market without a holistic approach to reining in Federal spending and lowering the national debt.

Congress passed another continuing resolution that lacks a long-term approach to restoring our Nation to fiscal sanity. Instead, this bill funds the government for just a few more months. Congress cannot continue to function without a measure of accountability to hold Members of Congress to their constitutionally mandated responsibility, which is why I introduced the no budget, no pay amendment, amendment No. 674.

This measure requires Congress to pass a budget resolution by the beginning of any fiscal year. If Congress fails to pass a budget, then Members of Congress do not get paid. How can Congress commit to a debt reduction plan without a budget? Any serious proposal to rein in Federal spending and create jobs starts with a responsible budget.

At home in Nevada and across this country, if people do not accomplish the tasks their jobs require, they do not get paid. Somehow this very basic standard of responsibility is lost upon Washington.

The no budget, no pay amendment is not an end-all solution to our economic difficulties. It is, however, an important measure that Congress should adopt in order to show the American people that Members of Congress are serious about restoring our country to a period of economic prosperity.

Nevadans work hard for their paychecks. So should Congress. And since the majority believes the legislation before us today is a jobs bill, I encourage them to take up other measures that will help with job creation, such as opening our country to energy exploration, streamlining the permitting process for responsible development of our domestic resources, and taking the aggressive step of reforming our Tax Code. Let's make the Tax Code simpler for individuals and employers. Cut out the special interest loopholes while reducing the overall tax burden for all Americans.

Instead of looking for new ways to tax the American public, we should make our Tax Code more competitive and provide businesses the stability they need to grow and to create jobs. The continual threat of increased taxes feeds the uncertainty that serves as an impediment to economic growth. These are all things that both this administration and Congress could do immediately to boost economic recovery.

Let's give the American people a government that works for them. Removing impediments to job creation will get Americans working again and ensure our children and grandchildren have a brighter future.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

Mr. SCHUMER. Mr. President, I would like to talk on the bill that we are debating on the floor about China currency. Let me say a few things. To me and to many of my colleagues on both sides of the aisle, very little we could do could be more important in both the short term and the long term than to require China to pay a price if they continue to flaunt international trade rules and manipulate their currency, causing their imports to America—their exports to America, our imports, to be much cheaper than they should be, and causing American exports to China—their imports of our goods—to be more expensive than they should be.

In the short term, it has been estimated by EPI that 2 million jobs could be created over 2 years if we pass this legislation and China's currency were no longer misaligned. But there is a long-term issue, and that is this: The bottom line is, what is our future in this country? It is good, high-paying jobs. It is companies, large and small, that create high-end products, products that take a lot of know-how, products that take a lot of skill to create, products that basically are the high end in terms of both manufacturing and services. That is our future.

Those are our crown jewels. When I ask—as many of us have asked the question—how in a worldwide economy can America compete, the answer is those companies. I admit that most of those companies are not large; they are smaller companies. They are small business people with great ideas for new ways of providing a service or creating a product. They are the people who employ about 65 percent of the new jobs in America. They are our future. Some of them will grow into very large companies. Many will stay employing 100, 200, 300, or 400 people. But they are on the front lines of world trade.

What have we found over the last decade? In almost 10 years, since China joined the WTO, we have lost 2.8 million jobs, simply due to the Chinese

Government's manipulation of currency. We have lost thousands more jobs elsewhere, because China steals our intellectual property. China has a mercantilist policy of taking an industry and nurturing it with local subsidies and making products so cheap that they export and overwhelm our market. That is what happened with solar cells, solar panels. They can take an advantage such as rare earths and oppose WTO rules and say to companies, if you want these rare earths, which you need for your products, you have to make it in China.

They do this over and over. Why do Senator BROWN and Senator GRAHAM and I and many others feel so strongly about this? Because we know if the present trend continues, as Robert Samuelson, the economist, noted in an op-ed in the Washington Post the other day, basically it is a disaster for America. If, when a young entrepreneur creates a product or service, that entrepreneur is overwhelmed by a Chinese product that has unfair advantage, we don't have a future. That is it. Many people worry about the budget deficit as the biggest problem America faces. It is a large problem and I hope we solve it. I will work hard to solve it. But, to me, the No. 1 problem America faces is how do we become the production giant we were over the last several decades but no longer seem to be. We are indeed a consumption giant. We consume more than anybody of our own products and other people's. But you cannot be a consumption giant for many years on end if you are not also a production giant.

What is a major external factor that contributes to making us a consumption giant rather than a production giant? It is the Chinese manipulation of currency, because it discourages production in America and encourages consumption of undervalued Chinese goods at the same time. The anguish that many of us feel about the future of this country translates directly into this legislation. I know there are lots of academics who sit up in their ivory towers, editorial writers, who love to look at this legislation and without even examining its consequences say that is protectionism. This is not protectionism. In fact, this legislation is in the name of free trade, because free trade implies a floating currency. That is what was set up at Bretton Woods. That was the equilibrium creator when things got out of whack. But it doesn't exist for China. A lot of countries have pegged their currency in the past and we paid no attention, because if you have .01 percent of GDP, and you are worried your tiny little currency will be overwhelmed, to peg it by world trends, that doesn't create much trouble. When you are the second largest economic power in the world, largest or second largest exporter in the world, to peg your currency totally discombobulates the world trading system.

Given the danger to the future of our country, and given the danger to the continuation of world trade by China continuing its currency manipulation, why isn't there more of an outcry? That is the question I ask myself. I don't have a good answer. Perhaps it is because those editorial writers and big thinkers don't talk to the manufacturers of high-end products in New York State I talk to, who see they cannot continue against China unfairly because of currency manipulation. Whether it is a ceramic that goes into powerplants, which I talked about yesterday, or even a high-end window that is used for major office buildings and museums, China uses its currency manipulation to gain unfair advantage over our companies up and down the line. Maybe those in the ivory towers don't talk to the manufacturers on the ground as so many of us do because that is our job and that is our living. Maybe it is because global companies have fought our provision in the interest of their shareholders.

I don't begrudge the big companies. Their job is to maximize their share price. If firing 10,000 American workers and moving them to China, and creating those 10,000 jobs in China gives them more profitability, in part because of currency manipulation, yes, that is what corporations are supposed to do. But that is not in America's interest. It may have been in General Electric—a company that has lots of New York presence and that I like very much—it may have been in their interest to sign a contract for wind turbines and give to China intellectual property in return. But it sure wasn't in the interest of the workers in Schenectad, even if it might have been in the overall interest of the GE shareholder. Maybe it is because the Business Roundtable and the Chamber of Commerce, which is dominated by the larger manufacturers and service companies and the larger financial institutions. They don't care about American wealth and jobs; they care about their own profitability and sales and share price, and if China has an unfair advantage, so be it. That is not their job. Maybe that is the reason. That is beginning to change, by the way.

When I last visited China, I met with the heads of the China divisions of many of our largest companies, and I had met with the same people several years before—and intermittently some of them in between—and their tone has totally changed. They are exasperated with China's mercantile policy. One of the manufacturers, who had been one of the leaders in saying don't touch China, because they exported a ton of goods there, had a different tone. He said: We can only export certain of our goods—the ones China doesn't make—and the rest we have to make in China and in certain provinces. That is a large, huge multibillion dollar U.S. company.

Another company, a major retailer, told us they cannot run their stores the way they wish in China because China dictates what they can and cannot have on their shelves. Half of the products on their shelves in American stores cannot, by Chinese Government dictate, be on the Chinese store shelves. Some of our large companies are sort of realizing that letting China get away with all of these violations of free trade, all these violations of WTO, no longer serves their interests, though, admittedly, they have not come around to support our bill.

Then there are those who are fearful that the Chinese will retaliate. That one drives me the craziest. I grew up in Brooklyn. When there were bullies and you didn't stand up for yourself, they bullied you and bullied you some more. If you stood up to them, yes, there was going to be some retaliation, but it was a lot better than giving in. That is what we have done with China. Will China retaliate if this bill becomes law and hundreds of American companies grow to have countervailing duties imposed? Yes. But the Chinese know they have far more to lose in a trade war than we do. Their economy is far more dependent upon exports—just look at the percentage in terms of GDP—than ours. They are far more dependent upon the American market than we are on the Chinese market, as important as it is to many of our companies.

While China will retaliate in a measured way, they will not create a trade war. It is not in their interest; they cannot afford to. I have news for those who are worried about a trade war: We are in one. When China manipulates its currency, steals intellectual property, and uses rare earths to lure businesses and takes our intellectual property and brings it to factories in China, subsidizes them against WTO rules, and then tries to export the product here, as they are doing with solar panels, that is a trade war, as millions of Americans who have lost their jobs realize. So we are in the war. We may as well arm ourselves so that we might win.

The bottom line is very simple: I hope this bill moves forward. I hope it goes through the House. A large vote in the Senate tomorrow will be a message to the House—Senator BROWN's bill and, of course, his and ours have been combined. But Senator BROWN's bill passed in the House a few years ago, and I hope the President rethinks things and signs it, because if he does, my prediction is that China, which never backs off when it is in their own economic interest, will, because it will no longer be in their economic interest because penalties will be imposed and equality will be imposed upon them once this bill is law. So they will let their currency float—maybe not as quickly as we want but far more quickly than it happens now, once this bill becomes law.

In my view, the arguments that have been raised against America taking action to deal with unfair Chinese currency manipulation are outdated, wrong, and ineffectual. I have been arguing the other side, our side, for 5

years. When Senator GRAHAM and I first started talking about currency manipulation, imposing a tariff, both the Wall Street Journal and New York Times editorial boards—one very conservative and one very liberal—said China should be allowed to peg its currency. We have made progress in the strength of our intellectual arguments. We have to take that strength and translate it into action. Millions of American jobs, and ultimately trillions of American dollars of wealth, and nothing less than the future of our country are at stake.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from South Carolina.

Mr. DEMINT. I rise to speak in opposition to the Chinese tariff bill being proposed by my colleague from New York. I understand the frustrations that motivated this legislation, and I share serious concerns over China's currency manipulation and trade practices. I have worked for years to ensure that trade happens and that free trade happens on a level playing field. We still have a long way to go.

The answer to these frustrations with China is not to start a trade war that will raise prices on many goods for American families at a time when they are already struggling, especially when this approach has already been tried and failed to gain any positive results for American workers. The absolute last thing our floundering economy needs right now is retaliatory tariffs on American products that will destroy more jobs. If we want to strengthen our currency, we should start by getting control of our own monetary policy. We don't need to start a trade war with China; we need to stop the class warfare that is preventing jobs from being created right here in America.

American workers are the best in the world, but they cannot fairly compete in a global economy when the U.S. Government is keeping one arm tied behind their back. The solution is to free American workers, not to try to tie up our competitors with more misguided policies that will hurt American families with higher prices on household goods. The U.S. Government needs to give American workers the freedom to work, and that freedom starts with the freedom to get a job.

If President Obama and the Democrats want to know who is preventing jobs from being created in America, all they have to do is look in the mirror. Let's be clear about a few things: Other countries are not threatening to massively raise taxes on our Nation's job creators and drive jobs overseas. President Obama is. Other countries did not jam through a health care takeover bill that is raising the cost of health care, making it harder for businesses to hire people and adding trillions of dollars to our national debt. The Democrats in Congress did. Other countries did not force us to pass the Dodd-Frank financial takeover with thousands of new regulations that are raising costs on American consumers and crippling businesses. Democrats in Congress did. Other countries are not writing hundreds of new regulatory rules that are destroying jobs in our Nation's energy sector and keeping us dependent on foreign oil. The administration's EPA is. Other countries are not blocking Boeing from creating thousands of American jobs in the State of South Carolina. The President's National Labor Relations Board is. Other countries are not forcing 28 U.S. States to require employees to join labor unions that make businesses less competitive. Democrats are the ones protecting labor bosses and hurting workers in America.

The Wall Street Journal has called this Chinese tariff bill ''the most dangerous trade legislation in many years,'' and for good reason. If we pass this bill, it is likely to spark a trade war. It is unlikely to create new jobs in America but will result in higher prices for U.S. consumers. Businesses will pay more for raw materials from China, which will increase prices on their goods and reduce employment. President Obama and the Democrats should know better after seeing the results of the tariff that was put on Chinese tires in 2009. In response, China retaliated with tariffs on American auto parts and poultry. This well-intended bill will have the same unintended results.

I understand the economic frustrations people have with China, but as so many of Obama's policies have done, this bill will only make things worse. This bill doesn't export the best of what American workers have to offer, it exports bad economics. Taxes and tariffs do not create jobs, competition and markets do. Freedom will work if we let it.

I urge the Senate to reject this bill and start helping American workers compete more freely here in America and around the world instead of simply trying to hold others back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. I have just a couple comments with regard to those of the Senator from South Carolina. He was the ranking member on the Economic Policy Subcommittee on which also sat the Presiding Officer from Oregon in 2009 and 2010. We held a series of hearings on manufacturing policy, and there were some agreements between Senator DEMINT and me on having a manufacturing strategy. We are the only major industrial country in the world without a real strategy on manufacturing. There are three ways to create wealth in this society: manufacturing, mining, and agriculture. Manufacturing has been a dominant force and a significant creator of the middle class, and I think we agree on that. We agree we want more of it in our country. Thirty years ago, more than 25 percent of our gross domestic product was manufacturing. Today that number is less than half that, and there are countries around the world—Germany, for instance, which has had a manufacturing strategy, and they have almost twice the GDP and twice the workforce.

So while Senator DEMINT and I disagree on this China trade bill, I agree with the other Republican Senator from his State, Mr. GRAHAM, who has been a significant leader. He and Senator SCHUMER have worked on this for, I believe, more than half a decade on responding to the cheating the Chinese Communist Party and the People's Republic of China have done in the world trade structure. I don't believe, in any way, we are starting a trade war. Almost any economist will tell us the Chinese have been committing a trade war for a decade. That is why our trade deficit is three times what it was 10 or 11 years ago. It is why so many manufacturing jobs in Senator GRAHAM's and Senator DEMINT's State of South Carolina, the Presiding Officer's State of Oregon, and my State of Ohio have been lost, not only because of China's currency, but that is clearly a significant contributing factor. I go back to the illustration of gas stations, one across the street from the other, in Akron, OH. If one gas station could buy its gasoline with a 25-percent discount, it would soon put the other gas station out of business. That is really what has happened with China. China understands they have a 25-percent advantage given to them because they game the currency system. I know what that means. The Presiding Officer from North Carolina has seen what has happened to manufacturing in her State, a major manufacturing State. Our trade problems are not so much with companies in China, they are with the government. It really is our companies against the government. When they can game the system with a 25-percent bonus—when they sell into the United States, they get a 25-percent bonus, and when we try to sell into China, we get a 25-percent penalty on our companies' products—that hardly seems fair to me.

So as Senator GRAHAM and Senator SCHUMER, the two leaders in this for many years, have said, they just want to level the playing field. They don't want us to have an advantage over China. Let's play fair and straight. Really, that is what the question is, and that is what this currency bill will finally do.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Oregon.

Mr. MERKLEY. Madam President, I wonder if my colleague from Ohio would consider a bit of a discussion for a few minutes.

Mr. BROWN of Ohio. Love to.

Mr. MERKLEY. I found it very interesting, listening to some of the debate today, that there seems to be some policymakers in the Senate who haven't come to understand that when another nation pegs its currency, rather than letting it float, it does so deliberately to put in effect what is essentially a tariff against imports. In our case, that is a tariff against American imports, and in some cases it provides a subsidy to exports.

Now, here we are in America. Why would we say it is OK for China to peg its currency in a fashion that puts a tariff against American products and subsidizes Chinese exports to America? Because that is guaranteed to strip jobs out of America. Why would some Members of this Chamber consider that to be just fine? I am puzzled by that, and I am wondering if the Senator could help me understand.

Mr. BROWN of Ohio. I appreciate that. I was listening to one of the previous speakers who opposed this bill and characterized the bill as a China tariff bill. The Senator said it exactly right. When we sell to China, it is as if they put a tariff on our products. When we buy from them, we give them a 25-percent bonus—excuse me—when we try to sell to them, they ban that import. When we buy from them, they have a 25-percent bonus. It is putting us at such a disadvantage, as the Senator said.

Mr. MERKLEY. In Oregon, we recently had the shutdown of a company called Blue Heron. It has operated for the better part of a century, making paper. The point Blue Heron was making was that because of the pegging of the currency, the paper they tried to sell to China faced a 25-percent tariff, while China's paper enjoyed a 25-percent subsidy if it was sold in the United States, and it created an absolutely unfair international trade playing field that was going to be putting American papermakers out of business. No matter how efficient they could possibly be, China, with this subsidy, could sell into the U.S. market, undercutting American products. Well, that plant shut down. It is one of a series of paper plants that have shut down. I think the Senator has some similar situations in Ohio.

Mr. BROWN of Ohio. We do. The Senator from Oregon and I have talked about this, that there is a gentleman who worked for a paper company who illustrated to me what China has done. It was a specific kind of paper, a glossy, coated paper for magazines. The Chinese bought their wood pulp in Brazil, they shipped it to China, milled it there, and sold it back to the United States, and they undercut Blue Heron and Ohio paper companies because they had that 25-percent subsidy.

There is no way, when labor costs are only about—labor is only about 10 percent of the cost of paper production—there is no way they could possibly buy something as heavy and voluminous as wood pulp, ship it across the ocean, mill it, ship it back in the form of paper, and not—the only way they can undercut prices is by huge subsidies. There may have been other subsidies to it. It may have been water and energy and capital and land, but it surely was that 25-percent subsidy these companies have when they undercut our manufacturers.

I just know that in 15 years, I say to the Senator, or 10 years, we will look back on the history of our country and say: Why did we let one country undercut our manufacturing base so substantially and lose all those jobs and lose all that technology? When the products are invented in this country, the production is done offshore, and so much of the innovation that is done on the shop floor ends up in that country rather than here, it makes it harder for us, when we lose that innovative edge, to catch up.

Mr. MERKLEY. I think it is important to understand as well that the pegged currency isn't the only tool China is using to create an unlevel playing field against American products. Another is that they use something economists call financial repression. That is a fancy word for artificially lowering the interest rates on savings on a level below inflation. So if you are a Chinese citizen and you are saving money and the inflation rate is 5 percent, the interest rate you are going to get is going to be less than 5 percent. It is a way, essentially, of taxing the entire nation, and then the Chinese Government takes those funds and they give massive subsidies to manufacturing in China. Those subsidies include grants, and they include below-market loans.

So on top of the huge tariff on American products which basically stems from this currency manipulation, we have these huge subsidies to domestic manufacturers who export to the United States. China is supposed to disclose those subsidies under WTO, but it may come as a surprise to some in this Chamber that China doesn't do it. They only did it one year, in 2006. So they are taking the structure that was set up and they are abusing it. This adds to, on top of the currency manipulation, further driving jobs out of the United States, discriminating against U.S. products.

Isn't there a time when we as policymakers need to stand for American workers, stand for the American middle class, and say we are not going to allow another nation in a major trading relationship to break the rules in order to discriminate against the very products that put American workers out of work?

Mr. BROWN of Ohio. As a result of the work Senator SCHUMER did early on this bill, with the cosponsorship of the Senator from North Carolina who is presiding, this bill really is the first major bipartisan jobs—major, biggest jobs bill we have brought in front of this Chamber, and this is a chance to finally begin to look toward ways of reindustrializing our country and building manufacturing that matters in places such as Buffalo and Charlotte and Portland and Toledo.

This bill is a real opportunity. I think that is why we got 79 votes on the first go-round on Monday night. I think it is why we have so many Republican sponsors of this bill. It is a result of the work Senator SCHUMER and Senator GRAHAM have been doing for years to begin to build that foundation, and that is why the passage of this bill is so important.

Mr. MERKLEY. I wish to thank the Senator from Ohio, Mr. BROWN, for his work, along with the work my colleague from New York, Senator SCHUMER, has done. It is time we stand for workers across our Nation who have been systematically losing the good-paying manufacturing jobs because China has been pegging its currency and discriminating against American products to subsidize the export of their own. This must be discussed in every corner of our Nation and must be discussed here on the floor of this Chamber because it is affecting the success of American families in Oregon, in Ohio, in New York, in North Carolina, and throughout our Nation.

Thank you, Madam President. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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, if Washington is going to force new regulations on the job creators of this country, I think America needs to know the cost of those regulations. That is why I rise today to discuss an important amendment, an amendment I am offering to the underlying China currency bill. It is Barrasso amendment No. 671. This amendment, which is a bipartisan amendment—it is cosponsored by Senator MANCHIN and Senator BLUNT—will force the U.S. Government to look before it leaps when it comes to issuing job-crushing regulations.

Simply put, the administration would be required to do a comprehensive and transparent jobs-impact analysis—a jobs-impact analysis—before issuing any job-crushing regulations.

Job creation in this country has almost come to a halt. The Labor Department reported that zero jobs were created in August. The economic recovery that was promised by the administration failed to materialize. Unemployment remains at 9.1 percent. Meanwhile, the unemployment rate in China is 4.1 percent. Our economy is stagnant. China's economy is growing. It

has been this way since President Obama took office.

The President blames the American people by saying the country has grown soft. In September, he stated in a TV interview in Florida:

> The way I think about it is, you know, this is a great, great country that has gotten a little soft and, you know, we didn't have that same competitive edge that we needed over the last couple of decades. We need to get back on track.

Yet, despite the repeated assurances of improvement, President Obama's own economic policies have failed. The only people who have gained from these policies live in countries overseas. We see it in China. These are people who are benefiting from American companies moving operations outside the United States. Why? Well, it is to escape Washington's redtape.

The President's stimulus plan failed to produce the 3.5 million jobs the President had promised. His so-called green jobs initiative gave us more red ink but never came close to the 5 million new jobs he predicted.

All the while, the Washington bureaucracy that he controls has continued to churn out extensive as well as expansive new regulations that amount to an assault on domestic private sector job creation. The facts are inescapable. Since President Obama took office, America has lost approximately 2.3 million jobs. We have been in an economic crisis, a crisis that extends to America's confidence in the President, confidence in this President to do anything that will change the current course.

What the American people want is leadership, and they have rejected the President's insistence that the only way forward is through more spending and more Washington redtape on those in this country who create jobs.

In September, the President addressed a joint session of Congress. He actually said he wanted to eliminate regulations, regulations he said put an unnecessary burden on businesses at a time, he said, they can least afford it. Well, we 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 and every day. The redtape makes it harder and more expensive for the private sector to create jobs while making it easier to create jobs in foreign countries such as China. The President said his administration has identified over 500 reforms to our regulatory system, he said, that would save billions of dollars the next few years.

Well, I appreciate that the White House may have identified wasteful regulations, but it will not help our economy unless the White House repeals those wasteful regulations. The President's jobs plan does nothing to fix the regulatory burdens faced by America's job creators. His jobs plan actually adds to the burden on job creators in this country.

The President has tried to justify this increasing avalanche of redtape. He said he does not want to choose between jobs and safety. Well, in today's regulatory climate, the choice is a false one. 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 regulations continue to stand in the way. The expansion of the Federal bureaucracy is suffocating the private sector economy. Federal agency funding has increased 16 percent over the past 3 years, while our economy has only grown 5 percent over the same 3 years.

The regulatory burden is literally growing three times faster than our own economy. This massive increase in Washington's power has only made the U.S. economy worse and China's better. Americans know regulating our economy makes it harder and more expensive for the private sector to create jobs. The combined cost of new regulations being proposed by the Obama administration in July and August alone was $17.7 billion. Much of this cost was borne by Americans working in 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 does not make the other side pop up. This administration's out-of-control regulations scheme is dragging down large portions of our economy.

Now the President has promised to stop this kind of overreach. President Obama issued an Executive order at the start of this year. Way back in the beginning of 2011 he said he wanted to do that, to slow down Washington's regulations.

Let's see how effective the President has been with his Executive order. Well, it has failed. In the month the President issued his Executive order, way back in the beginning of 2011, all of those months ago, hundreds of new rules and regulations have been either enacted or proposed. For every day that goes by, America's 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 very laudable goals, but a new rule every day does nothing to promote predictability and is the very definition of uncertainty. The main source of uncertainty in the economy right now is Washington regulations.

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 ''start where most new jobs do, with small businesses.''

Well, 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, well, those businesses incur regulatory costs that are 42 percent higher than larger businesses which have up to 500 employees. These figures do not include the avalanche of new regulations coming down the road.

Since January 1 of this year, over 50,000 pages of regulations have been added to the Federal Register. The U.S. Chamber of Commerce has said the President's new health care law alone will produce 30,000 pages of new health care regulations. At whom are many of those aimed? Well, it is these same small employers the President claims to want to help.

The President said he will keep trying every new idea that works, and he will listen to every good proposal no matter which party, he said, comes up with it. Well, 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.

The amendment I am offering is going to do just that. It is a bipartisan amendment. It is based on a bill that I have introduced called the Employment Impact Act. This amendment will force every regulatory agency to prepare what is called a jobs impact statement—a jobs impact statement—for every new rule proposed.

The impact statement must include a detailed assessment of the jobs that would be lost or even gained or sent overseas upon enactment of a rule coming out of Washington. Agencies would be required to consider whether new rules would have a bad impact on our job market in general. This job impact statement would also require an analysis of any alternative plans that might actually be better for our economy.

The amendment requires regulatory agencies to examine and report on how new rules might interact with other proposals that are also coming down the road. The problem with Washington regulations is not only that they are too sweeping, but there are also too many. It makes no sense to look at any one individual rule or regulation in a vacuum and then enacting hundreds of them without identifying and understanding their cumulative impact and effect.

The cumulative effect of those regulations is going to spell death by a thousand cuts for hard-working Americans who are trying to work, trying to support their families. In keeping with the principles of transparency that President Obama regularly proclaims is a priority for him, this bill, this amendment, will require every jobs impact statement prepared by a Federal agency to be made available to the

public. The American people deserve to know—have a right to know—what their government is actually doing.

Federal agencies in Washington need to learn to think, to think about the American people before they act. Requiring statements from these agencies on what their regulations will do is nothing new. For 40 years the Federal Government has required an analysis of how Federal regulations will impact America's environment. They have to file what are called environmental impact statements. What I am asking for is simply a jobs impact statement.

Past generations of legislators rightly recognized the importance of America's land, air, and water. It is equally 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, who are willing to work, who are looking for work, and yet cannot find a job.

This amendment, the Barrasso amendment, will force Washington bureaucrats to realize Americans are much more interested in growing our Nation's economy than they are in growing China's economy.

I urge a vote and adoption of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. I rise today to, first of all, congratulate all of my colleagues, the 79 Members who came together to vote to proceed to a very important measure, a jobs bill that is currently before us.

The great news is that it is a jobs bill that will cost us zero dollars to be able to implement in terms of about 2.25 million new jobs, new jobs that will come. Why? Because we are saying as a group, as the Senate: Enough is enough, and we want China as well as other countries to follow the rules. We want them to follow the rules so when our companies and our workers are competing in a global economy they will have a level playing field and the ability to compete. We know if the rules are fair, if there is a level playing field, we in America will compete, and we will win. We know that.

The biggest violator on any number of trade issues we know of right now is China. When they joined the WTO 10 years ago, the whole point of them being able to join the world community under a world set of economic agreements was to make sure they would have to follow the rules like everybody else. But ever since that time they have done nothing but flagrantly violate the rules.

When China does not play by the rules, it costs us jobs. It puts our businesses in Michigan, our workers in Michigan and across the country at a severe disadvantage. It has to stop. We in Michigan have been through more, deeper and longer than any other State in the Union, and we are coming back because of a great work ethic and ingenuity and ideas and entrepreneurship. We are moving forward and creating new ideas. More clean energy patents are being created in Michigan than in any other place in the country.

We just had news today that, in fact, we are—last year 2010—the fastest growing high-tech sector. There are more high-tech research and development jobs in Michigan than any other place in the country. So we know how to compete and we know how to win.

But we are in a global economy, where our companies are competing against countries. When we have an entity, a country like China that does not believe they need to follow the rules—whether it is stealing our patents, whether it is blocking our businesses from being able to bid to do business in China, or whether it is the huge issue of currency manipulation, which is in front of us today, we know the rules matter. We know it is our job to stand for American businesses and American workers, and that is what the bill in front of us does.

It says to China and any other country involved in currency manipulation that we have had enough. It directs Treasury to take action; to look around the globe, determine where there is currency misalignment, and to prioritize the countries that are most egregious in their actions—we know China is at the top of that list—and then it requires them to act.

It requires Commerce to work with our businesses to act. We have had enough talk. We have had enough of hearing about give China time. We are now past 10 years when they entered the WTO, and every time we start talking about this, they say: Well, we are going to change it. We are starting to change it.

There are those in Congress who say not only has it not changed but maybe it is even getting worse. The point is, we are losing jobs as a result of the way China cheats. Enough is enough.

How do they do that? In this case, when we say currency manipulation, eyes glaze over. The reality is, because of the way they value their money—their currency—they are able to get an artificial discount. Their products appear to cost less coming to the United States—the same product made the same way. Ours artificially gets an increase in the price. It can be up to a 40-percent difference, not because of anything other than the fact that they do not value their currency the way every other country in the world does in the world economy. They always make sure they peg it in a way that they get a discount, no matter what.

That is illegal under the WTO. It is unfair. It is cheating. That is what this bill fixes. A real-world example: We have some great auto parts manufacturers in Michigan, and a very common story would be that a part breaks and to get another part, it costs $100 in Michigan, but the Chinese were able to peg their cost at $60—not because it was any different, other than the fact that they value their currency in a way that allows them to have it appear that it costs less. So this is something we intend to take action on.

We know right now that if the Chinese currency was revalued, if they did what everybody else does and followed the rules, we would see up to $286 billion added to the U.S. GDP right now. We would see 2.25 million U.S. jobs being created if China and others around them followed the lead and revalued their currency—2.25 million jobs. We don't need a line item in the budget to do that.

We are not talking about a new program. We are simply talking about leveling the playing field and stopping China from cheating. We can create those jobs. Our deficit would be reduced by between $621 billion and $857 billion, at no cost to taxpayers. At a time when we are struggling with the largest deficit we have ever had, and we are struggling with how we address that, the ability to have up to $857 billion reduced in our deficit at no cost to taxpayers—that sounds like a pretty good deal to me. People in Michigan would say: Why has it taken so long to be able to address this?

Now is the time that we have a strong, bipartisan coalition. I am so proud of all our colleagues who have come together from every part of the country, every part of our economy, whether it is manufacturing, agriculture, textiles or those involved in high tech, saying it is time for us to stand for America, for American jobs, and for American businesses. That is what this is all about. What else are we hearing about this particular effort? The Federal Reserve Chairman, Ben Bernanke, said:

> The Chinese currency policy is blocking what might be a more normal recovery process in the global economy. It is . . . hurting the recovery.

Again, that is something we can do to reduce the deficit and create jobs. China is proceeding with a policy that is hurting the recovery, at a time when we need to get everything out of the way so we can come roaring back as a country. We are the greatest country in the world. We have tremendous challenges right now, economically, that we will work our way out of. But one of the first things we can do is say to China: Stop cheating.

We also have C. Fred Bergsten, a former Assistant Treasury Secretary, saying this:

> I regard China's currency policy as the most protectionist measure taken by any major country since World War II.

Over the years, we have debated fair trade and free trade, whether it is protectionist to stand up for American businesses or workers, and here we have an expert saying to us that China's policy on currency manipulation is the ''most protectionist measure taken by any major country since World War II.''

The reality is, we can compete with anybody and win—and we will. But it is

our job to make sure there is a level playing field. This is about American competitiveness. This is about being a global economy and making sure the rules are fair, making sure everybody is following the same rules, and then let's go for it. I will put America's ingenuity and entrepreneurship, research and development, and skilled workforce up against anybody's.

Some say—and we have heard from the highest levels of the Chinese Government—it could spark a trading war if we stand for our businesses and require there be a level playing field. We know we have a complicated relationship with China. We borrow funds to offset our debt. But we also are the largest consumer market in the world. They want to be able to sell to us. I cannot believe they will decide that they suddenly don't want to sell to the United States all those things they make, the largest consumer market in the world. The difference is, they would not be able to cheat, to get artificial discounts that will hurt an American small business that is making the same product.

As for the American textile industry, I had an opportunity to visit some folks who make denim for jeans and folks in the cotton industry and talk about competitiveness and what this protectionist policy in China is doing to the American textile industry, which is beginning to come back—and will come back if, in fact, there is a level playing field on trade. But they are up against a situation where they artificially are facing a 28- to 30-percent discount because of currency manipulation. Yet they are still competing. Can you imagine if the rules were fair?

This is about American competitiveness, and it is about the fact that we are responsible for making sure there is a level playing field for American businesses and American workers. We will not have a middle class in this country if we don't make and grow products. We want to make products here and grow products here and the jobs will be here and then we are happy to export products. We want to export our products, not our jobs. That is the difference. We are sick and tired of exporting our jobs because of the fact that China does not follow the rules. Enough is enough. After more than 10 years, they have not had to step up and do what they are supposed to be doing under the agreements they have entered into. Enough is enough.

Again, I look forward to our final vote on this legislation. I think this is a very important moment, at a time when there are many disagreements, and there have been many difficult times in the Senate—being able to move forward and take action, the fact that colleagues on both sides are standing together on behalf of businesses and workers at every corner of this country, saying we are going to fight for American jobs and businesses, large and small, and we are going to make sure we create a level playing field so we have the competitiveness structure we need in this country, because we know if we have that level playing field, there is nothing that can stop American ingenuity and American workers, who are the best in the world and will continue to be.

I urge adoption of this bill and congratulate all my colleagues who have been involved with this issue for many years—colleagues on both sides of the aisle. I am very pleased we have been able to get the legislation to this point. It is now time to act on behalf of American workers and American businesses.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. HATCH. Mr. President, as we discuss our relationship with China, it strikes me that we are ignoring one of the most critical issues impacting U.S. competitiveness in regard to China—namely, China's inadequate protection of U.S. intellectual property, or what I call IP.

Let's remember that intellectual property is our Nation's No. 1 export. American IP underpins the knowledge economy, providing our workers and companies with a significant competitive advantage. In short, IP equals jobs for American workers. It is that simple. Studies have shown that IP-intensive industries employ more than 19 million workers, create higher paying jobs across all skill levels, and support more than 60 percent of total U.S. exports. That is why throughout my service here I have endeavored to ensure that U.S. innovators and content creators are able to operate in an environment in which their IP, or intellectual property, is adequately protected.

I am pleased to have been the lead Republican sponsor of the recently enacted America Invents Act, which resulted in long overdue reforms to our Nation's patent system that will strengthen our economy, create jobs, and provide a springboard for further improvements to our intellectual property laws. I was very pleased to see Senator GRASSLEY take that over as the new ranking member of the committee and do such a great job with it. And I want to pay tribute to the distinguished Senator from Vermont, Mr. LEAHY, as well and to my colleagues in the House who saw the importance of that particular new law. It is the first time we have modified the patent laws in over 50 years, and that was a historic event.

So it is pretty apparent that I take a great interest in intellectual property and all aspects of it. I am the chairman of the Senate Republican High-Tech Task Force. I have to say it is really a privilege to work with these brilliant people who work in the intellectual property area, and while many of them are in Silicon Valley out in California, we have our own Silicon Valley in Utah that is becoming very well known, a lot of innovation. So we have most of the really great companies right there in Utah as well.

U.S. leadership in innovation has not gone unnoticed by our economic and strategic competitors, who are adopting and evolving innumerable tactics to steal, expropriate, or otherwise undermine our intellectual property rights. Few, however, have been as overt in these efforts as China. The statistics on counterfeiting and piracy alone are staggering. According to a recent report by the U.S. International Trade Commission, firms in the U.S. IP-intensive economy that conducted business in China in 2009 reported losses of approximately $48.2 billion—that is billion with a ''b''—in sales, royalties, or license fees due to IP infringement in China. Now, that bears repeating: $48.2 billion in losses for U.S. companies due to intellectual property infringement in China.

Perhaps most disturbingly, the ITC report noted that companies reported that an improvement in IP protection and enforcement in China to levels comparable to that in the United States would likely increase employment by 2.5 percent. Think what that would do for our country. That amounts to almost 1 million U.S. jobs. And these aren't just jobs, these are really good jobs. These are jobs that would benefit our country a great deal.

But counterfeiting and piracy does not stop at China's border. Based on U.S. border seizure statistics, China is the primary source of counterfeited products in the United States. These counterfeited products from China run the gamut. We are talking about counterfeit toys, fake drugs, fake auto and aircraft parts, counterfeit computer chips, and counterfeit software, music, movies, and games—in essence, anything and everything that has value in the sights of Chinese counterfeiters. Imagine if you are flying on an airplane and the parts they thought were valid and good parts all of a sudden quit working. This is a very important point I am making.

Clearly, this is not incidental. It is pervasive. Given China's system of government, it is fair to draw the conclusion that piracy and counterfeiting have explicit or implicit government approval, for there is little doubt that China would deal severely with any other activity they found objectionable well before it became pervasive. If they wanted to, they could clean this up. I hope they will because it is very much to the disadvantage of our country.

It is becoming clearer every day that China's failure to protect U.S. intellectual property is part of a well-coordinated government-led national economic development plan. Nowhere is

this more obvious than in China's adoption of plans to promote ''indigenous innovation.'' China's indigenous innovation policies disadvantage U.S. innovators through rules and regulations which mandate the transfer of valuable technology and rules which provide preferential treatment for intellectual property which is developed in China. In addition, there have been continued attempts to use technology standards as both a means to erect barriers to U.S. technology and as a means to unfairly acquire very valuable U.S. technology.

This is not to say China has not made any progress in combating the theft of U.S. intellectual property. Certainly the commitments made at the recent JCCT meeting regarding indigenous innovation and government procurement were a positive step, as was the recent agreement by the Baidu Web site to license legitimate content from certain IP owners. But while these actions are a good start, there is a lot more that needs to be done.

We can debate currency manipulation all day long, but if we want to foster immediate job growth in the United States, we should focus our energies on working to find ways to staunch the bleeding when it comes to the theft of American innovation by China. Again, we are talking about close to 1 million good-paying U.S. jobs which stand to be created if we can get this problem under control.

I stand ready to work with my colleagues on this important set of issues, but these are important issues, and it is time for China to grow up and get into the world community and do what is right. It is a wonderful land. They have tremendous capacities. They are brilliant people. A lot of their engineers were educated here. They are people who really deserve to be leaders in the world community if they live in accordance with the basically honest rules of the world community. But right now they do not live in accordance with these rules, and they could do a much better job on intellectual property than they have done.

I have been there a number of times, and each time I have gone there, I have raised the intellectual property issues and I have raised the piracy issues. They always say they are going to do something about these issues, but when push comes to shove, they really don't do what really needs to be done.

Another important issue we need to discuss is enforcement, and that is why I filed amendment No. 679. My amendment requires the Comptroller General of the United States to submit an annual report to the Congress on the trade enforcement activities of the Office of the U.S. Trade Representative—or we refer to it as USTR. This is a simple amendment that serves a vitally important purpose.

USTR is a relatively lean agency as compared to much of the bloated Federal bureaucracy. It is at the front lines in our efforts to open new markets to U.S. goods and services providers, and it leads the way in holding our trading partners accountable when they fail to live up to their trade commitments. It is a tough job. U.S. companies face an unrelenting onslaught of governments and NGOs which collaborate in seeking new ways to hamper America's economic competitiveness by undermining our intellectual property rights, by imposing unwarranted phyto-sanitary measures that have no basis in science, by enacting new technical barriers to trade, imposing unfair pricing and regulatory regimes upon our industries, and other equally harmful measures. Our goal, of course, should be to eliminate every single one of these. But the reality of the situation is that, in a world of limited resources, we must prioritize.

To my mind, the No. 1 priority should be removing barriers to our exports of goods and services, and eliminating foreign government practices which most impact U.S. jobs and economic well-being. Unfortunately, that has not been the case under this administration. Unfortunately, that is the situation we find ourselves in.

To cite an example, most people realize that China is an enormous problem for U.S. innovators and content creators. Our companies face policies designed to foster Chinese innovation at the expense of U.S. innovators, the imposition of standards-based barriers, the continued refusal to direct adequate resources toward stemming counterfeiting and piracy in both the online and physical realms, and other policies, laws, and regulations that diminish the value of U.S. intellectual property. To date, this administration has not filed a single intellectual property-related enforcement action against China.

Similarly, Chile continues to flagrantly violate the terms of our bilateral free-trade agreement with regard to crucial protections for intellectual property. Despite the direct and demonstrable harm to American innovators and workers, no dispute settlement process has been initiated with regard to Chile's failure to adequately protect intellectual property in accordance with the terms of our free-trade agreement that we have entered into with them.

In contrast, after 3-plus years of devoting significant resources to intensive negotiations with the Government of Guatemala, the Obama administration announced the initiation of the first ever bilateral labor dispute against an FTA partner. The administration also recently announced that it will investigate allegations by a Peruvian union that the Government of Peru has violated its labor under the United States-Peru Free Trade Agreement. To me, these actions demonstrate skewed enforcement priorities.

It is hard to believe that Guatemala's alleged failure to adequately enforce its own domestic labor laws is anywhere near the top of the list when it comes to trade barriers facing U.S. companies and workers. I also find it hard to believe that expending critical enforcement dollars to defend the interests of a Peruvian labor union should be among the top trade enforcement policies for this administration.

China, India, Brazil, Russia, and Chile are some of the many countries where we face very real threats to American industry and competitiveness due to unfair trade practices and barriers. But instead of focusing on these immediate, ongoing, and very real economic harms, the administration seeks yet again to instead score political points with labor union leadership.

I can hardly blame them for that, in a sense, because the trade unions in this country are the biggest supporters of the President and of the Democrats, but it is outrageous to not put our country first under the circumstances. It really is outrageous. I think even the trade unions are going to have to stop and think about, is this administration doing what is right with regard to our interests in all of these countries I have mentioned.

It is outrageous to direct the limited resources of our most important trade agency toward activities that have little to do with opening new markets or protecting U.S. jobs. This inability to prioritize based upon what is best for workers in the economy, as compared to what is best for building labor union support, is another unfortunate example of the administration's inability to lead on trade.

My amendment requires the Comptroller General, on a yearly basis, to detail the enforcement activities undertaken by the USTR and assess the economic impact of each such activity, including the impact on bilateral trade and on employment in the United States. It would also include an assessment of the cost of, and resources dedicated to, each such activity.

I am hopeful my amendment will assist this and future administrations in setting rational enforcement priorities. By providing an objective measure of the likely impact on trade and employment of any enforcement activities undertaken, it will also be an important resource for this and future Congresses in the conduct of our oversight responsibilities.

I would hope all of my Senate colleagues could support an amendment which provides us with important information and insights which will help us in ensuring that USTR utilizes taxpayer funds in the most effective manner possible toward opening markets and removing barriers to U.S. companies and workers.

I rise again today in support of my amendment No. 680. First, allow me to further explain some of my underlying concerns with the current bill's approach.

We have heard many estimates of job losses in the United States associated

with our trade deficit with China, following China's entry into the WTO, the World Trade Organization. Unfortunately, most of those estimates are highly unreliable and should be taken with a large amount of skepticism.

We have heard numbers coming out of the labor-backed Economic Policy Institute, or EPI, saying that 2.8 million U.S. jobs have been lost or displaced because of trade deficits with China since that country's entry into the WTO, with 1.9 million of those jobs estimated to have been in manufacturing. Unfortunately, those estimates come from an unreliable static analysis which essentially says imports displace labor used in domestic production and, therefore, lead directly to job loss and unemployment.

Looking at this particular chart here, you can see from that chart the relation between U.S. imports, which is the blue line, and the unemployment rate, which is the red line, and you can see how it has shot up since 2008, and it is still wavering at the top—does not seem to conform the jobs and unemployment claims being made with some of the numbers being used in our current debate. If anything, a casual observer might even say that when import growth is strong, it tends to be associated with a strong underlying economy, one in which unemployment is relatively low.

You can see from this chart that the imports were going up throughout the first part of 2002 to 2008, when they hit the pinnacle and then all of a sudden drop down with this administration. Now they are coming back up. But the unemployment rate has now gone up tremendously, and it doesn't seem to be coming down very far. So there is a correlation here. And, frankly, one that concerns me, as the chart suggests, following the pro-growth tax relief of 2003, the economy began to pick up some steam, imports correspondingly grew, and the unemployment rate fell until the financial crisis hit. That unemployment rate went down. The 2.8 million job loss number from the labor-funded think tank, or the 1.6 million job loss number the majority leader recently mentioned here on the floor, and many of the other job loss numbers associated with the China currency issue that are being offered by many of my colleagues on the other side of the floor, are highly unreliable and often not much different from numbers simply picked out of thin air.

The jobs numbers do not account for dynamic flows of workers from industry to industry, and the message being delivered is that if a job and an industry went away and net imports were going up, then the job must have been lost or displaced because of trade. Well, that is foolish.

What happened to the displaced worker? The analysis doesn't take that into account, and merely suggests, misleadingly, that the worker is unemployed. What happens to the dollars that are associated with financing any increased net increase in imports? The analysis doesn't take that into account.

If we run a higher trade deficit, finance it with dollar outflows, and foreign countries recycle the dollars back into Treasury bills to finance the President's stimulus spending spree, does the analysis take into account the resulting jobs that the President claims become ''saved or created''? No. Those jobs numbers are only convenient when advocates of the stimulus, such as the EPI, wish to promote more debt-fueled government spending.

I do not dispute that there are important dynamic effects of international trade on the U.S. labor market. I do dispute many of the numbers being tossed about and offered as estimates of job losses stemming from trade with China. I do dispute that dealing with our bilateral trade deficit with China is the most important thing we can do for jobs today, as the Senate majority leader has suggested. Those doubts, of course, are not reasons to not act on the Chinese currency issue, but they do lead me to doubt the job creation priorities of my friends on the other side of the aisle.

The President has been actively campaigning for congressional consideration and passage of the so-called American Jobs Act—right now, today—yet the majority leader here in the Senate refuses to let us consider the President's proposal right now, despite the minority leader having introduced a proposal for Senate consideration. Evidently, Senate Democrats believe that construction of a new mechanism to use to confront China and raise prospects of trade wars is more important to jobs than the President's plan. I don't think so.

The President states—rightfully so—that unemployed American workers don't have 14 months to wait for action on jobs. Yet we are considering a currency bill that, at best, would set in motion a lengthy process of currency misalignment determinations and perhaps ensuing trade sanctions. If anyone believes that the process set up in the currency bill to confront any currency misalignment in existence today will lead to job creation right now or in the next 14 months, then I suggest they do not understand much about international trade, labor markets, and the often painfully slow processes of international trade negotiations.

It took President Obama over 2½ years to send free-trade agreements to Congress, bills that were all set to go from the day he took office. Do you believe the legislation before us, even if it went into effect right now, would lead to a fundamental misalignment finding immediately, along with rapidly ensuing dialogue and action that would lead to job creation right now? Even if the legislation before us today were implemented today, it would likely take months and years before it achieved any results.

It is important to confront existing currency misalignments and global imbalances, the sources of which include persistently high amounts of U.S. debt made significantly worse during the past 3 years of deficits in excess of $1 trillion that were used wastefully on so-called ''stimulus'' and commercially non-viable green energy experiments that just plain did not work. People are starting to wake up to this type of approach to government.

To say that the issue of China's managed currency peg is the most important issue for job creation today is telling, and it certainly does not speak well for how the President's jobs act is perceived by his Senate Democratic colleagues as a job creator.

My concerns go beyond some of the claims related to job creation. I am afraid the current bill will be ineffective, and could actually end up harming our exporters through retaliation. That is a real fear, it is a real concern, especially since the Chinese have said they will retaliate. We don't need that right now, with the economy the way it is. But that is what they are going to do if this bill passes, even though some might think that is the right thing to do. And I am not the only one with concerns. Today, according to an article by the Associated Press, the White House finally publicly stated that it has concerns with this legislation. While we still don't know what those specific concerns are, we do know that they believe approval of the bill would be counterproductive.

We know that. Why doesn't the administration come out and say it? Why is it the President cannot lead on these issues? Why is it he always calls on Congress to lead on these issues? That is why we elected him as President—or should I say, that is why they elected him as President, because I did not vote for him, even though I like him personally. I did vote for my colleague, JOHN MCCAIN.

Similar concerns were expressed in an opinion editorial by the New York Times entitled ''The Wrong Way to Deal with China.'' They call this bill a ''bad idea'' and ''too blunt of an instrument.'' Specifically, they state that the bill is very unlikely to persuade China to change its practices, noting that it will instead ''add an explosive new conflict to an already heavy list of bilateral frictions.''

That is the New York Times. My goodness. That is pretty much the Bible for folks on the other side, and they do write very effectively on some of these issues.

I agree currency manipulation is a serious problem, and I have proposed a better way to address it. My amendment empowers the administration to work within existing frameworks to mitigate the effects of currency manipulation and stop it from occurring. If our negotiators cannot make progress in the WTO and IMF—we go there first—we must go outside these organizations and align with other like-minded countries to confront the Chinese currency interventions together.

I could not agree more with my colleagues who have introduced the bill we are debating that China's beggar-thy-neighbor's currency policies do harm the United States and our workers, and from that standpoint, I commend my colleagues. But massive currency interventions harm many other economies and their workers as well. We should join together in a pluralistic way to counter China's actions and negotiate a long-term solution to stop the fundamental misalignment of currencies, whether by China or any other country. If we did that, it would bring tremendous worldwide pressure on China, rather than acting in a bilateral fashion, which this bill will do. My amendment would allow that to occur. I would be happy to give credit to the other side if they would accept that amendment. They have to know it is a prescient, worthy amendment—something that would make a difference, rather than just making talking points or creating a trade war with a country that we should work toward getting along with.

Appreciating the Chinese currency will help address global macroeconomic imbalances and serve China's long-term economic interests as well, while ensuring that American businesses, farmers, manufacturers, service providers, and workers compete on a level playing field.

I just introduced this amendment yesterday around noon and I am pleased many of my colleagues have reviewed my substitute bill and they do support it and support a different approach. I think, if we want to work together, it is a perfect way of doing it because it gives what the folks want on this side and brings the right kind of pressure, without causing a huge trade war that is going to be very much to our disadvantage.

In addition, since the introduction of my amendment, many business associations, advocacy groups, think tanks, and others have come out in support of my substitute bill. I did not file that for political reasons. I did not file that to just cause trouble. I filed it because these ideas in that bill are far superior to the ideas in the underlying bill. I think my friends on the other side ought to look at it and tell me where they can improve it and take it over, if they will. The fact is, it is far superior to what the underlying bill is.

Many agree my approach is our best chance at solving this problem that we all find so frustrating. To those who think this is more of the same old approach, I say absolutely not. The old policies and the old Exchange Rate Act have not worked and they need to go. On that I think we all agree.

My proposal does not say try and work this out with China and hope for the best. Instead, my approach directs our negotiators to work with others and challenge China until a solution is agreed to. My approach does not prevent the United States from taking unilateral action, but it does demand that the administration seek out those countries that will join our efforts to combat currency manipulation so our actions are more effective and bring worldwide pressure on China to do what is right and to be more fair. We do need a bold, new approach, and we need to empower our negotiators to work within the WTO and IMF to ensure a level playing field for American businesses and workers. But if they cannot do that there and these institutions cannot handle this problem, then we must join with other like-minded countries to act in concert to counter China's currency policies outside the WTO and IMF.

This bill is going to cause a tremendous dislocation if it passes, and it is going to cause a trade war that is much to our disadvantage. It may make good populist talk, but it will be very much to our disadvantage and, in the end, will not do what they want it to do. My bill will. It may take some effort, but my bill will.

If they cannot confront these existing currency misalignments and global imbalances the way we are suggesting, if they cannot do that there and these institutions cannot handle this problem, then we have to join other like-minded countries to act in concert to counter China's currency policies outside the WTO and IMF.

That is what leadership is all about. That is what real executive branch leadership should be about. That is what a real USTR should be about. But we also need a partner. We need an administration that will lead on this issue. If I have an objection to this administration, it is that they do not lead on anything. They didn't send up a budget or the one they did failed 97 to zero. But they have not taken it seriously. They just wait for Congress to act and for Congress to do these things. That is what we elected the President to do, to send up his approach to this. That is what we elected him for and he ought to do that. But they do not, for some reason.

We also need a partner. We need an administration that will lead on this issue. My amendment will hold the administration accountable until they achieve results and that is whether it is this administration or a successive administration. We are debating which approach will better solve the chronic currency manipulation problem with China. My approach has been endorsed by Americans for Tax Reform, which said that the Hatch amendment ''offers a sensible approach that utilizes the mechanisms created by the international trade community to resolve such disputes.''

The Emergency Committee for American Trade says the Hatch amendment ''will more effectively address concerns about currency misalignment by China and other countries, without opening the door to many harmful effects on U.S. business and workers.''

The Retail Industry Leaders Association also supports my amendment, as does the Financial Services Roundtable. This amendment is already generating significant support. Why don't my friends on the other side take it, declare victory, and go from there? They can refile it in their name. That will be fine with me. I don't care who gets the credit for it, I just care that we handle it in a way that makes sense rather than make a bunch of political points that frankly will irritate the daylights out of our friends from China.

I urge my colleagues to support my amendment and let's all agree to hold the administration accountable and work with the other like-minded countries to challenge China's currency practices.

I am happy to yield the floor at this point.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the senior Senator from Ohio I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I said to Senator INHOFE I will be no more than 10 minutes and I appreciate his courtesy and his being here.

I rise in opposition to the Hatch amendment. I respect and appreciate my colleague from Utah and his proposal to negotiate a solution with China and other nations on currency. I have worked with him on the Health, Education, Labor, and Pensions Committee, as the Presiding Officer has, and I appreciate his concern on all these issues and his wide range of knowledge. My firm belief, however, is his amendment is not going to work. I know he generally does not want to take the same direction we do in standing up to the Chinese. I think, when we talk about multilateral negotiation, we are pretty much saying to the Chinese: Please stop the strategy, however unfair and in violation of international norms, that has helped your country accumulate enormous wealth. Please stop. We hope you will stop. Please stop, or we are saying please stop what Fred Bergsten says is the ''most protectionist policy any major country has taken since World War II.''

We have tried this. We now have the ability to do multilateral negotiations. Senator HATCH is right. The administration has not particularly led on that.

He is also right to add that the Bush administration also did not particularly lead on that. Before that, the Clinton administration did not particularly lead on that.

We have the ability, without amendment No. 680—because it would add nothing significant to the procedures and the steps that are already in place as a matter of current law and practice—to do these negotiations. We have an administration, a Treasury Department that may change political parties

from time to time but doesn't change strategies in dealing with the Chinese. It is always: Please stop. We hope you will do something differently. We would like it if you would change what you are doing. We think it would be better if you are not cheating on currency and cheating on international trade policies. We would like, now that we let you into the World Trade Organization, that you actually follow the rules of the WTO. We think it would be great if you follow the force of law and the rule of law.

Saying those things has gotten us nowhere. That is why, while I respect Senator HATCH, amendment No. 680 doesn't get us anywhere. It doesn't change the law. It just delays. We know how the Chinese like it when we delay because every day we delay is one more day where the Chinese cheat, where the Chinese have an advantage, where the Chinese, the People's Republic of China, the Communist Party, can again take advantage of American workers and American companies.

The Treasury Department already has specific reporting obligations. They already have ample authority to consult and engage bilaterally, multilaterally, and plurilaterally under the Exchange Rates and Economic Policy Coordination Act of 1988, which amendment No. 680 would repeal.

I appreciate what Senator HATCH wants to do, but the fact is, we have to make the Chinese understand, other than occasional pleading, occasional begging, the occasional polite requests—we have to make them understand, if they do not stop manipulating their currency, if they don't stop intervening to keep a weaker renminbi, the United States will defend itself. The United States cannot turn the other cheek on this one.

The Presiding Officer said the other day the Chinese steal our lunch, and if we take any of it back, they get all upset at us, although the Presiding Officer said it better than I just said it. But the fact is, the Chinese have not played fairly. I used the example on the Senate floor of what currency manipulation means in very simple terms. If there is a gas station on Summit Street in Akron and there is a gas station across the street—there are two Marathon stations—one of the Marathon stations gets its oil from Findlay, OH, at a 30-percent discount and the other station doesn't, the Marathon station that gets a discount is going to put the other one out of business, pure and simple.

As Senator MERKLEY said the other day, there is a tariff on goods we sell to China, and there is a subsidy on goods China sells to us. How do we compete with that? Amendment No. 680 will not help us compete with that, it will just delay and delay. That does not make sense. That is why this legislation, S. 1619, without the Hatch amendment, makes much more sense. It allows us to move finally and quickly. It allows us to move with certainty. It allows us to move straightforwardly. It strips away all the delay and the head fakes and the feinting and all the other things the Chinese Party Government is so good at doing.

I ask for defeat of the amendment and passage of S. 1619, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent at the conclusion of my remarks that Senator HARKIN be recognized.

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

Mr. INHOFE. Mr. President, recently both the majority leader and the minority leader came down to the floor to talk about the President's jobs bill. There was an effort to bring up this bill by the minority leader, and it was objected to by the majority leader. And I understand that, but all we have heard from the President from the very first time he introduced this was ''pass the bill, pass the bill, pass the bill.'' I know there is some reason he keeps using that phrase over and over. It has probably been tested and is one that I think he believes will move a lot of people. Frankly, I don't think it will because too many people remember what happened the last time he had a stimulus bill. That is something which has not been really discussed on the floor in consideration of what he refers to as the jobs bill. So I can see why he keeps talking about passing the bill, because he doesn't really want to talk about it.

His new proposal reminds me so much of that $825 billion stimulus package he rammed through Congress shortly after entering office. It is almost the same thing. The Recovery Act is the $825 billion act. It included only $27.5 billion in highway spending, which was the stimulus portion of that bill. We are talking about 3 percent of the $825 billion.

I am particularly sensitive to this since I have in the past been the chairman of the Environment and Public Works Committee, and I am now the ranking member. We have a Transportation reauthorization bill we are trying to get up and get up on a bipartisan basis.

Back during the consideration of the Recovery Act, the $825 billion, I tried to pass an amendment on this floor to increase that to about 30 percent instead of 3 percent of the bill. If that had happened, we would not be in the situation we are today. We would have a lot of jobs out there that would be under construction and good things would be happening.

In the case of this $447 billion bill, which is kind of the Recovery Act lite, there is only $27 billion in highway spending, and it is not conceivable that he didn't learn his lesson from the first go-around that that is the main reason people are upset with it right now. That is the reason he keeps saying: Pass the bill, pass the bill.

The proposal includes a few different things, but much of it will be sent to the President to spend however he wants. Now, you may be wondering, will Congress tell the President where to spend the money? To a very limited extent, that is right. When Congress does not tell the President exactly what he is to do with each dime he gets, the President gets to decide what to fund.

This administration has a history of making incredibly poor spending decisions with the money appropriated to it. The biggest example I can think of is the $825 billion stimulus package. When the President signed this bill in February of 2009, he said—and I want you to hold this thought—he said:

> What I'm signing, then, is a balanced plan with a mix of tax cuts and investments. It's a plan that's been put together without earmarks or the usual pork barrel spending. It's a plan that will be implemented with an unprecedented level of transparency and accountability.

That is what he said. That is a direct quote. For those of you who are watching, I have news for you: Despite the President's remarks, the spending was not balanced, and it had a tremendous amount of porkbarrel earmark spending even though there were no congressional earmarks. This is a distinction not many people make. I tried to get this point across back when the Republicans very foolishly talked about having a moratorium on earmarks. I said: Those are congressional earmarks. That is not where the problem is. The problem is in bureaucratic earmarks.

The clearest and most recent example of a huge earmark is the loan guarantee that was given to Solyndra. We have been reading about this and hearing about it recently. It is now a bankrupt solar panel manufacturing company. We have heard about that. Solyndra was a politically connected firm from California that was able to lobby the White House to obtain a loan guarantee of $535 million to fund its green jobs pipedream. This happened despite the fact that some in the administration were warning the White House to give them more time to evaluate the company's finances. It seems they were concerned about the company's long-term viability. But these warnings were ignored by the White House. They wanted to fund the project anyway. Why? I think it was for two reasons: First, the White House has a fascination with green energy; second, political gamesmanship. Some of Solyndra's biggest investors are big fundraisers and have been big fundraisers for President Obama. We now know they made repeated visits to the White House. That is not just a coincidence.

Another question is this: How did the White House have the authority to give the loan guarantee to Solyndra in the first place? The short answer is Obama's stimulus package. That was the $825 billion stimulus package. It significantly expanded the Department of Energy's Loan Guarantee Program, and with this expansion the White

House was able to select Solyndra for a loan guarantee.

While the stimulus package did not include any porkbarrel spending in the way that most people think about it—congressional earmarks—this provides clarity to the fact that when Congress does not explicitly state where taxpayer funds should go, the money is handed over to the administration to spend however they want. They get to earmark every last dime.

In the case of Solyndra, the President handed it over to his political buddies who were in favor of the green energy projects. If that isn't a porkbarrel project, I don't know what is. Now the damage has been done, and the taxpayers are going to be on the hook for as much as $535 million in losses.

Sadly, Solyndra is just one of many examples of porkbarrel spending in the stimulus bill. We are talking about the first stimulus bill, the $825 billion bill. Not too long ago, Sean Hannity had on his program—I think it took him two programs to get it through—the 102 most egregious earmarks that are recorded. It is really kind of interesting. In fact, I have the whole list here, and I am going to ask that it be made a part of the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. INHOFE. I would love to be able to name all of these. These are just ridiculous. There is $219,000 to study the hookup behavior of female college coeds in New York; $1.1 million to pay for the beautification of Los Angeles, Sunset Boulevard; $10,000 to study whether mice become disoriented when they consume alcohol in Florida. It goes on and on. Again, there are 102 of these. These are the most egregious.

What is interesting is that the day after Sean Hannity exposed these earmarks—102 of them—I came to the floor and I read all 102 of them. I said: What do these 102 earmarks have in common? The answer: Not one is a congressional earmark. They are all bureaucratic earmarks. They all came from the $825 billion.

Remember I said a minute ago that he said there will be no earmarks in this package? It is the same thing he is saying about this second go-around for the jobs bill he is talking about today. The administration took $825 billion that Congress gave it and chose to spend it on stupid things such as the ones I just listed, but there are 102 of them. I hope he will take the time, since it will be in the RECORD, to read all 102 of them.

What does this have to do with the jobs bill? To me, the jobs bill is simply the President coming back to Congress to ask for more money to spend however he wants on porkbarrel projects such as these. No one has talked about this on the floor. They have talked about the problems they have with this spending bill and why it is really not a jobs bill, but no one is talking about the fact that this is exactly what he did before. I don't know why we are not talking about this and featuring this because if he said before that there were going to be no earmarks and then he had 102 egregious earmarks, why would he not do the same thing now? The answer is, he would do it. He would like to hand this out to his cronies in ways that would best benefit him.

You may remember the President's State of the Union Address from earlier this year. In it, he promised, and I quote, ''If a bill comes to my desk with earmarks inside, I will veto it.'' Well, you have a promise from the President that unless Congress gives him all of the authority to determine how money is spent through the bureaucratic earmark process, he will veto the bill. In other words, he will veto a bill unless he has total authority on how to spend it, and he can spend it on his own earmarks in spite of the fact that he said there will be no earmarks. So for any jobs bill to be considered, Congress is going to have to let the President decide how all the money is being spent. It is a hard concept to get ahold of.

''Earmarks'' has become a dirty word, and people assume that when you say ''earmarks,'' you are talking about congressional earmarks. That is not the problem. I have legislation I am going to be talking about that will correct this and better inform the public as to what is really going on. So we are finding ourselves in the same situation again.

What is worse is the fact that the problem of bureaucratic earmarks is not limited to special stimulus packages. It is a normal course of business. On any given day, the administration is making thousands of decisions on how to spend money it has appropriated. Congress first passes laws authorizing the executive branch to do certain things, and then we appropriate the money and go and do it. But unless Congress gives specific instructions as to where to spend the money—a process many people decry as congressional earmarks—the administration gets to decide where to spend the money. In other words, the bureaucracy does the earmark or President Obama does it.

I serve on the Armed Services Committee. We are staffed with experts in defending America. We have experts in missile defense, experts in lift capability, all of that. The way it has always happened before is the President—whether it was President Bush or Clinton or any other President—designs a budget, and that budget, the parameters, goes to Congress. Then we in the authorization committees decide if we agree with the President and how he wants to defend America.

A good example of that is that right before the prohibition on earmarks came in, the President sent his budget down—I think that was his first budget—and in that budget was $330 million for a launching system. It was called a Bucket of Rockets. It was a good system. It was something I would like to have for defending America. But when we analyzed it, we looked and we thought, with what is happening right now, our greatest need is to expand our F–18 program and buy six new F–18s. So we took the $330 million he would have spent on the rocket-launching system and spent it on six new F–18s, and it was a wise thing to do. You can't do that now because the President has to make all of the decisions because that would be called a congressional earmark.

Earmarks don't increase spending at all. All they do is say: All right, Mr. President, you go ahead and spend it the way you want to. A recent example of this comes from the Bureau of Land Management within the Department of the Interior.

While I could talk for hours about whether the management of Federal lands is appropriate for government to do, that is not what I want to bring your attention to. That is another discussion for another time. What I am concerned about is how carefully the Bureau of Land Management works to keep its actions aligned with the authorization and power it has been given by Congress. We write laws for a reason. We say the bureaucracy can do certain things and not do certain things. When we do that, we are limiting the bureaucracy and the bureaucracy's authority. We are not saying they can interpret the law in any way they choose, but generally that doesn't stop them from trying.

One thing the Bureau of Land Management is authorized to do by a statute is to enter into contracts and cooperative agreements to manage, protect, develop, and sell public lands. In managing public lands, title 43 authorizes the BLM to, among others things, preserve the land's historic value.

A few days ago, as I was searching through the government's grants database—by the way, this database is something we put in when Republicans were a majority in our committee. The Environment and Public Works Committee has a database which will show people, if they care to wander through, just what the bureaucracy is spending money on.

I was looking through the grants database, and I came across one that shocked me. On September 9 of this year, just a few days ago, the BLM announced its intent to award a grant of $214,000 to the Public Land Foundation to fund a research project to describe in detail why the Homestead Act of 1862 had a significant impact on the history of America. When I asked them to justify that, they started talking about how important history is.

Today, my question is this: What part of this grant has anything to do with today's actual public lands? This is not a grant to dust off the historic landmarks at national parks. This is a research project to study history, which may be a noble task, but nonetheless that is what it is for.

What the American people need to understand is that this sort of thing happens all the time. The bureaucracy is completely numb to the fact that we have a $1.5 trillion deficit just in this year alone, and while this should inform the way it spends money and help to prioritize accordingly, it doesn't. The bureaucracy takes the money given to it by Congress and spends it on porkbarrel projects that are important to the President. Right now, there is no way around this. There is no accountability or transparency built into it in any way. The bureaucracy earmarks its funds.

I believe this needs to be changed, and I am currently drafting legislation that will change the way the bureaucracy makes funding decisions. My legislation will bring true transparency and accountability to the process, and it will require the administration to state explicitly which laws authorize its grant awards. It will also provide a way for Congress to weigh in and challenge the administration's thinking. This is not just for the current administration; it is for any administration.

With trillions of dollars in deficits, we cannot afford to give the President another $447 billion to spend on whatever he wants because that is what it would be. We need to reduce spending, but we also need to ensure that the spending we are doing is justified by the laws Congress passes. Because of this, we need to bring more light and accountability to the bureaucratic earmarking process.

Further, I warn my colleagues to not be fooled into the idea that whenever we pass money off to the administration, it is in safe hands. The opposite is true, and I urge my colleagues to oppose more blank check stimulus spending because of it.

Again, after President Obama stated on February 17, 2009, there will be no earmarks in his $825 billion stimulus bill, it contained more than 100 very egregious, offensive earmarks. I could—again, I am not going to read off the list, but it will be a part of the RECORD following these remarks I am making now.

He will do it again. If we pass another $450 billion stimulus bill, we can be sure it will be full of earmarks as bad as the ones he put in the initial stimulus bill.

This is our second blank check for the President. He fooled us once. Do not let it happen again.

With that, I yield the floor.

EXHIBIT 1

BUREAUCRATIC EARMARKS IN THE STIMULUS BILL

102. Protecting a Michigan insect collection from other insects ($187,632)

101. Highway beautified by fish art in Washington ($10,000)

100. University studying hookup behavior of female college coeds in New York ($219,000)

99. Police department getting 92 blackberries for supervisors in Rhode Island ($95,000)

98. Upgrades to seldom-used river cruise boat in Oklahoma ($1.8 million)

97. Precast concrete toilet buildings for Mark Twain National Forest in Montana ($462,000)

96. University studying whether mice become disoriented when they consume alcohol in Florida ($8,408)

95. Foreign bus wheel polishers for California ($259,000)

94. Recovering crab pots lost at sea in Oregon ($700,000)

93. Developing a program to develop ''machine-generated humor'' in Illinois ($712,883)

92. Colorado museum where stimulus was signed (and already has $90 million in the bank) gets geothermal stimulus grant ($2.6 million)

91. Grant to the Maine Indian Basketmakers Alliance to support the traditional arts apprenticeship program, gathering and festival ($30,000)

90. Studying methamphetamines and the female rat sex drive in Maryland ($30,000)

89. Studying mating decisions of cactus bugs in Florida ($325,394)

88. Studying why deleting a gene can create sex reversal in people, but not in mice in Minnesota ($190,000)

87. College hires director for project on genetic control of sensory hair cell membrane channels in zebra fish in California ($327,337)

86. New jumbo recycling bins with microchips embedded inside to track participation in Ohio ($500,000)

85. Oregon Federal Building's ''green'' renovation at nearly the price of a brand new building ($133 million)

84. Massachusetts middle school getting money to build a solar array on its roof ($150,000)

83. Road widening that could have been millions of dollars cheaper if Louisiana hadn't opted to replace a bridge that may not have needed replacing ($60 million)

82. Cleanup effort of a Washington nuclear waste site that already got $12 billion from the Department of Energy ($1.9 billion)

81. Six woodlands water taxis getting a new home in Texas ($750,000)

80. Maryland group gets money to develop ''real life'' stories that underscore job and infrastructure-related research findings ($363,760)

79. Studying social networks, such as Facebook, in North Carolina ($498,000)

78. Eighteen (18) North Carolina teacher coaches to heighten math and reading performance ($4.4 million)

77. Retrofitting light switches with motion sensors for one company in Arizona ($800,000)

76. Removing graffiti along 100 miles of flood-control ditches in California ($837,000)

75. Bicycle lanes, shared lane signs and bike racks in Pennsylvania ($105,000)

74. Privately-owned steakhouse rehabilitating its restaurant space in Missouri ($75,000)

73. National dinner cruise boat company in Illinois outfitting vessels with surveillance systems to protect against terrorists ($1 million)

72. Producing and transporting peanuts and peanut butter in North Carolina ($900,000)

71. Refurnishing and delivering picnic tables in Iowa ($30,000)

70. Digital television converter box coupon program in D.C. ($650,000)

69. Elevating and relocating 3,000' of track for the Napa Valley Wine Train in California ($54 million)

68. Hosting events for Earth Day, the summer solstice, in Minnesota ($50,000)

67. Expanding ocean aquaculture in Hawaii ($99,960)

66. Raising railroad tracks 18 inches in Oregon because the residents of one small town were tired of taking a detour around them ($4.2 million)

65. Professors and employees of Iowa state universities voluntarily taking retirement ($43 million)

64. Minnesota theatre named after Che Guevara putting on ''socially conscious'' puppet shows ($25,000)

63. Replacing a basketball court lighting system with a more energy efficient one in Arizona ($20,000)

62. Repainting and adding a security camera to one bridge in Oregon ($3.5 million)

61. Missouri bridge project that already was full-funded with state money ($8 million)

60. New hospital parking garage in New York that will employ less people ($19.5 million)

59. University in North Carolina studying why adults with ADHD smoke more ($400,000)

58. Low-income housing residents in one Minnesota city receiving free laptops, WiFi and iPod Touches to ''educate'' them in technology ($5 million)

57. University in California sending students to Africa to study why Africans vote the way they do in their elections ($200,000)

56. Researching the impact of air pollution combined with a high-fat diet on obesity development in Ohio ($225,000)

55. Studying how make and female birds care for their offspring and how it compares to how humans care for their children in Oklahoma ($90,000)

54. University in Pennsylvania researching fossils in Argentina (over $1 million)

53. University in Tennessee studying how black holes form (over $1 million)

52. University in Oklahoma sending 3 researchers to Alaska to study grandparents and how they pass on knowledge to younger generations ($1.5 million)

51. Grant application from a Pennsylvania university for a researcher named in the Climate-gate scandal (Rep. Darrell Issa is calling on the president to freeze the grant) ($500,000)

50. Studying the impact of global warming on wild flowers in a Colorado ghost town ($500,000)

49. Bridge build over railroad crossing so 168 Nebraska town residents don't have to wait for the trains to pass ($7 million)

48. Renovating an old hotel into a visitors center in Kentucky ($300,000)

47. Removing overgrown weeds in a Rhode Island park ($250,000)

46. Renovating 5 seldom-used ports of entry on the U.S.-Canada border in Montana ($77 million)

45. Testing how to control private home appliances in Martha's Vineyard, Massachusetts from an off-site computer ($800,000)

44. Repainting a rarely-used bridge in North Carolina ($3.1 million)

43. Renovating a desolate Wisconsin bridge that averages 10 cars a day ($426,000)

42. Four new buses for New Hampshire ($2 million)

41. Re-paving a 1-mile stretch of Atlanta road that had parts of it already re-paved in 2007 ($490,000)

40. Florida beauty school tuition ($2.3 million)

39. Extending a bike path to the Minnesota Twins stadium ($500,000)

38. Beautification of Los Angeles' Sunset Boulevard ($1.1 million)

37. Colorado Dragon Boat Festival ($10,000)

36. Developing the next generation of supersonic corporate jets in Maryland that could cost $80 million each ($4.7 million)

35. New spring training facilities for the Arizona Diamondbacks and Colorado Rockies ($30 million)

34. Demolishing 35 old laboratories in New Mexico ($212 million)

33. Putting free WiFi, Internet kiosks and interactive history lessons in 2 Texas rest stops ($13.8 million)

32. Replacing a single boat motor in a government boat in D.C. ($10,500)

31. Developing the next generation of football gloves in Pennsylvania ($150,000)

30. Pedestrian bridge to nowhere in West Virginia ($80,000)
29. Replacing all signage on 5 miles of road in Rhode Island ($4,403,205)
28. Installing a geothermal energy system to heat the ''incredible shrinking mall'' in Tennessee ($5 million)
27. University in Minnesota studying how to get the homeless to stop smoking ($230,000)
26. Large woody habitat rehabilitation project in Wisconsin ($16,800)
25. Replacing escalators in the parking garage of one D.C. Metro station ($4.3 million)
24. Building an airstrip in a community most Alaskans have never even heard of ($14,707,949)
23. Bike and pedestrian paths connecting Camden, N.J. to Philadelphia,
Pennsylvania, when there's already a bridge that connects them ($23 million)
22. Sending 10 university undergrads each year from North Carolina to Costa Rica to study rain forests ($564,000)
21. Road signs touting stimulus funds at work in Ohio ($1 million)
20. Researching how paying attention improves performance of difficult tasks in Connecticut ($850,000)
19. Kentucky Transportation Department awarding contracts to companies associated with a road contractor accused of bribing the previous state transportation secretary ($24 million)
18. Amtrak losing $32 per passenger nationally, but rewarded with windfall ($1.3 billion)
17. Widening an Arizona interstate even though the company that won the contract has a history of tax fraud and pollution ($21.8 million)
16. Replace existing dumbwaiters in New York ($351,807)
15. Deer underpass in Wyoming ($1,239,693)
14. Arizona universities examining the division of labor in ant colonies (combined $950,000)
13. Fire station without firefighters in Nevada ($2 million)
12. ''Clown'' theatrical production in Pennsylvania ($25,000)
11. Maryland town gets money but doesn't know what to do with it ($25,000)
10. Investing in nation-wide wind power (but majority of money has gone to foreign companies) ($2 billion)
9. Resurfacing a tennis court in Montana ($50,000)
8. University in Indiana studying why young men do not like to wear condoms ($221,355)
7. Funds for Massachusetts roadway construction to companies that have defrauded taxpayers, polluted the environment and have paid tens of thousands of dollars in fines for violating workplace safety laws (millions)
6. Sending 11 students and 4 teachers from an Arkansas university to the United Nations climate change convention in Copenhagen, using almost 54,000 pounds of carbon dioxide from air travel alone ($50,000)
5. Storytelling festival in Utah ($15,000)
4. Door mats to the Department of the Army in Texas ($14,675)
3. University of New York researching young adults who drink malt liquor and smoke pot ($389,357)
2. Solar panels for climbing gym in Colorado ($157,800)
1. Grant for one Massachusetts university for ''robobees'' (miniature flying robot bees) ($2 million)

Grand Total: $4,891,645,229

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the so-called supercommittee created by the Budget Control Act has begun their work. It is mandated to produce a plan by November 23 that will reduce future deficits by at least $1.5 trillion. As chair of the Health, Education, Labor, and Pensions Committee, I have been invited to submit recommendations to the supercommittee, and I will do so in the days ahead.

Certainly, I wish this group well. However, it is critically important we define success in terms that matter to working Americans. Frankly, I am deeply disturbed by the Washington groupthink that defines success narrowly in terms of maximizing deficit reduction. I have come to the floor to urge members of the supercommittee to embrace a broader and more powerful definition of success. Success must include boosting the economy and creating jobs.

After all, the most effective way to reduce the deficit is to help 25 million unemployed and underemployed Americans find jobs and become taxpayers once again. There can be no sustained deficit reduction without a recovery of the economy and a return to normal levels of employment. Indeed, just yesterday, the Congressional Budget Office released an analysis showing that if our economy were not in recession—if our economy were not in recession—if it were employing labor and capital at normal levels, the deficit would be reduced next year by an estimated $343 billion—a reduction of one-third of the deficit in 1 year if we just had normal employment.

So I have a simple but urgent message to the supercommittee: Go big on jobs. That message would be strongly seconded by people such as Connie Smith of Tama, IA. In January, she was laid off after working 27 years for the same telecom company. Since being laid off, she has been working as a contractor doing the same type of work for less pay and no benefits.

Jean Whitt would also agree. She was laid off in 2008 and is now a student at Iowa Western Community College, striving for a new career in nursing. She is hoping good jobs will be available when she graduates.

As I said, inside the Washington bubble, our leaders have persuaded themselves that the No. 1 issue confronting America is the budget deficit. I assure everyone that ordinary Americans are focused on a far more urgent deficit: the jobs deficit.

But I am also concerned about a third deficit: the deficit of imagination and vision in Washington today. I am dismayed by our failure to confront the current economic crisis with the boldness earlier generations of Americans summoned in times of national challenge.

Let's be clear about the staggering scale of today's challenge. Our Nation remains mired in the most severe period of joblessness since the Great Depression. As I said, some 25 million Americans are desperate to find full-time employment. According to new data from the Census Bureau, the poverty rate has risen to 15 percent—the highest level in 18 years. Twenty percent of American children are being raised in poverty—one out of every five kids in America.

Last week, the Chairman of the Federal Reserve, Mr. Ben Bernanke, said unemployment is a ''national crisis.'' Very true, Mr. Bernanke. It is a national crisis. It is far and away the No. 1 concern of the American people. That is why an exclusive, single-minded obsession—obsession—with slashing spending and reducing the deficit is not just misguided, it is counterproductive. If the supercommittee cuts the deficit by $1.5 trillion and does nothing to create jobs, this would amount to a massive dose of antistimulus. It will further drain demand from the economy and destroy even more jobs. That, in turn, will make the deficit worse, not better. It is the equivalent of applying leeches to a patient who needs a transfusion.

We must stop this mindless march to austerity. Smart countries, when they have these kinds of challenges, do not just turn a chainsaw on themselves. Instead of the current slash-and-burn approach, which is being sold through fear and fatalism, we need an approach that reflects the hopes and aspirations of the American people.

To be sure, we must agree on necessary spending cuts and tax increases. But we must continue to invest in what will spur economic growth, create jobs, and strengthen the middle class, knowing this is the only sustainable way to bring deficits under control.

Again, I say to the supercommittee: If you are serious about reducing the deficit, you must put job creation front and center in your deliberations and agenda, not just slashing and cutting government spending to reduce the deficit.

I do not want to be misunderstood. My preference, of course, is always to reduce the deficit. I know that. As a senior member of the Appropriations Committee, I appreciate that we must seize every opportunity to prudently—prudently—reduce Federal spending. There are opportunities, including in the Pentagon, to reduce Federal spending while minimizing further damage to the economy and jobs.

However, I believe we must be equally willing to say no—no—to foolish, destructive budget cuts. Most important, as I have said, the supercommittee must broaden its focus to include a sharp emphasis on creating jobs and boosting the economy.

That is why I was very pleased by the plan presented by President Obama: the American Jobs Act. As the President said in his speech to Congress, the American Jobs Act boils down to two things: putting people back to work and more money in the pockets of working Americans.

Most importantly, in my book, the American Jobs Act would dramatically ramp up investments in infrastructure

in order to boost U.S. competitiveness and directly create millions of new jobs.

Specifically, the American Jobs Act includes $30 billion to renovate some 35,000 schools and community colleges nationwide. This would create hundreds of thousands of new jobs, especially in the hard-hit construction industry.

The legislation—the President's bill—provides $30 billion to help local school districts hire and retain teachers. This new fund would save or create nearly 400,000 education jobs.

In addition, the American Jobs Act includes $50 billion for immediate investment in our transportation infrastructure. Again, this will dramatically boost employment, while modernizing the arteries and veins of our commerce.

Now people say: How are we going to pay for all this and these other investments, keeping our teachers in the classroom, renovating the infrastructure? How are we going to pay for all this to get our economy back on track?

For the answer, we again need to listen to the American people. I received a heartfelt message from Dan Carver, a fifth-grade teacher in Carlisle, IA. He says he is struggling similar to other middle-class Americans to pay his bills and his taxes and he does not understand why corporations and the very wealthy are not also paying their fair share.

In poll after poll after poll, by 2-to-1 margins—2-to-1 margins—Americans want an approach that includes tax increases on those who can most afford it, those whose incomes have skyrocketed in recent years, even as middle-class incomes have fallen, those who have benefited the most from tax breaks initiated during the Bush administration. By a 2-to-1 margin—this should be a no-brainer for people elected to Congress. Read the polls. That is what people want done.

We see all those people up on Wall Street. It is now spreading to Washington. There is even an event planned for Mason City, IA, this weekend by a lot of young people, saying: Look, we have to raise revenue. We can't just slash and cut back and retreat. We need to raise revenue and charge forward.

We would be foolish to ignore the voices of working Americans from all walks of life. For more than a decade now, these good citizens have been told that tax breaks for the wealthy will result in millions of new jobs and a booming economy. That is what they have been told. They were told wealthy Americans are so-called job creators, and if we just shove enough tax breaks their way, jobs will magically bloom.

Frankly, this is the same old theory of trickle-down economics, and it manifestly has never worked. For ordinary Americans, the only things that have trickled down are wage cuts, mass unemployment, upside-down mortgages, personal bankruptcies, and disappearing pensions.

Instead of this failed trickle-down economics for the rich, it is time for percolate-up economics for middle-class Americans. We have a saying for this out in the Midwest, and I have heard it many times: You do not fertilize a tree from the top down. You have to put it in at the roots.

It is time to invest directly in jobs by renovating our crumbling infrastructure, rebuilding our schools, putting laid-off teachers back to work. By all means, it is time to ask those who have benefited the most from our economy to pay more—yes, to pay more—to help finance these urgent investments. Because these are the kinds of things individuals cannot do on their own. An individual cannot rebuild a highway or a school. An individual cannot retrofit a building. An individual cannot build new energy efficiency systems. But we can do this acting together. That is why it is time to ask those who have benefited the most from our economy to pay some more.

I close by reiterating that we need to pursue a path that, first and foremost, right now, focuses on job creation; in the longer term, focuses on deficit reduction. After we get the economy going and get people back to work and being taxpayers again, then we can reduce the deficit. As the report showed this week, if we were to just have normal employment levels, we would reduce the deficit by $343 billion.

So I say again to the supercommittee: Do not just focus on slashing, cutting, and retreating.

Focus on raising revenue and charging ahead, investing in education, innovation, infrastructure. It means a level playing field with fair taxation—fair taxation—and a strong ladder of opportunity to give every American access to the middle class. It is time to put America back to work. It is time to change the tenor of the debate. It is time to get away from this groupthink in Washington; that if only, if only we would just cut more government spending, somehow magically people will go back to work. It is not going to happen. Only in your dreams.

It will only happen if we are bold enough, as our forefathers and people before us were bold enough, to raise the necessary revenue to put this country back to work. That should be the first charge of this supercommittee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I very much thank Senator HARKIN, the chairman of the HELP Committee, for his advocacy always for the middle class, advocacy always for those who aspire to the middle class, and especially the jobs bill. I particularly appreciate his comments about school construction. That is a major component of the jobs bill.

My State has gone through a pretty good period under Governor Taft, who is not in the same political party as I am but he is a friend of mine who launched a program 10 years or so ago in Ohio to begin to replace—to give incentives to local governments, local school districts, to vote bond issues where there was a lot of State matching funds that built a lot of new schools but nothing close to what we need yet with all of the progress we made.

We tell our children that education is the most important thing in their lives and our lives and our country, and then we send them to lousy, decaying, falling-apart school buildings. I do not think that quite clicks in kids' minds. So the school construction part of this bill, first of all, puts construction workers to work in their high-unemployment rates, as Senator HARKIN said. Second, it puts steelworkers and cement workers and concrete workers and people who are making the products—the glass makers, the glass companies, and all manufacturers—to work for the materials. Third, it sets the foundation by building community colleges and rebuilding school buildings and all of that, putting people to work for long-term economic growth and prosperity.

We know for a fact the United States, in the 1950s, 1960s, and 1970s, created an infrastructure the likes of which the world had never seen. That is the foundation for our prosperity. Unfortunately, in the last 20 years we have let that infrastructure crumble. We let that infrastructure decay. When I look at these young pages here, 15, 16, 17, 18 years old, I do not want them to inherit a huge budget deficit, but I also do not want them to inherit a huge education deficit, an infrastructure deficit. We owe that to that generation to do much better than we have.

I thank Senator HARKIN and yield to him.

Mr. HARKIN. Well, I thank the Senator very much. I thank the Senator from Ohio, a great friend and a great supporter of working Americans. I would just say that the bill that Senator BROWN has been championing is now leading the charge on the China currency bill, and I think it is one of the important steps forward in making sure we start creating jobs for Americans.

How can we create jobs for Americans when we have a Chinese currency that is underpinning their exports to America, undercutting our jobs in this country? So this is a big step forward. I hope we can get cloture. I hope we can move forward on the bill. So I thank the Senator from Ohio for his steadfastness on making sure we got the bill to the floor, and I hope we get the votes to pass it.

Again, we can focus on the jobs in this country, but if we are just going to continue to allow China to undercut us in just every possible way through manipulating their currency so they can undercut us by 20 or 25 percent on a lot of goods that come into this country, how are we going to manufacture those things?

Mr. BROWN of Ohio. We are joined in the Chamber by two of the sponsors of this bill: the Presiding Officer, Senator WHITEHOUSE, and Senator CASEY from Pennsylvania.

The Senator said something earlier about the supercommittee and deficit reduction, and what he said is exactly right. Many in this institution and down the hall in the House of Representatives do not seem to understand that we cannot only cut our way to prosperity, we have to grow our way to a more balanced budget and prosperity.

One of the things this China currency bill will do is, it is estimated by the Economic Policy Institute that over 10 years it will cut the deficit $600 billion to $800 billion. Why is that? Because of job growth, because this bill provides—according to the Economic Policy Institute study, it creates more than 2 million jobs. That is 2 million people, instead of receiving unemployment benefits, instead of being eligible for food stamps, instead of other kinds of things we do for people who are out of work, it will mean those 2 million people will actually be working, many of them in manufacturing. Those are $12-, $15-, $20-an-hour jobs. They will be paying taxes. They will be paying into Social Security, into Medicare, into local retirement systems—all of that—paying property taxes for the schools, doing all of the things that employed, hard-working taxpayers do.

So it is a win in that situation too. So while we need to focus on the President's jobs bill, this is one that makes so much sense, and that is why we need to move forward.

Mr. HARKIN. The Senator from Ohio clearly understands percolate-up economics. I appreciate that very much. I thank the Senator from Ohio for his leadership.

Mr. BROWN of Ohio. I yield the floor and 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. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET). Without objection, it is so ordered.

Mr. CASEY. Mr. President, I rise just for a few moments to make a few comments regarding the pending legislation that deals with the currency policies that China has had in place which have proven to be adverse to American workers. I was saying on the floor yesterday, and I will say it again, that this is not a complicated issue. When China does not play by the rules, when they cheat on the international stage on their currency policies, Americans lose jobs.

We have lost far too many of them for us to just sit back and do nothing or sit back and just discuss and urge and plead instead of taking action. But what I failed to do yesterday was put a couple of basic numbers on the table. I mentioned in some of my comments yesterday that we had a hearing in the Joint Economic Committee, which for those who are not as familiar with the workings of that committee, it is a House-Senate joint committee where we have Senators and House Members, obviously, from both parties meeting and participating in hearings on a whole range of topics, most of them dealing with the economy and jobs.

Yesterday, we had the Federal Reserve Chairman, Ben Bernanke, who testified broadly about a lot of issues. But I asked him about currency, and one of the things he said—I thought this was a pretty significant statement. I am just reading something Chairman Bernanke said in pertinent part. This is not, obviously, a full statement. But when I asked him about currency, China currency and their policy, he said:

> I think right now, a concern is that the Chinese currency policy is blocking what might be a more normal recovery process in the global economy. The Chinese currency policy is blocking that process.

I should add here, ''process'' meaning the recovery. Then he goes on to say:

> So it is to some extent hurting the recovery process.

That is the Chairman of the Federal Reserve, someone whose job it is not to comment on public policy on a regular basis necessarily or to take positions on one side or the other on public policy; but the fact that he made that statement, which made it abundantly clear that this is not simply a problem for our workers when we lose jobs, when we hemorrhage the jobs we have lost, but this currency policy that China has in place is an impediment to the recovery, the economic recovery of the world.

So I thought it was a critically important statement that he made as further evidence that this bill we are working on is the right way to go. I do not want to imply that he endorsed the bill; he did not. But I thought it was interesting that he focused on the economic recovery worldwide and not only on the adverse consequences for our workers, our companies, our jobs.

Two other notes, and then I will sit down. One is the impact in a State such as Pennsylvania. I have the privilege to represent the people of Pennsylvania. So I want to make sure the record is clear in terms of what China's policies, both on currency, and more broadly on trade, have meant in the context of Pennsylvania workers.

A report released just recently by the Economic Policy Institute—and we hear the so-called EPI quoted a lot—estimates that from the year 2001 through 2010 our trade deficit with China has led to the loss of 106,970 jobs in Pennsylvania, almost 2 percent of total employment in Pennsylvania.

Across the Nation, the same trade deficit has led to a loss of 2.8 million jobs since 2001. Basically, you are talking about less than a decade. Because of the trade deficit with China, we lost 2.8 million jobs nationally, and a little shy of 107,000 jobs in one State—the State of Pennsylvania.

Some would say, well, you should be careful how you say that because we are not saying that the currency policy they have in place—which I assert is cheating—that the job loss could be attributed to that solely. I am not saying that. But there is no question—and I think the record is replete with evidence and examples—that much of that job loss can be attributed to their currency policies, as well as other policies they have in place. I will not even get into the infringement on copyright and intellectual property, and the whole range of other issues where we have disagreements with other policies emanating from China.

Two more points, finally, about EPI. The Economic Policy Institute did an analysis, and they released the report on June 17, 2011. They wanted to make a determination that if China were to revalue its currency and play by the rules, to the extent of a 28-percent level—and some people think the manipulation they are doing amounts to more than 28 percent—but if they are able to revalue their currency up to that level, what would happen? Here is what EPI found:

> If only China revalued to 28.5 percent, the growth in U.S. gross domestic product would support 1.631 million U.S. jobs. If other Asian countries also revalued [at that level, 28.5 percent] then 2.250 million U.S. jobs would be created.

I mentioned the study yesterday. I said: What if their estimates are off? What if, for some reason, you had to scale down that estimate? Well, if 1.6 million jobs—if they are off by even a lot, that is still a big job number. If you add the other Asian countries that are impacted by the policies in China, you are over 2.2 million jobs. Even if that is off, it is still a lot of jobs.

This is a jobs bill. We talk about creating new consequences for China cheating on currency. This is a job creator if we do it—if we can pass the bill and implement the policy. We can create a lot of jobs over the next several years at the same time. This has an impact on job creation and, ultimately, on GDP.

I know that when I go back to Pennsylvania, people will say to me: Let me get this straight: You have a bill that deals with getting tougher on China, relating to their currency policy; you have bipartisan support in the Senate, and it is a job-creating bill. Why won't this pass, and why don't you have this enacted into law?

I believe we have a lot of momentum for passage. I hope the bipartisan support we have on the Republican side of the aisle, with a number of Democrats, will result in passage of this legislation, especially when you put it in the context of two points I made—one, the job impact or the job loss that has resulted from China cheating on its currency policy over all these years; secondly, when you put it into the context

of not just our economy but the world economy—when we have the Chairman of the Federal Reserve saying their policy on currency is impeding—well, I will read what he said:

. . . the Chinese currency policy is blocking what might be a more normal recovery process in the global economy. . . .

Blocking recovery in the global economy. That is compelling testimony for anyone who cares about and is concerned about creating jobs here, strengthening our recovery and, obviously, helping the recovery worldwide. I think the evidence is overwhelming. The support for this legislation is as broad based as any I have seen for any bill I have ever considered in the almost 5 years I have been in the Senate.

We need to finish this debate this week and get a vote. I hope we will continue to have an overwhelming vote that reflects the overwhelming support across the United States.

Mr. COONS. Mr. President, I rise to speak about two amendments I filed today to help protect American intellectual property from theft abroad. If we are serious about leveling the playing field with countries like China, then protecting U.S. intellectual property from theft has to be a part of it.

This summer I went up and down our State meeting with business leaders and asking them about what we need to do in Washington to help them create jobs. Though currency manipulation came up from time to time, it paled in comparison to the fear our innovative business owners had about intellectual property theft.

When foreign companies and governments steal our ideas, they are stealing more than just formulas and schematics—they are stealing jobs. These two amendments are about giving America the tools to fight back.

I introduced my first amendment with my colleague on the Judiciary Committee, Senator KOHL. It provides a Federal private right of action for victims of trade secret theft. Trade secrets are a critical form of intellectual property, particularly among manufacturers, and when they are stolen, it can result in catastrophic damage to American companies and their employees.

After the Korean company, Kolon, was found to have stolen the trade secrets behind DuPont's next generation Kevlar fiber, a jury last month found that DuPont had suffered a staggering $919 million in damages.

Trade secrets are a critical part of the American economy. Yet they are the only form of intellectual property without a Federal cause of action. Our amendment would fix that and provide U.S. victims of trade-secret theft access to the same service of process, same ability to keep sensitive documents secret, and the same uniformity of substantive law available to other intellectual property victims.

My second amendment, which I introduced with my colleague Senator GRASSLEY, the distinguished ranking member of the Judiciary Committee, fixes a simple problem, but one that vexes an array of companies that I hear from regularly.

Under current law, when Customs and Border Patrol agents intercept a shipment that they suspect contains counterfeit or trademark-infringing goods, there are prevented from properly investigating the shipment because they cannot share product samples or UPC codes with the intellectual property holder.

That is ridiculous. Why are we tying the hands of our agents and preventing American businesses from sticking up for themselves? Worse, it means that shipments of counterfeit goods are being let into this country even when Customs agents have reason to believe they might be counterfeit. And it is not just toys, clothes and electronics that we are talking about; it is prescription drugs and medical technologies.

We are abetting the trade imbalance that is stifling the American economy by allowing this gaping hole to continue to exist. In come cheap counterfeit goods, and out go American jobs.

Our amendment would close this gaping hole in our economic security by allowing Customs and Border Patrol agents to share the information that they need to identify counterfeit goods, stop these illicit shipments, and protect American jobs.

The time has come to get serious about the threats posed to our health and workforce by foreign intellectual property thieves.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask that the order for the quorum call be rescinded.

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

Mr. CASEY. I ask unanimous consent to speak as if in morning business.

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

SYRIA

Mr. CASEY. We have been dealing with an issue that relates to China's currency policies. I know that has been the pending business, but I have been wanting to address another issue for a number of days now and I am grateful for this opportunity. It is an issue that a number of people here in both parties are very concerned about. It relates to Syria.

I rise to talk about the situation in Syria, which is a place of ever increasing violence, and this violence has taken the lives of more than 2,600 Syrians.

I spoke a number of months ago at a hearing about a Pennsylvanian. His name is Hazem Hallek, a doctor who lives outside of Philadelphia in a suburban community. His brother Sakher lived in Syria and visited the United States for a medical conference earlier this year. Upon his return to Syria, demonstrations against the Assad regime were beginning to intensify. Sakher was not engaged in politics, nor did he want to be engaged in politics. But despite this, he went missing and was soon found dead in a ditch in a village south of the town of Aleppo. Sakher was subjected to unspeakable torture before he was killed. His visit to the United States was enough for the Assad regime to target him for death. So his brother, a constituent of mine, Hazem, has asked me to do everything I can to support democratic change in Syria and to protect civilians who continue to be hunted down by this brutal regime.

I believe—and I know this is a broad-based point of view in this Chamber—Democrats and Republicans alike believe that now, more than ever, it is critical that the international community, led by the United States—and the United States has done a lot already but needs to do more—show support for the Syrian people who continue to live under this dictatorship. The Syrian people, especially the democracy and human rights activists, feel defenseless against the tanks, guns, and the bullets of the Assad regime.

The United Nations Human Rights Council passed an important resolution which called for the deployment of three human rights monitors to bear witness to the terrible crimes in Syria. I was very disappointed, and I know others were as well, but unfortunately we weren't surprised to see that Russia and China vetoed a U.N. Security Council Resolution just last night. This resolution had been watered down so much that observers had taken to calling it the so-called monsoon resolution. Yet the Russians and the Chinese still refused to recognize the terrible actions of the Assad regime and show support for the embattled people of Syria.

I am an original cosponsor of Senate Resolution 180, which was introduced in May. This resolution expresses support for the peaceful demonstrations and universal freedoms in Syria and condemns the human rights violations perpetrated by the Assad regime. This bipartisan resolution has 25 cosponsors, but it has been held up by one Senator who will not let us pass through by unanimous consent—the language we use around here for letting legislation pass without a rollcall vote, so-called unanimous consent—one Senator, holding up a resolution to show our solidarity with and support for the Syrian people who have been living through the most horrific of nightmares, torture, killing, and abuse, for all these months.

There is a lot we can do and that we should do. There is also a lot we should be debating here in the Senate. But I can't understand, on an issue of such importance, how we cannot come to consensus on something this basic, to

show fundamental solidarity with the people of Syria, especially at this hour. We cannot let another day pass without the Senate expressing its outrage over the behavior of the Assad regime. It is not enough just to condemn it in words. It is very important the Senate go on record to pass this resolution.

I have spoken in the past very highly of Ambassador Ford and his team in Damascus; he is our Ambassador from the United States to Syria, and I was proud to support his nomination. Instead of conferring legitimacy on Mr. Assad and his regime, Ambassador Ford is the most high-profile opponent of the Assad regime, sending out regular condemnations through press releases and Facebook postings. But what has been even more impressive is the personal courage demonstrated on an almost daily basis that Ambassador Ford and his staff have demonstrated in traveling throughout the country and engaging directly with the democratic opposition in Syria.

Last week, Ambassador Ford met with the leader of the opposition national democratic gathering in Damascus. Ambassador Ford's vehicles were attacked, and he was forced to stay inside the building until security forces arrived 3 hours later to escort him from the premises.

He has attended the funerals of human rights activists, observed the aftermath of government massacres, and engaged directly with the people of Syria. He will say that he is just doing his job, like good soldiers say often when we commend them for their valor and bravery and service. But I am glad the Senate finally did its job last night in confirming Ambassador Ford. Long overdue, by the way, but it was finally done.

Ambassador Ford serves as a shining example of the best our Foreign Service has to offer to the world. Countries that have representatives remaining in Damascus should join Ambassador Ford on his visits with opposition figures and human rights activists around the country. He should not be the only one who bears witness to this horror. Other diplomats should join him on his travels throughout Syria.

We have seen some positive developments among other countries in the international community. I want to acknowledge the increasingly positive role played by Turkey, which is reportedly considering sanctions against Syria. Turkey is Syria's largest trading partner, and sanctions could have a serious impact in Damascus. Turkey has also provided safe haven in border camps for more than 7,000 refugees who have fled from Syria to Turkey. Turkey's concrete support for the Syrian people, combined with ongoing diplomatic pressure, is a critical element in isolating the Syrian regime.

We know some of the history here, and it is a history of a lot of horror and death. Twenty-nine years ago, Bashir al-Assad's father unleashed the government's security forces on the community of Hama to repress unrest in that city. The killing that took place in February of 1982 was both indiscriminate and massive in its scale. Some estimate that more than 10,000 Syrians were killed as security forces literally razed the city. Thomas Friedman, the New York Times columnist, dedicated a chapter entitled ''Hama Rules'' in his book, ''From Beirut to Jerusalem,'' to the horror seen in this town in 1982. Assad's Hama rules were meant to send a chilling effect to all who would dare to question the authority of that Assad regime.

Bashar al-Assad has proven today, and certainly over the last several months, if not years, that he is incapable of reform.

When faced with the democratic movement inspired by the wave of change sweeping across the region, the younger Assad responded with his own 2011 version of Hama rules. As the world watched, as I said before, over 2,600 Syrians have been killed in a number of communities. Whether it is in Hama, or Homs, Rastan, Talbiseh, and several other towns across the country, Assad's rules seem to be focused on the use of militias that have been deployed most recently in Rastan to conduct the most repressive operations that we can think of. These gangs receive informal support from the Syrian security services and have been implicated in Syria's crimes and atrocities. The Syrian people have asked for international monitors to be deployed in the country in order to bear witness and perhaps to provide a deterrent against the wrath of these militias.

In the intervening 29 years since the massacre at Hama, Syria has changed indeed. The Syrian people have shown that they will not be cowed by violence. The opposition has made remarkable progress. Hama rules no longer work in Syria. The opposition has stood up and voted with its feet, every Friday turning out to demonstrate and face the wrath, the terrible, deadly wrath of this regime. Moreover, scores of security forces have abandoned the regime and have come to the side of the opposition, something that did not happen in 1982 when the elder Assad brutally applied his Hama rules.

In recent weeks we have seen emerge elements among the opposition who have resorted to violence. One cannot blame the Syrian people for defending themselves in the face of unspeakable violence. But I do hope, though, that the aspirations of the Syrian people can be met through a commitment to nonviolence, as difficult as that is, and an understanding that democratic change comes not from the barrel of a gun, as we have often said on this floor, but the desire of all citizens to chart a new course, the course of peace.

In summary, the international community can do more to support the Syrian people during this darkest of hours starting right here in this Chamber, in the Senate. This week we sent a strong message in confirming Ambassador Ford. Today we can pass a resolution denouncing the behavior of the Syrian regime. More importantly, the international community can and should do more. Here are some of the measures I believe should take place in the coming days and weeks.

No. 1, the United Nations has proven to not be the best international institution to address the strife in Syria, but key regional organizations could have a positive and substantial impact moving forward. The Arab League should suspend Syria's membership and call for President Assad to step down. The Gulf Cooperation Council should explicitly say that President Assad is no longer the legitimate leader of the country.

No. 2, concerned countries in the West should work together with the Arab League and the Gulf Cooperation Council countries to establish an international Friends of the Syrian People as a contact group for the region which can serve as the main point of contact for the democratic opposition and the Syrian people. Participation in such a group would not necessarily limit the options of individual members and would not preclude bilateral efforts to take separate action in support of the Syrian people. It would, however, send a clear message of international solidarity in support of nonviolent change in Syria.

No. 3, the Syrian people have asked that international humanitarian observers be deployed in the country to monitor the situation and perhaps to serve as a deterrent against violence in the country. Similar to the OSCE human rights monitors deployed to Kosovo in 1998 to bear witness to the violence wrought by the Milosevic regime, this international team of monitors, primarily composed of individuals from the Arab League and the Gulf Cooperation Council, could address a central concern of the Syrian people and would be a welcome alternative to military intervention from the outside.

No. 4, finally, key countries in the international community need to cut off commercial ties with the Assad regime. The United States has done its part, as has the European Union. Turkey may announce new sanctions. But many countries continue to conduct business as usual with the Assad regime. For example, there are reports that India is considering the purchase of crude oil from Syria. The timing of such a purchase is ill-advised and we hope India can look to identify other sources of energy in the region, especially at this time.

The stakes have been raised in Syria as never before. The opposition is understandably tired and to some extent beaten down, and there is some despair that is starting to set in among the abused population of the country. At this critical time, the newly constituted Syrian National Council needs

to show the Syrian people that it can deliver results in the international community. The establishment of a Friends of the Syrian People group, a contact group as I said before, and the deployment of international humanitarian monitors, would demonstrate that the Syrian National Council is effective, and it would send a critical message to the Syrian people. Our options to leverage change in Syria are limited but they do exist. We should be making every effort to build increased international pressure on and isolation of the Assad regime.

Mr. HALLEK and his family and thousands of other families across Syria have suffered enough. They have suffered so much and they deserve nothing less than our support, our solidarity, and our help in this dark hour.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I ask unanimous consent we move to a period of morning business with Senators allowed to speak therein for up to 10 minutes each.

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

TRIBUTE TO DANIEL NICHOLS

Mr. REID. Mr. President, today I rise to recognize the extraordinary work of Daniel Nichols who served the U.S. Capitol Police with great distinction for 28 years.

Chief Nichols entered duty with the U.S. Capitol Police in 1983. After training, his first duty assignment was providing security and law enforcement at the U.S. Capitol, and in 1984, he was transferred to street patrol duties within the Capitol Complex and the adjoining neighbourhoods.

In 1986, Chief Nichols was appointed as the first dedicated public information officer for the department. As spokesperson, he managed all media interaction during events and incidents occurring within the Capitol Complex. Most notably, he represented the U.S. Capitol Police with great poise and unwavering calmness during key events that attracted intense, widespread media attention including the 1998 shooting at the Capitol that claimed the lives of two police officers; the terrorist attacks of September 11, 2001, and the 2001 anthrax attack against Congress.

In 2002, after being promoted to lieutenant, Chief Nichols was given command of the canine section. His accomplishments include expanding the training program, increasing the number of explosive detection teams to 43, reintroducing the street police service dog program, and creating a K–9 search and rescue team to locate victims of building collapses. In addition, he overhauled the concept of operations for the Off-Site Delivery Center. He also created the department's first horse mounted unit.

In August of 2004, he was promoted to captain and named chairman of the 2005 U.S. Capitol Police Inaugural Task Force. As such, then Captain Nichols managed the overall planning, coordination, logistics, and execution of the U.S. Capitol Police responsibility for the 2005 swearing-in ceremony. This task was particularly challenging due to the fact that this was the first inauguration to take place in a post 9/11 threat environment. He worked closely with the Joint Congressional Committee on Inaugural Ceremonies, the Capitol Police Board, and multiple law enforcement and public safety agencies to ensure the safety and security of the Nation's leaders and the public. While serving as chairman, Chief Nichols was promoted to the rank of inspector.

In February 2005, Chief Nichols assumed command of the House division and led a team of over 400 police officers who provided law enforcement and security operations at the House office buildings, the Capitol Powerplant and the House Page Dorm. In 2006, he was transferred to the Capitol division where he managed over 450 police personnel who perform various security, law enforcement, and emergency response duties to protect the Capitol, the Capitol Visitors Center, and the House and Senate Chambers and leadership offices.

In January 2007, Chief Nichols became the assistant chief of police and served as the chief of operations, providing great leadership to the department. Chief Nichols provided operational support to the department, responsible for the Uniformed, Operations, Protective, and Security Services Bureaus; overseeing the Office of Plans, Operations, and Homeland Security and serving as acting chief when the chief of police was unavailable.

Chief Nichols is recognized as an accomplished leader who builds effective teams, has strong communication skills, and uses innovative approaches to improve the protection of the Capitol, the congressional community, and visitors. He also works to develop the skills and capabilities of the department's personnel and was a key proponent of sending managers and officers to the Police Executive Leadership Program. A native of Fort Washington, MD, Chief Nichols holds a bachelor's and master's degree in management from the Johns Hopkins University.

Chief Nichols is a notable member of the law enforcement community and a fine citizen. On behalf of the U.S. Senate, I congratulate him on his retirement and salute his distinguished career.

RECOGNIZING THE ARSHT FAMILY

Mr. CARPER. Mr. President, on behalf of Senator CHRIS COONS, Congressman JOHN CARNEY, and myself, we remember today the lives and lasting gifts of late Delawareans, the Honorable Roxana Cannon Arsht and her husband S. Samuel Arsht, and we recognize as well the extraordinary philanthropy of their daughter, Ms. Adrienne Arsht. As role models of integrity and giving, the Arsht family has served and enriched the lives of Delawareans for decades.

Like many American families, Roxana Cannon's and Samuel Arsht's parents immigrated to the United States from Russia a century ago, seeking survival and a better life. In this land of opportunity, they worked hard, they valued education, and set high standards for themselves—standards which they met and ultimately exceeded.

Samuel Arsht was a 1931 graduate of the University of Pennsylvania Wharton School and a 1934 graduate of the University's law school. Upon graduation, Sam joined the firm that later became Morris, Nichols, Arsht & Tunnell in Wilmington, DE. Over time he became well known in corporate law circles as one of the architects of the modern Delaware general corporation law and was described as the master of Delaware's influential corporate statutes. In 1953, he led efforts to update the entire body of statutory law, making Delaware the Nation's most favorable place for businesses to incorporate. His work helped to transform the State's economy by later opening the door to national banks and to credit card operations, along with other financial services.

His wife, a Delaware native, Judge Roxana Cannon Arsht, graduated from the University of Pennsylvania's law school as well, where she met her future husband Sam. In 1931, Roxana became the fifth woman to pass the Delaware bar. She made history again when she was appointed by then-Governor Russell W. Peterson as a judge of the family court in 1971, becoming the first female judge in the State of Delaware.

She retired from the bench in 1983, and began a second career in philanthropy. She was a founding member of the Cancer Care Connection and supported numerous community interests, including Planned Parenthood, the Visiting Nurse Association, the First Stage at Tower Hill School, the Winterthur Museum exhibition hall, and the Christiana Care Health System. Roxana was inducted into the Hall of Fame of Delaware Women in 1986.

Roxana and Sam Arsht shared their love of lifelong learning by providing the first and last gifts to the construction of Arsht Hall for the Academy of Lifelong Learning at the Wilmington campus of the University of Delaware. In 2003, Roxana created the Arsht-Cannon Fund at the Delaware Community Foundation to carry out her and Sam's

commitment to the greater Wilmington community: to preserve, support, protect, and defend the best interests of a civil society. To date, this fund has provided over $4.5 million in grants to Delawareans, and is now directed by her daughter Adrienne.

Adrienne Arsht was born in 1942 in Wilmington, DE, and upon graduation from Villanova Law School, Adrienne was the 11th woman admitted to the Delaware bar. Again, her mom had been the fifth. In 1966, she launched a successful law career at the Delaware firm of Morris, Nichols, Arsht & Tunnell. Later, Adrienne's interests shifted to banking, culminating in a move to Miami in 1966 to join the leadership of a bank called TotalBank, where she served as chair of the board until 2007. Under her leadership, TotalBank grew from 4 locations to 14, with over $1.4 billion in assets. In 2007, TotalBank was sold to Banco Popular Espanol; and in 2008, Adrienne was named the chairman emerita of TotalBank.

In addition to her leadership in the legal profession and in the business world, Adrienne has also taken a leading role in promoting artistic, business, and civic growth in the three cities she now calls home: Washington, DC, New York, and Miami. Following her parents' examples, she has also continued to maintain a strong philanthropic presence in her home State of Delaware, for which we are grateful.

In one of her many contributions to the First State, Adrienne carries on her parents' commitment to the mission of the Arsht-Cannon Fund at the Delaware Community Foundation. With her family background and experiences working with the Hispanic community as a businesswoman in Miami and the release of research findings from the 2008 Delaware Hispanic Community Needs Assessment, Adrienne set the funding focus of the Arsht-Cannon Fund to support many nonprofits with a focus on addressing the unmet needs of Hispanic Delawareans. This fund has helped thousands of Hispanic Delawareans learn to speak, read, and write in English, continue their education, find employment, access health services, and learn conflict resolution skills. It has made, and continues to make, an essential difference in the lives of Delawareans and will do so for decades to come.

Furthermore, under Adrienne's direction, the Arsht-Cannon Fund established the Cancer Care Connection and Best Buddies in Delaware, brought the Nemours' BrightStart! Dyslexia Initiative to Delaware, and supported the new Delaware Community Foundation's Strategic Fund.

I am honored today to rise to honor and commend a very good friend, Adrienne Arsht, and her late parents, whom I was privileged to know, Roxana and Sam Arsht, for their extraordinary service and continuing contributions to the State of Delaware and to its people. On behalf of Senator COONS, Congressman CARNEY, and myself, we recognize their work to help the many individuals and families who have been touched by their generosity.

We add our congratulations to Adrienne and the Arsht family as they receive the Delaware Community Foundation's First Family Philanthropy Award. Adrienne is truly an extraordinary woman who continues to carry on her parents' legacy of working to improve the lives of others. I consider it a privilege to have known Sam and Roxana, to know their daughter Adrienne, and to be able to stand here today to speak on their behalf in the Senate.

Mr. President, I yield the floor.

BUDGETARY ADJUSTMENTS

Mr. CONRAD. Mr. President, I previously filed committee allocations and budgetary aggregates pursuant to section 106 of the Budget Control Act of 2011. Today, I am adjusting some of those levels, specifically the allocation to the Committee on Appropriations for fiscal year 2012 and the budgetary aggregates for fiscal year 2012.

Section 101 of the Budget Control Act allows for various adjustments to the statutory limits on discretionary spending, while section 106(d) allows the chairman of the Budget Committee to make revisions to allocations, aggregates, and levels consistent with those adjustments. The Committee on Appropriations recently reported three bills that are eligible for adjustments under the Budget Control Act. Consequently, I am making adjustments to the 2012 allocation to the Committee on Appropriations and to the 2012 aggregates for spending by a total of $11.896 billion in budget authority and $5.108 billion in outlays. Those adjustments reflect the sum of $2.3 billion in budget authority and $513 million in outlays for funding designated for disaster relief, $8.703 billion in budget authority and $3.821 billion in outlays for funding designated as being for overseas contingency operations, and $893 million in budget authority and $774 million in outlays for program integrity initiatives. The two program integrity initiatives for which adjustments are in order under the Budget Control Act are continuing disability reviews and redeterminations and health care fraud and abuse control.

I ask unanimous consent that the following tables detailing the changes to the allocation to the Committee on Appropriations and the budgetary aggregates be printed in the RECORD.

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

BUDGETARY AGGREGATES.—PURSUANT TO SECTION 106(b)(1)(C) OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 311 OF THE CONGRESSIONAL BUDGET ACT OF 1974

[In millions of dollars]

	2011	2012
Current Spending Aggregates:		
Budget Authority	3,070,885	2,971,874
Outlays	3,161,974	3,042,098
Adjustments:		
Budget Authority	0	11,896
Outlays	0	5,108
Revised Spending Aggregates:		
Budget Authority	3,070,885	2,983,770
Outlays	3,161,974	3,047,206

FURTHER REVISIONS TO THE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS TO THE COMMITTEE ON APPROPRIATIONS PURSUANT TO SECTION 106 OF THE BUDGET CONTROL ACT OF 2011 AND SECTION 302 OF THE CONGRESSIONAL BUDGET ACT OF 1974

[In millions of dollars]

	Current allocation/ limit	Adjustment	Revised allocation/limit
Fiscal Year 2011:			
General Purpose Discretionary Budget Authority	1,211,141	0	1,211,141
General Purpose Discretionary Outlays	1,391,055	0	1,391,055
Fiscal Year 2012:			
Security Discretionary Budget Authority	806,041	8,703	814,744
Nonsecurity Discretionary Budget Authority	360,613	3,193	363,806
General Purpose Discretionary Outlays	1,322,834	5,108	1,327,942

DETAIL ON ADJUSTMENTS TO FISCAL YEAR 2012 ALLOCATIONS TO COMMITTEE ON APPROPRIATIONS PURSUANT TO SECTION 106 OF THE BUDGET CONTROL ACT OF 2011

[In billions of dollars]

	Program integrity	Disaster relief	Emergency	Overseas contingency operations	Total
Labor-HHS-ED					
Budget Authority	0.893	0.000	0.000	0.000	0.893
Outlays	0.774	0.000	0.000	0.000	0.774

DETAIL ON ADJUSTMENTS TO FISCAL YEAR 2012 ALLOCATIONS TO COMMITTEE ON APPROPRIATIONS PURSUANT TO SECTION 106 OF THE BUDGET CONTROL ACT OF 2011—Continued

[In billions of dollars]

	Program integrity	Disaster relief	Emergency	Overseas contingency operations	Total
Transportation, HUD					
Budget Authority	0.000	2.300	0.000	0.000	2.300
Outlays	0.000	0.513	0.000	0.000	0.513
State, Foreign Operations					
Budget Authority	0.000	0.000	0.000	8.703	8.703
Outlays	0.000	0.000	0.000	3.821	3.821
Total:					
Budget Authority	0.893	2.300	0.000	8.703	11.896
Outlays	0.774	0.513	0.000	3.821	5.108
Memorandum 1—Breakdown of Above Adjustments by Category:					
Security Budget Authority	0.000	0.000	0.000	8.703	8.703
Nonsecurity Budget Authority	0.893	2.300	0.000	0.000	3.193
General Purpose Outlays	0.774	0.513	0.000	3.821	5.108
Memorandum 2—Cumulative Adjustments (Includes Previously Filed Adjustments):					
Budget Authority	0.893	8.113	0.000	126.544	135.550
Outlays	0.774	1.607	−0.007	63.568	65.942

HONEST BUDGET ACT OF 2011

Ms. SNOWE. Mr. President, I rise to join Senator SESSIONS in introducing the Honest Budget Act of 2011. At this critical juncture in our Nation's fiscal history, we must no longer allow Washington to rely on an astonishing array of dishonest budget gimmicks to enable and conceal countless billions in Federal deficit spending.

We can no longer accept budgets that compromise our economic growth, living standards, or opportunities that have been a hallmark of America's greatness, which is why Senator SESSIONS and I have introduced this important legislation. The Honest Budget Act of 2011 will attack Washington's frivolous spending by stripping away many of the most egregious budget gimmicks in Washington, by making it harder for the Federal Government to spend money it does not have, and by confronting the culture of fiscal manipulation that is bleeding future generations of prosperity.

Our budgetary process is intrinsically broken. Congress is required by law to adopt a budget resolution by April 15, yet in the past 36 years Congress has met that deadline just six times. Throughout the last 10 years, Congress has approved a budget resolution on only six occasions. Congress failed to complete action on a budget resolution for 5 fiscal years: fiscal year 1999 in 1998, fiscal year 2003 in 2002, fiscal year 2005 in 2004, fiscal year 2007 in 2006, and fiscal year 2011 in 2010. Not surprisingly, those fiscal years ended with large, spendthrift, omnibus appropriation measures or continuing resolutions.

Last year, no budget and no appropriations bills passed for the first time since the current budget rules were put into place in 1974, resulting in an almost shutdown of the Federal Government in April 2011. We have had 87 continuing resolutions in the past 14 fiscal years and we even failed to pass all 12 individual appropriations bills last year. Not a single appropriations bill passed for fiscal year 2011!

Moreover, the majority in the Senate has failed to pass a budget for 889 days now. No business or household in America can function without a budget, yet, there are no consequences for congressional inaction. The Honest Budget Act will change this.

This tacit acceptance of emergent dysfunction in our budget and appropriations processes has only exacerbated the trend-line of unbridled federal spending, and it is symptomatic of the miniscule value Congress has assigned to averting economically corrosive deficits and debt. Congress violates the budgetary process and existing rules with impunity and no consequences year after year while our national debt is rising, living standard for millions of Americans is faltering, and America is losing a competitive advantage that was once the hallmark of this great nation.

It is time we put an end to this habitual dysfunction! The Honest Budget Act of 2011 will address the many shortcomings of the budget process and it will force Congress to be accountable to the American people. Specifically, this legislation lays out nine specific fixes to ensure that the loopholes and gimmicks often utilized to circumvent the rules are eliminated for all time.

Currently, the Congressional Budget Act empowers any Senator to raise a point of order preventing the consideration of appropriation bills without a concurrent budget resolution in place, but the Senate can waive it with a simple majority vote. As a result, the point of order is rarely raised and Congress can spend money without a plan or budget restraints.

The Honest Budget Act will strengthen the point of order to require a vote of three-fifths of Senators to waive, enhancing the ability of Members to demand the Senate agree to a concurrent budget resolution before moving appropriation bills. Simply put, our legislation ensures that if Congress fails to pass a budget, then no appropriations bills will be considered.

Another loophole that has often been exploited to spend excessively is designating certain federal spending as an ''emergency.'' Spending that Congress designates as an ''emergency'' is exempt from the controls designed to enforce budget restraint. By definition, an emergency should be necessary, urgent, unforeseen, and temporary.

I understand that the Federal response to emergencies such as natural disasters and acts of war must be deployed rapidly and without unnecessary budgetary constraints. Unfortunately, attaching the ''emergency'' designation to a measure is easy it is simply written into the bill text. A Senator can raise a point of order against the designation during floor consideration, but it can be waived with 60 votes.

Examples of the emergency designation abuse abound. For instance, the 2008 supplemental appropriation bill included $210 million in ''emergency'' spending for the 2010 Census even though, since its ratification in 1788, the Constitution has required a census every 10 years. Moreover, the fiscal year 2011 appropriation omnibus bill included $159 billion in emergency spending for the Afghan and Iraq operations wars the U.S. has been fighting for 10 years!

The Honest Budget Act fixes this broken process by prohibiting any bill, joint resolution, or conference report from carrying an emergency requirement unless it is added via an amendment. A supermajority would then be required to sustain an appeal of the ruling of the Chair. A new point of order could be created against an emergency requirement in an amendment that requires 60 votes to waive.

These simple fixes are just a few of the commonsense budget process enhancements the Honest Budget Act makes. These are the types of focused improvements that must be implemented to work alongside a balanced budget amendment to ensure that Congress begins to operate in a more honest and open fashion.

Since 2002 the Nation has run a deficit each and every year and our gross debt has increased from $6.2 trillion to almost $15 trillion. Over the past 5 years alone, government has managed to increase spending by a remarkable 40 percent, contributing to the largest budget deficits in our history over the last 3 consecutive years. The Federal Government is now borrowing roughly 40 cents of every dollar it spends. I do not believe that any of my colleagues in the Senate would argue that the budget process is working properly or as intended. The reality could not be starker.

Our Nation can no longer afford the gimmicks and loopholes too frequently

used in the past to dodge existing budgetary restraints. Targeted budget process reforms will compel Congress to return to the regiment and discipline of the budget and appropriations processes, and thereby force the government to establish priorities and abide by those priorities.

In an August of 1987 televised Oval Office address, President Reagan said, ''The Congressional budget process is neither reliable nor credible; in short, it needs to be fixed.'' It has now been nearly a quarter-century since President Reagan sought to fix the budget process. It is time we heed his advice.

WORLD TEACHERS' DAY

Mrs. BOXER. Mr. President, I rise today to honor our teachers here in the United States and across the globe by recognizing October 5 as World Teachers' Day.

Celebrated in over 100 countries, World Teachers' Day is an occasion to acknowledge the many ways teachers make a difference in the lives of their students and in their communities.

There is no doubt that teachers play a key role in our society. Quality education reduces poverty and inequality, and provides the building blocks for democracy and civic participation.

Every day, over 3.5 million educators across the country work to close achievement gaps, give children the opportunity to succeed, and ensure that we have the educated workforce necessary for a global economy. I am especially proud to recognize the over 300,000 teachers, educating over 6 million students my home State of California.

Last year, I was happy to work with Senator TOM HARKIN of Iowa to pass the Education Jobs Fund, which has kept over 100,000 teachers in the classroom teaching our children.

I know firsthand how much goes into teaching a child, and praise the talented and committed individuals in the United States and around the world who have dedicated their lives to teaching.

MAINE NATIONAL GUARD

Ms. COLLINS. Mr. President, I would like to bring to the attention of my colleagues this article from the Mountain Times in Killington, VT. The article highlights the outstanding work of the nearly 200 members of Maine National Guard's 133rd Engineer Battalion, headquartered in Gardiner, ME, which deployed to Vermont to help our neighbors deal with the destruction from Tropical Storm Irene. Senator LEAHY has told me several times how grateful the people of Vermont are for the assistance and how impressed they are with the professionalism of the Maine National Guard members. All of us in Maine are extremely proud of their outstanding work helping those who needed it most. Mr. President, I ask unanimous consent that the following article be printed in the RECORD.

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

ANGELS WITH DIRTY FACES

(By Greg Crawford)

Well, maybe their faces are clean, but the men and women of the Maine National Guard's 133rd Engineer Battalion, headquartered in Gardiner, Maine, and commanded by Lt. Colonel Normand Michaud, sure got their boots muddy! And despite modest denials, they are, indeed, angels, at least to the grateful citizens of Stockbridge.

Following the historic flooding caused by the torrential rains of tropical storm Irene, the call went out to National Guard units in areas not quite so devastated by the storm, and they answered that call with incredible speed. Given the complexity of the logistics involved, and that the behemoth trucks essential to their work do not exactly zip over the road, especially when they have to negotiate flood-ravaged terrain, the fact that they managed to get here just a few days after the flooding occurred is nothing short of amazing. The 38-vehicle caravan took 16 hours to make the trip from Belfast, Maine, about 40 miles east of Augusta, where much of the equipment was stored.

Something like a quarter of a mile of Vermont Route 107 between Bethel and Stockbridge was washed downstream. In some places, the road hugged the near-vertical mountainsides with the river right next to it. Following Sunday's deluge, the river was rushing by at the foot of the mountain as if the road had never been there at all.

A NATIONAL GUARD TRUCK UNLOADS PALLETS OF BOTTLED WATER AT THE STOCKBRIDGE ELEMENTARY SCHOOL

But then the 133rd showed up, and things changes in a hurry. Their first task upon arrival was to erect the tents that would house the fifty-plus Guard members assigned to the Route 107 site and others around Stockbridge. It was fortunate that there was level ground beside Lambert's Power Tools, directly adjacent to the damaged highway. Before they could position the excavators, they had to build a dike to keep the muddy waters of the not-so-White River out of the area where their equipment would have to be situated. There's very fine, muddy silt everywhere, and though they had a couple of fair weather, the recent rains turned that silt into a thick soup that would have brought mere mortals to a standstill. But this is the 133rd Engineer Battalion. By Wednesday morning, they had already managed to restore a single, very rough lane where there had only been submerged rubble. This was wet, dirty and dangerous work, but according to Frank Lambert's daughter, one of the Guardswomen attached to this unit commented that she'd rather be here in Vermont's mud and rain than in Afghanistan. Small wonder. The 133rd has lost members to IEDs in previous deployments to that war-torn country.

That single lane of 107 is still barely navigable, even by 4-wheel drive vehicles, so it is not open to traffic as yet. But it is there. For that alone, 2nd Lieutenant Rand and the men and women of the 133rd Engineer Battalion have earned the undying gratitude of the residents of Stockbridge and the neighboring towns that depend on that highway.

A ''BUCKET BRIGADE'' SPEEDS THE TRANSFER OF PACKAGED BOTTLED WATER INDOORS

By the way, if anyone, Stockbridge resident or not, should encounter a Guard member from the 133rd, or any other National Guard unit here to help, tell them, thank you. SPC Allison Pelletier of the 133rd's Public Affairs Office tells me that a much-appreciated expression of gratitude would be coffee and food. The MREs they're living on are better than they used to be . . . but they're still MREs. Some Dunkin' Donuts would go over pretty big, too, I'll bet. Hint, hint.

There are plenty of angels right here in Stockbridge, too. So many, in fact, that you can't swing a cat without smacking a Good Samaritan. My cat hates it when I do that.

Willis and Harry Whitaker, Mark Pelletier, Dave Brown, Peter Steibris, and God-only-knows how many others put in unbelievable hours making roads passable for emergency vehicles. They also reinforced the damaged abutment of Gaysville's 1929-vintage iron bridge.

Sid Hotchkiss and the McCullough brothers from Bethel have been working on the monster hole in River Road with bulldozers and an excavator.

Barbara Vellturo, Stephen Farrington, Cheryl Rivers, and others have slaved away over hot computers ferreting out information about the status of roads and bridges in surrounding towns and getting that information to Stockbridge residents by e-mail and postings to a Google Group called Stockbridge Open Forum. Paul Buckley has scouted all those roads daily to confirm the accuracy of the information.

Mark Doughty has coordinated meetings all over town to keep people up to date and convey residents' concerns to town officials.

Janet Whitaker has maintained a steady flow of information from a multitude of sources to keep the group forum's information current.

Jenny Harris has made innumerable runs to area pharmacies for prescriptions so residents in need don't run out of essential medications, and Mary Ellen Dorman, who knows everyone in town, has seen to it that they were all delivered to the right people.

Josh and Michelle Merrill, two former Gaysville residents now living in Rutland, are the people who, with the help of the Chittenden Fire Department and the Stockbridge Fire Department, got the ball rolling for the food shelves at the Stockbridge Elementary School and on the Stockbridge Common. Fifteen volunteers give of their time to organize and dispense all the items that fill the school's multi-purpose room.

Every day, there are people going out of their way to help someone. They neither expect, nor ask for, recognition; they just do what they know is right and move on. Makes it hard to catch 'em in the act.

Several people whose homes were damaged or destroyed, and those who simply can't get to their homes, have been taken in by generous and thoughtful neighbors. Furniture and appliances have been donated, or at least promised, to people in the process of rebuilding. Special efforts have been made to care for elderly, ill, or disabled residents, including helicopter and ambulance evacuations.

Were it possible to recount them all, the incidents of selfless generosity and assistance given to those less fortunate would fill this paper and two or three issues to come. Only a few have been mentioned here by name, but many more deserve recognition. However, I feel quite certain they are all content with the knowledge that they did some good.

ADDITIONAL STATEMENTS

HONORING SPECIALIST DOUGLAS EDWARD DAHILL

• Mr. BROWN of Ohio. Mr. President, this morning, at 10:45, in our Nation's

most prestigious military cemetery, Douglas Edward Dahill, a Vietnam war veteran from Lima, OH, was laid to rest. Forty years after being presumed dead, his family will gather at Arlington National Cemetery to honor his life in the hallowed place our Nation honors its heroes.

Douglas Dahill's story—and that of his family—is simultaneously exceptional and familiar. Dahill voluntarily enlisted in the U.S. Army after graduating from Lima Senior High School, following in the footsteps of his grandfather, father, and uncle, who had all served in the U.S. military during times of war.

Dahill was part of Detachment B52 Delta's Reconnaissance Team 6, which was dropped behind enemy lines on April 14, 1969 in South Vietnam's Quang Nam Province. Three days later, on April 17, 1969, Dahill and his team came under intense enemy fire in Thua Thien. They radioed a request for air strikes and support. But their call was never heard. Thunderstorms prevented air support from assisting Dahill and his team. The following day, a search team went looking for Team 6, but found no trace of their whereabouts. More than 8,000 miles away, in Lima, OH, an Ohio military family would begin their long, painful wait for news of their beloved son and brother.

For nearly four decades, the status of Delta's Reconnaissance Team 6 went unresolved. Like so many American families during the Vietnam war, the Dahill's were forced to cope with Douglas' unknown fate. When the Vietnam war ended, and after American Prisoners of War, POWs, were returned home, approximately 2,646 Americans were still unaccounted for. Initially, the U.S. partnered with the Republic of Vietnam to conduct joint searches for Americans missing in South Vietnam. This joint effort resulted in the recovery and identification of 63 American servicemembers, but Dahill was not among them.

When the Communist regime took over Vietnam in 1975, joint efforts to recover those missing in action were halted, and American families could only hope that Vietnam would unilaterally recover and return the remains of their missing loved ones. In 1991, Vietnam returned uniform parts and a small quantity of human remains that were allegedly associated with Delta's Reconnaissance Team 6. But the technology at the time was not able to conclusively identify the remains. It wasn't until approximately 1 year ago that a portion of these remains were positively attributed to Specialist Douglas Edward Dahill.

Since U.S. Government efforts began, the remains of more than 900 Americans killed in Vietnam have been returned and identified. However, 1,682 servicemembers—77 of whom are from Ohio—remain unaccounted for. The Department of Defense, and Congress, must continue to support recovery and identification efforts so that more missing Americans can be laid to rest and more American families may know peace and closure.

Douglas Edward Dahill is survived by his sister Carol Long and brother John Dahill. On behalf of a grateful State and Nation, I thank Specialist Dahill and his service and sacrifice for our Nation. May he rest in peace in Arlington National Cemetery and in our Nation's heart.●

2011 SOLAR DECATHLON

● Mr. CARDIN. Mr. President, today I wish to congratulate the University of Maryland, UMD, for winning the U.S. Department of Energy's 2011 Solar Decathlon competition. The competition is organized by the National Renewable Energy Laboratory, America's premier laboratory for research and development regarding renewable energy and energy efficiency. This biennial event challenges collegiate teams from around the world to design, build, and operate solar-powered houses that are affordable to build and operate, energy-efficient, and aesthetically attractive. Nineteen teams representing the United States, China, New Zealand, Belgium, and Canada competed in this year's event, which was held at the National Mall's West Potomac Park.

I am so proud of the collaborative efforts of more than 200 UMD students, faculty, and mentors from diverse disciplines across the campus who participated in making their entry, WaterShed, such a resounding success. Students, faculty, and mentors came from the College of Agriculture & Natural Resources; the School of Architecture, Planning & Preservation; the College of Computer, Mathematical & Natural Sciences; the A. James Clark School of Engineering; the University of Maryland Libraries; the National Center for Smart Growth Research & Education; and the Center for the Use of Sustainable Practices. Over ten academic courses were offered as part of WaterShed's development since the spring 2010 academic semester.

WaterShed was inspired by concern for the Chesapeake Bay ecosystem, so the project wasn't just a successful model for energy efficiency; it also implemented practical solutions to preserve our precious water resources and manage stormwater runoff, a particularly damaging form of pollution to the bay.

The Chesapeake Bay is Maryland's greatest natural resource. For Marylanders, this national treasure is the cornerstone of our economy and part of the fabric of our communities. Its restoration and protection have been the focal point of my work on environmental issues in the Senate. The University of Maryland's work in publicizing and promoting sustainable housing options like WaterShed for the residents of the Chesapeake Bay region will go a long way toward preserving this treasured resource. I cannot think of a more appropriate effort for the University of Maryland to be engaged in, and I applaud everyone's hard work during the past two years towards this common cause and successful outcome.

The success of WaterShed is the pinnacle of a long history of achievement for the University of Maryland in the Solar Decathlon competition. The University of Maryland's initial design for the inaugural Solar Decathlon competition in 2002 became the foundation for subsequent entries. In 2002, Maryland's entry placed fourth. In 2005, Maryland's solar house won the People's Choice and Solar Innovation Awards while placing eighth overall. In 2007, Maryland's LEAFHouse won the People's Choice Award and received a host of other awards from industry and professional associations. The acronym LEAF stands for ''Leading Everyone towards an Abundant Future.'' LEAFHouse placed second in the overall scoring.

The UMD team gained valuable knowledge from the 2005 design and LEAFHouse, both of which are still in use for educational purposes. This year, the team took its vision to an even higher level with WaterShed. The forms of the house highlight the path of a water drop. The split butterfly roofline collects storm water into the core of the house for use. WaterShed also features a holistic approach to water conservation, recycling, and storm water management. These features include a modular constructed wetland that helps filter and recycle greywater from the shower, washing machine, and dishwasher; a green roof that slows rainwater runoff to the landscape while improving the house's energy efficiency; and a garden, composting system, and edible wall system to illustrate a complete carbon cycle program.

So many people are involved in the Solar Decathlon. I would like to acknowledge several of them, including Richard J. King, Solar Decathlon director, and Betsy Black, sponsorship manager, at the U.S. Department of Energy, DOE. Other DOE personnel involved include Marilyn Burgess, John Chu, Sheila Dillard, Kerry Duggan, Nicole Epps, Peter Gage, Cassie Goldstein, David Lee, Howard Marks, Martha Oliver, Erin Pierce, Roland Risser, Phil West, and Janie Wise. At the National Renewable Energy Laboratory, Carol Anna, Susan Bond, Bob Butt, Mike Coddington, Rebecca Dohrn, John Enoch, Sara Farrar-Nagy, Michael Gestwick, Amy Glickson, Pamela Gray-Hann, Sheila Hayter, Mary Ann Heaney, Henri Hubenka, Terri Jones, Ron Judkoff, Alicen Kandt, Stephen Lappi, Kamie Minor, Susan Moon, Ruby Nahan, Michael Oakley, Sean Ong, Alexis Powers, Joe Simon, Jeff Soltesz, Blaise Stoltenberg, Byron Stafford, Lee Ann Underwood, Amy Vaughn, Mike Wassmer, and Andrea Watson all lent their support to the Decathlon. Contractors and other contributors include Aquilent, Cécile Warner, Colorado Code Consulting, D&R

International, Eberle Construction, Hargrove, Carolynne Harris, Linder & Associates, Navigant, Norton Energy R&D, Oak Ridge National Laboratory, Showcall, Stratacomm, and Studio Ammons.

Yesterday, a Member of the U.S. House of Representatives said that the United States ''can't compete with China to make solar panels and wind turbines,'' and suggested that the Federal Government shouldn't subsidize green-energy programs. I guess he didn't visit West Potomac Park to see what is going on. The many creative entries in the 2011 Solar Decathlon demonstrate to the wider public the cost effectiveness of houses that combine energy efficient construction and appliances with renewable energy systems that are available today. And even better homes and appliances and systems are just around the corner. Investing in green technologies creates jobs. Diversifying our energy sources creates competition, which will help to stabilize and lower energy prices. Thinking beyond fossil fuels buried in unstable or unreliable countries strengthens our national security.

I think the Solar Decathlon represents all that, and much more. At this critical juncture in our nation's history, we face significant economic, energy, and environmental challenges. It is easy to be discouraged or cynical. But for each person who says, ''it can't be done,'' there are scores of people—especially young people—out in our universities and communities, in workplaces and laboratories across America, who reject defeatism and cynicism, who demonstrate the ''can-do'' spirit that made America great and will restore our fortunes. Competitions such as the Solar Decathlon and entries such as the University of Maryland's Watershed provide sparkling evidence of the innovative and practical solutions to the intertwined problems we face. More importantly, they provide hope and inspiration.

If we are going to solve our problems, we need to roll up our sleeves and collaborate with each other—just like the UMD team did. Scores of students worked on WaterShed. I am so pleased their hard work paid off and so proud of them. I would like to take this opportunity to acknowledge and salute them on this watershed accomplishment. UMD student team leaders included Jay Chmilewski, Major: Civil Engineering, Spring 2012; WaterShed Disciplines: Engineering, Construction; David Daily (Majors: Electrical Engineering & Nanotechnology, Spring 2012), WaterShed Disciplines: Engineering, Construction; Leah Davies (Major: Graduate Architecture Student, Fall 2011), WaterShed Disciplines: Architecture, Living Systems/Landscape, Construction, Communications; Steve Emling (Major: Mechanical Engineering, Spring 2013), WaterShed Disciplines: Engineering, Construction; Isabel Enerson (Major: Environmental Science & Technology, Spring 2013), WaterShed Disciplines: Living Systems/Landscape, Communications; Tamir Ezzat (Major: Graduate Architecture Student, Spring 2013), WaterShed Discipline: Architecture; Michael Feldman (Major: Civil Engineering, Spring 2011), WaterShed Disciplines: Engineering, Construction; David Gavin (Major: Graduate Architecture Student, Spring 2012), WaterShed Disciplines: Architecture, Construction; Jeff Gipson (Major: Graduate Architecture & Real Estate Development Student, Spring 2012), WaterShed Disciplines: Architecture, Communications; Newton Gorrell (Major: Graduate Architecture Student, Spring 2012); WaterShed Disciplines: Architecture, Construction, Communications; Joseph Ijjas (Major: Master of Architecture, Spring 2011), WaterShed Disciplines: Architecture, Construction, Communications; Moshe Katz (Major: Computer Science, Spring 2012), WaterShed Disciplines: Communications, Computer Science; Yehuda Katz (Major: Computer Science, Spring 2012), WaterShed Disciplines: Communications, Engineering, Computer Science; Lynn Khuu (Major: Master of Architecture, Spring 2011), WaterShed Disciplines: Architecture, Communications; Zachary Klipstein (Major: Master of Architecture, Spring 2011), WaterShed Disciplines: Architecture, Construction; Parlin Meyer (Major: Graduate Architecture Student, Spring 2012), WaterShed Disciplines: Architecture, Construction; Jeff Rappaport (Major: Bioengineering, Spring 2013), WaterShed Disciplines: Engineering, Construction; Matt Sickle (Major: Graduate Landscape Architecture Student, Spring 2012), WaterShed Disciplines: Living Systems/Landscape; Evan Smith (Major: Civil and Environmental Engineering, Spring 2012), WaterShed Disciplines: Engineering, Construction; Scott Tjaden (Major: Environmental Science& Technology, Spring 2012), WaterShed Disciplines: Living Systems/Landscape, Construction; Kevin Vandeman (Major: Graduate Architecture & Real Estate Development Student, Spring 2012), WaterShed Disciplines: Architecture, Construction; Nick Weadock (Major: Materials Science & Engineering, Spring 2013), WaterShed Disciplines: Engineering, Construction; Allison Wilson (Major: Master of Architecture, Spring 2011), WaterShed Disciplines: Project Management, Architecture, Communications, Construction; and Veronika Zhiteneva (Major: Environmental Science & Technology, Spring 2013), WaterShed Disciplines: Living Systems/Landscape, Construction, Communications.

Student team members include Ali Alaswadi, Benjamin Bates, Amy Chen, Brennan Clark, Linda Clark, Michael Craton, Natalya Dikhanov, Eric Gellman, James Han, Justin Heil, Justin Huang, Erik Kornfeld, John Kucia, Allen Meizlish, Jeffrey Sze, and Andrew Taverner.

Extended team members included Ali Alaswadi, Sahin Arikoglu, Alex Atahua, Rishi Banerjee, Justin Bare, Katherine Beisler, Jacob Bialek, Paul Bilger, Christoper Binkley, Ian Black, Andrew Bruno, Victoria Chang, Wen-Hui Chen, Ethan Cowan, Justin Cullen, Diana Daisey, Adam Davies, Aleron Dsilva, Mariam Eshete, Eric Faughnan, Ryan Fitch, Meredith Friedman, Holman Gao, Louis Gbone, Philip Geilman, Phil Geiman, Marisa Gomez, Karen Hillis, Ananya Hiremath, Vanessa Hoffman, Amy Hudson, Phil Jacks, Peter James, Eric Joerdens, Christine Kandigian, Jacob Kunken, Christopher Leung, Arik Lubkin, Christopher Luther, Ryan Maisel, Bracha Mandel, Maria Martello, Zachary Martinez, Abe Massad, Mark Matovich, Shakira Mccall, Kenneth Morgan, Christopher Myers, Zachary Nerenberg, Matthew Newman, Yuchen Nie, Albert Palmer, Daniel Perdomo, Robert Pettit, Chau Pham, Georgina Pinnock, Kaitlin Pless, Olga Pushkareva, James Ramil, Mark Reese, Raheena Rehman, Nicolas Roldos, Boateng Rosemond, Michele Rubenstein, Michael Satoh, Charles Schupler, Juliet Serem, Valerie Smith, Jacob Steinberg, Michael Taylor, Alexander Tonetti, Marcela Trice, Katherine Vocke, Nader Wallerich, Luxi Wang, Amy Weber, Sofia Weller, Christine Wertz, Kiley Wilfong, Christine Wirth, Fawna Xiao, Diane Ye, and Jesse Yurow.

The UMD team benefited from a lengthy list of mentors, including Deborah Bauer, a freelance architectural consultant who collaborated with communications team members for various endeavors including tour guide training, residents interviews, and general strategy development; Grant Baxter, Baxter Floors, who worked with the team to craft and install the bathroom woodwork and grate; Charlie Berliner, Berliner Construction, a ''cornerstone'' of the architecture and construction team; Dan Blankfeld, John J. Kirlin, LLC, who provided 30 hours' worth of Occupational Health & Safety Administration (OSHA) training for the core construction team; Joe Bolewski, Whiting Turner, who provided construction and carpentry mentorship to the team; Brian Borak, Booz Allen Hamilton, who provided expertise and assistance to the DC electric team; Erin Carlisle, EYP Architecture & Engineering, who provided Revit training and technical assistance to the drawing and documentation team; John Cartagirone, American Power and Light, a three-time UMD solar decathlon mentor and friend who worked side-by-side with the electrical team to wire the house and install light fixtures; Chris Cobb, Robert Silman and Associates, who worked in partnership with UMD's 2007 Solar Decathlon's LEAFHouse team and returned this year to provide his expertise in the integration of architecture and structural systems; John Coventry, Coventry Lighting, who provided mentorship as the architecture team developed the lighting design; Adam Eurich, Robert Silman and Associates,

who worked with the team to develop structural design, analysis, details, and drawings; Taz Ezzat, Maryland Custom Builders, Inc., who collaborated with the team on the construction, transport, assembly, and pick/set strategies; George Fritz, Horizon Builders, who hosted visits from the construction team to his demonstration and mock-up facility where he shared best practices for building craft, construction, and vapor management; Julie Gabrielli, Gabrielli Design Studio, who provided input to the communications team on the development of its strategy and concept; Aditya Gaddam; Jennifer Gilmer, Jennifer Gilmer Kitchen and Bath, who worked with the architecture team to design WaterShed's kitchen; Anne Hicks Harney, Ayes Saint Gross, who worked with the drawing and documentation team to finalize the project manual; Maggie Haslam; Ray Hayleck, PMSI Consulting, who provided cost estimating mentorship to the affordability team during the initial phases of estimating; Joan Honeyman, Jordan Honeyman Landscape Architecture, who collaborated with the landscape team on the landscape and plant selection; Ming Hu, HOK, who provided energy modeling assistance to the engineering team; Adam Keith, Whiting Turner, who provided construction and carpentry mentorship to the team; Peter Kelley, American Wind Energy Association, who provided media training to the team and worked with the communications team to develop the target market; Benson Kwong, enVErgie Consulting, who provided mentorship to the engineering cost estimating team during the design development phase; Mike Lawrence, National Museum of Natural History, who worked with the communications team to develop the house tour strategy; Dale Leidich, MTFA Architecture, who provided project management guidance, insight, and advice to the team; John Love, Love's Heating and Air, who consulted with the team on the heating, ventilation, and air-condition, HVAC, design and implementation; Kristen Markham, Simpson Gumpertz & Heger, who consulted with the team on building envelope construction means and methods; Evan Merkel, Greenspring Energy, who worked with the electrical team to design and integrate the photovoltaic (PV) and micro inverter system; John Morris, Perkins Eastman, a veteran of UMD's 2007 LEAFHouse entry and a practicing architect with a background in construction who provided mentorship and assistance to the construction team; Frank Plummer, Tremco, who served as a trusted mentor for the construction team and provided expertise related to construction means and methods for liquid applied membranes for the building envelope and the constructed wetlands; Don Posson, Vanderweil, a long-time teaching partner at UMD who reviewed the engineering and living systems design; Kristin Potterton, Robert Silman and Associates, who worked with the team to develop structural details and drawings; Tyler Sines, who provided mentorship to the engineering team developing the liquid desiccant wall; Niklas Vigener, Simpson Gumpertz & Heger, who consulted with the team on building envelope construction means and methods; Dan Vlacich, Accenture, who provided expertise, assistance, and power tools to the DC electric team; Fred Werth, Kensington Plumbing and Heating, Inc., who provided master plumbing expertise and assisted the team in the design and installation of the solar thermal and HXEST systems and domestic plumbing system; Bill Wiley, the Potomac School, who collaborated with the engineering team to design and build WaterShed's smart house controls system; Jay Williams, marketing and design specialist for the solar home industry, who provided marketing assistance to the communications and marketing teams; Dan Zimmerman, Shapiro & Duncan, a veteran of two previous decathlons who provided experience and advice to the HVAC and solar thermal teams, facilitated donations, and provided the engineering team with his can-do perspective on the value of figuring things out through hands-on experience.

Last but not least, I would like to congratulate the UMD faculty and staff, starting with the University's President and Chancellor, Dr. Wallace D. Loh and Dr. William E. Kirwan, respectively. Faculty team members included: Mike Binder, AIA LEED–AP, Lecturer in the School of Architecture, Planning & Preservation; Patricia Kosco Cossard, M.A., M.L.S., Librarian and Lecturer in the School of Architecture, Planning & Preservation; Amy Gardner, AIA LEED–AP, Associate Professor in the School of Architecture, Planning & Preservation and Director of UMD's Center for the Use of Sustainable Practices, Brian Grieb, AIA LEED–AP, Lecturer in the School of Architecture, Planning & Preservation and a Partner with GriD Architects in Annapolis; Dr. Keith Herold, Associate Professor of Bioengineering in the A. James Clark School of Engineering; Madlen Simon, AIA, Associate Professor and Architecture Program Director in the School of Architecture, Planning & Preservation, and a Principal at Simon Design; Dr. David Tilley, Associate Professor of Ecological Engineering in the College of Agriculture & Natural Resources, and President of the International Society for the Advancement of Energy Research; and Brittany Williams, Associate AIA LEED–AP Lecturer in the School of Architecture, Planning & Preservation, Project Designer for MTFA Architecture in Arlington, Virginia, and a 2007 Solar Decathlon team leader.

What an outstanding accomplishment! Go Terps!●

HOCKESSIN FIRE COMPANY AND LADIES AUXILIARY

● Mr. COONS. Mr. President, it is with great pleasure that I honor the Hockessin Fire Company and ladies auxiliary on 75 years of exceptional service to the great State of Delaware. October 15 marks an important day in the fire company's history, signifying the first official meeting of its founding members. For over seven decades, members of the Hockessin Fire Company and ladies auxiliary have given unselfishly of their time and services in order to make their community a safer place. Today I give thanks for their unyielding determination, self-sacrifice and volunteerism.

In 1936 in the small village of Hockessin, DE, five members of the community recognized a vital protective service was missing, and they decided to do something about it. Meeting in a small library room on October 15, the Hockessin Fire Company was born. With one engine, they went to work protecting and serving their community. From the very beginning, the ladies auxiliary was integral to their operations. When the fire company decided to purchase a second engine in 1938, funds raised by the ladies helped purchase a diesel model that was the first of its kind in the State. Then and now, both organizations have continued that wonderful tradition of partnership, hard work, support and service to all.

Like many volunteer fire companies across the United States the Hockessin Fire Company's value is certainly not limited to its local community, but should inspire each and every American, reminding us of the importance of volunteering and serving others. I commend the hard work of all our fire service men and women across the United States, and especially those at the Hockessin Fire Company on this special anniversary. They are examples of the generous spirit of the American people, who we should be fighting for every day.

I congratulate the Hockessin Fire Company and ladies auxiliary on 75 years of extraordinary service and support to their community and the State of Delaware. On behalf of all Delawareans, I extend my thanks to each and every member for the many sacrifices they have made during the past 75 years. Their continued efforts and countless contributions are greatly appreciated.●

REMEMBERING JOSEPH D. ''JOE'' HUBBARD

● Mr. SESSIONS. Mr. President, I would like to pay tribute today to one of Alabama's most admired and successful prosecutors, Joseph D. ''Joe'' Hubbard, who passed last month. I got to know him when I was U.S. attorney for the Southern District of Alabama and later when we worked together during the time I served as attorney general of Alabama.

Joe was a native of Calhoun County and graduated from Oxford High School. He received a bachelor's degree with honor from Auburn University and graduated from the fine Cumberland School of Law at Samford University, cum laude. He was elected district attorney in 1992 and reelected, without opposition, in 1998, 2004 and 2010. Prior to being elected district attorney, Joe was an assistant district attorney for the 7th Judicial Circuit from 1978–1985 and chief assistant district attorney 1985–1993.

Joe was named Elected Official of the Year in 2004 by the National Association of Social Workers, District Attorney of the Year for the State of Alabama, and awarded the Distinguished Service Award for Outstanding Law Enforcement.

Joe was dedicated to the law and always did what was right. As a career prosecutor he was most known for two successful prosecutions: That of Donald Ray Wheat, who was convicted of the 2002 murder of four people in a Blockbuster video store, and the prosecution of Marie Hilley which was the subject of two books and a television movie. He also published a novel entitled ''Blood Secrets,'' a thriller about a trial lawyer who wrestles with inner demons as he pursues the seat of the world's most powerful figure—the presidency of the United States. Proceeds from the sale of that book have been donated to the American Cancer Society.

Joe was a role model for prosecutors. He was greatly admired by his fellow prosecutors throughout the State. I shared that view. He was smart, hard working, and deeply experienced. He knew his business and was a ''hands on'' leader of his office. Frequently, he was called on to provide leadership and otherwise help with tough issues throughout the State. Prosecutors have a demanding job, but one that is quite fulfilling. It requires strength, tenacity, integrity and, importantly, good judgment. Joe possessed all these qualities and more. He could have left public service for a very successful private practice many times but he didn't. He stayed and served the public interest. He retired from that service on March 15, 2011. He will be greatly missed by family, friends and colleagues.●

ANGELS IN ADOPTION

● Mr. THUNE. Mr. President, today I wish to recognize Jim and Jean Mulder of Eureka, SD, as my nominees for the 2011 Angels in Adoption Award. Since 1999, the Angels in Adoption program through the Congressional Coalition on Adoption Institute have honored more than 1,700 individuals, couples, and organizations nationwide for their work in providing children with loving, stable homes.

Fifty-nine foster children have come to know what it means to have loving parents through the compassion of Jim and Jean Mulder. While some parents struggle to find a new identity after their youngest child enrolls in elementary school full time, Jim and Jean decided they just enjoyed being parents too much. So, for the past 20 years, this generous couple has opened their home in north central South Dakota to kids who have only known stability and hot meals to be luxuries. The simple things, such as tossing the baseball around or going fishing, have come to mean the world to the Mulder's because they can see the joy in their foster children's faces and know the impact their love has had. Jim and Jean included their foster children in all family activities with their biological children, and gave their 59 foster children a sense of what it means to be in a loving, stable family.

With children coming in and out of their home, staying anywhere from months to nearly a decade, one can only imagine the range of emotions Jim and Jean have experienced. From laughter to heartbreak, they both count their God-given role as foster parents as nothing shy of a blessing. With that blessing, they have bestowed a gift onto others in an immeasurable way.

With National Adoption Day just around the corner on November 19, 2011, it is important that we recognize the compassionate families who fulfill the roles of foster and adoptive parents. It brings me great pride to be able to honor South Dakotans Jim and Jean Mulder, my nominees for the 2011 Angels in Adoption Award.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 7:37 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 771. An act to designate the facility of the United States Postal Service located at 1081 Elbel Road in Schertz, Texas, as the ''Schertz Veterans Post Office''.

H.R. 1632. An act to designate the facility of the United States Postal Service located at 5014 Gary Avenue in Lubbock, Texas, as the ''Sergeant Chris Davis Post Office''.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1660. 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–3418. A communication from the Director of Congressional Affairs, Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Abnormal Occurrence Reporting Procedure and Handbook'' (Management Directive 8.1) received in the Office of the President of the Senate on September 23, 2011; to the Committee on Environment and Public Works.

EC–3419. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Alternative to Minimum Days Off Requirements'' (RIN3150–AI94) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Environment and Public Works.

EC–3420. A communication from the Division Chief of Regulatory Affairs, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Minerals Management: Adjustment of Cost Recovery Fees'' (RIN1004–AE22) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Environment and Public Works.

EC–3421. A communication from the Assistant Administrator for Regulatory Programs, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species; Determination of Nine Distinct Population Segments of Loggerhead Sea Turtles as Endangered or Threatened'' (RIN0648–AY49) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Environment and Public Works.

EC–3422. A communication from the Chief of the Endangered Species Listing 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; Revised Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander'' (RIN1018–AW86) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Environment and Public Works.

EC–3423. A communication from the Chief of the Endangered Species Listing 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; Determination of Endangered Status for Casey's June Beetle and Designation of Critical Habitat'' (RIN1018–AV91) received during adjournment of the Senate in the Office of the

President of the Senate on September 28, 2011; to the Committee on Environment and Public Works.

EC–3424. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Santa Barbara Air Pollution Control District, Sacramento Municipal Air Quality Management District and South Coast Air Quality Management District'' (FRL No. 9469–1) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Environment and Public Works.

EC–3425. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Prevention of Significant Deterioration Greenhouse Gas Tailoring Rule'' (FRL No. 9471–9) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Environment and Public Works.

EC–3426. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio, Kentucky, and Indiana; Cincinnati-Hamilton Nonattainment Area; Determinations of Attainment of the 1997 Annual Fine Particulate Standards'' (FRL No. 9472–2) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Environment and Public Works.

EC–3427. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; State of Colorado Regulation Number 3: Revisions to the Air Pollutant Emission Notice Requirements and Exemptions'' (FRL No. 9290–2) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Environment and Public Works.

EC–3428. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Significant New Use Rules on Certain Chemical Substances'' (FRL No. 8880–2) received during adjournment of the Senate in the Office of the President of the Senate on September 29, 2011; to the Committee on Environment and Public Works.

EC–3429. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, the Uniform Resource Locator (URL) for a report entitled ''OSRE: Affiliation Guidance''; to the Committee on Environment and Public Works.

EC–3430. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Fiscal Year 2010 Superfund Five-Year Review Report to Congress''; to the Committee on Environment and Public Works.

EC–3431. A communication from the Deputy Chief, National Forest System, Department of Agriculture, transmitting, pursuant to law, a report relative to the boundary for the North Fork Crooked Wild and Scenic River in Oregon; to the Committee on Energy and Natural Resources.

EC–3432. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Special Regulations; Areas of the National Park System, Grand Teton National Park, Bicycle Routes, Fishing and Vessels'' (RIN1024–AD75) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Energy and Natural Resources.

EC–3433. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program: Compliance Certification for Electric Motors'' (RIN1904–AC23) received in the Office of the President of the Senate on September 26, 2011; to the Committee on Energy and Natural Resources.

EC–3434. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Review of Medicare Contractor Information Security Program Evaluations for Fiscal Year 2009''; to the Committee on Finance.

EC–3435. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Replacement Period for Livestock Sold on Account of Drought in Specified Counties'' (Notice 2011–79) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Finance.

EC–3436. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—October 2011'' (Rev. Rul. 2011–22) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Finance.

EC–3437. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Procedures for Church Plan Letter Rulings'' (Rev. Proc. 2011–44) received during adjournment of the Senate in the Office of the President of the Senate on September 28, 2011; to the Committee on Finance.

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. CORKER (for himself and Mr. BENNET):

S. 1655. A bill to amend title XI of the Social Security Act to provide for the annual mailing of statements of Medicare beneficiary part A contributions and benefits in coordination with the annual mailing of Social Security account statements; to the Committee on Finance.

By Mr. ISAKSON:

S. 1656. A bill to amend the Internal Revenue Code of 1986 to provide penalty free distributions from certain retirement plans for mortgage payments with respect to a principal residence and to modify the rules governing hardship distributions; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1657. A bill to amend the provisions of law relating to sport fish restoration and recreational boating safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 1658. A bill to reform and reauthorize agricultural programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. AYOTTE (for herself and Mr. DEMINT):

S. 1659. A bill to return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 1660. 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.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUYE (for himself and Mr. CHAMBLISS):

S. Res. 286. A resolution recognizing May 16, 2012, as Hereditary Angioedema Awareness Day and expressing the sense of the Senate that more research and treatments are needed for Hereditary Angioedema; to the Committee on the Judiciary.

By Mr. REID (for himself, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. AKAKA, Mr. INOUYE, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. MURRAY, Mr. DURBIN, and Mr. HELLER):

S. Res. 287. A resolution designating October 2011 as ''Filipino American History Month''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. KIRK, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 25, a bill to phase out the Federal sugar program, and for other purposes.

S. 164

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 164, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 227

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 309

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 309, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

S. 382

At the request of Mr. BARRASSO, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 382, a bill to amend the

National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other purposes.

S. 393

At the request of Mr. REED, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 393, a bill to aid and support pediatric involvement in reading and education.

S. 402

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 402, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War, and for other purposes.

S. 741

At the request of Mr. UDALL of New Mexico, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 741, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a renewable electricity standard, and for other purposes.

S. 1025

At the request of Ms. MIKULSKI, her name 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. 1108

At the request of Mr. SANDERS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1108, a bill to provide local communities with tools to make solar permitting more efficient, and for other purposes.

S. 1174

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1174, a bill to provide predictability and certainty in the tax law, create jobs, and encourage investment.

S. 1198

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1198, a bill to reauthorize the Essex National Heritage Area.

S. 1265

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1265, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 1285

At the request of Mr. KOHL, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1285, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for new qualified hybrid motor vehicles, and for other purposes.

S. 1299

At the request of Mr. MORAN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors 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. 1392

At the request of Ms. COLLINS, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. 1392, a bill to provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes.

S. 1421

At the request of Mr. PORTMAN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1460

At the request of Mr. BAUCUS, the names of the Senator from Missouri (Mr. BLUNT), the Senator from Washington (Mrs. MURRAY) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1467

At the request of Mr. BLUNT, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from North Carolina (Mr. BURR), the Senator from Wyoming (Mr. BARRASSO), the Senator from Utah (Mr. HATCH), the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. HOEVEN), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Idaho (Mr. CRAPO), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 1467, a bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services.

S. 1468

At the request of Mrs. SHAHEEN, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1468, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by authorizing certified diabetes educators to provide diabetes self-management training services, including as part of telehealth services, under part B of the Medicare program.

S. 1528

At the request of Mr. JOHANNS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1528, a bill to amend the Clean Air Act to limit Federal regulation of nuisance dust in areas in which that dust is regulated under State, tribal, or local law, to establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, and for other purposes.

S. 1541

At the request of Mr. BENNET, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1541, a bill to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1625

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1625, a bill to restore the financial solvency of the United States Postal Service and to ensure the efficient and affordable nationwide delivery of mail.

S. 1639

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1639, a bill to amend title 36, United States Code, to authorize the American Legion under its Federal charter to provide guidance and leadership to the individual departments and posts of the American Legion, and for other purposes.

At the request of Mr. HELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1639, supra.

S. 1647

At the request of Mr. CRAPO, the names of the Senator from Texas (Mr. CORNYN), the Senator from Louisiana (Mr. VITTER), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1647, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gain rates.

AMENDMENT NO. 669

At the request of Mr. MERKLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 669 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 670

At the request of Mr. COBURN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of amendment No. 670 intended to

be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 673

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 673 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 675

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 675 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 680

At the request of Mr. HATCH, the names of the Senator from Nevada (Mr. HELLER), the Senator from Wyoming (Mr. ENZI) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of amendment No. 680 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 703

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 703 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

AMENDMENT NO. 717

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of amendment No. 717 intended to be proposed to S. 1619, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORKER (for himself and Mr. BENNET):

S. 1655. A bill to amend title XI of the Social Security Act to provide for the annual mailing of statements of Medicare beneficiary part A contributions and benefits in coordination with the annual mailing of Social Security account statements; to the Committee on finance.

Mr. CORKER. I am here today to say that Senator BENNET from Colorado and myself are introducing a bill that mirrors what has been introduced in the House by Representative COOPER from Tennessee and PAUL RYAN from Wisconsin.

I have tremendous faith in the American people. I believe when the American people are given facts and transparency, they make good decisions. They help us here in Washington make good decisions when I think they have the information they need.

A lot of Americans are very aware of some of the dilemmas we face here in Washington regarding Medicare. But I do not think many Americans are fully aware of the dilemma we face. I think they are aware that the trustees for Medicare have said that in the year 2024 Medicare is going to become insolvent. But I do not think they are aware of the math. Actually I was not aware of the math until we began to look at how we solve the problem.

According to a recent study, the average American couple each earning $43,500 a year will pay $119,000 into the Medicare Program over their lifetime. This contribution includes the portion that their employer pays on their behalf. In other words, the family pays in half, the employer pays in half. In 2011 dollars, that means if you paid in 30 years ago, and that money was inflated to today's dollars, that family would have paid in $119,000 over their lifetime.

What most Americans do not know is that over their lifetime, the average family takes $357,000 out of Medicare. So obviously the math does not work. I think most Americans did not fully realize this until we got into the situation we're in—I am not sure most people in the Senate understood how off the math is, if you will.

Over the next decade, 20 million more Americans are going to be on Medicare. The situation where the average family and their employer are paying in $119,000 into the program and taking out $357,000 is going to be further exacerbated by the fact that over the next 10 years, 20 million more Americans are going to be on Medicare.

Then, on top of that, we are going to have fewer people working per retiree than ever in the history of this country. For that reason, today, Senator BENNET and I are offering a bill that says when Americans receive their Social Security letter, which lays out how much they have paid in, they would also receive the information regarding Medicare, so that they will know how much they are paying into the program and, over time, how much they will have taken out.

I think this type of transparency allows Americans to fully understand how these programs work. To me, what that will do is help all of us in the Senate, and over in the House of Representatives, make better decisions. I think when Americans are informed they help us make better decisions.

A lot of Americans don't fully appreciate this, I think, sometimes. But Congress really does reflect more fully than they think the will of the American people. Again, I think transparency helps us represent the American people in even a more full way.

Today we introduce this bill, and I thank Senator BENNET from Colorado for joining me in this effort. I also thank Representatives COOPER and RYAN for their leadership in the House.

It is my hope that soon, either through unanimous consent or early action, that this bill will become law. I think as long as Americans understand where things stand, they help us in Congress make good and sound decisions. That is why I am introducing this bill today with the help of Senator BENNET from Colorado.

With that, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I congratulate the junior Senator from Tennessee for his usual good judgment and insight in working on a difficult problem. No Member of this body has done more in the last year to try to highlight the problem of the Federal debt. Through his cap plan, which has been a part of almost every discussion we have had seriously about it, through his effort—more recently to support efforts to try to achieve $4 trillion in debt reduction as a part of the select committee, and his suggestion today that allowing Americans to understand something that most of us hadn't focused on—that during our lifetimes we are paying in $110,000, $120,000 into Medicare and taking out, during our lifetimes, $350,000 or so, and that is a problem that has to be solved.

I have been doing research lately on our debt situation. Fundamentally speaking, our problem lies with health care costs. It lies with families, businesses, and with the U.S. Government. Our discretionary spending—the kind we appropriate every year—on everything from national parks and national defense to roads and bridges, that is about 39 percent of the budget. If we stick to our guns on the agreement we made in early August, that will only grow at a little less than the rate of inflation. But it would go over to the mandatory spending, which is about 55 percent of our spending. It is going to go up three times the rate of inflation, and the fastest growing part of that mandatory spending is Medicare and Medicaid.

So we need to save our Medicare and Medicaid system so Americans can rely on them. I think Senator CORKER shows respect for the voters of Tennessee and for Americans by assuming that if they understand the problem, they will support a serious effort to deal with a solution. I compliment him for that leadership.

The PRESIDING OFFICER. The junior Senator from Tennessee.

Mr. CORKER. Mr. President, while we are issuing compliments, I want to say that all of us want to see to it that Medicare is here for future generations. That will take sound judgment. We have a select committee that is working on, hopefully, the first step to make that happen.

I congratulate the senior Senator from Tennessee for this. More than anybody else recently, I think he has

pointed out that in this country, as we leave mandatory spending on autopilot, and as we move to a place where these programs are insolvent and not there for future generations, what we are doing is eating our seed corn.

The fact is, our senior Senator from Tennessee knows full well what it takes to make a strong country. He sits on an appropriations committee and understands that many of the basic sciences and other types of efforts that are underway with the Federal Government are the very things that will make our country stronger.

Yet what we are doing in this country by leaving mandatory spending on autopilot at the rate at which it is growing is causing us to eat into those things that make our country strong. I thank him for his leadership in that regard. As the Governor of Tennessee, he led our State in making it stronger by making the kinds of priority investments that made us stronger. He alluded to that earlier—what he did in making sure investments in our State created higher wages.

I think more than anybody else in this body, the Senator understands if we allow things to continue as they are, we are going to continue to invest less and less in those kinds of things that make our country strong—things such as infrastructure, which we all know needs to happen. Yet because we haven't had the courage and the will to take on those mandatory programs, reform them so that future generations will have them, but also so that we can continue to make these investments in our country that are so important, our country's greatness will dissipate.

I thank him for his leadership in many ways. I hope he will continue to move ahead with informing people as to what is happening in this country, how that is hurting us, how it causes our greatness to dissipate as long as we don't take on these mandatory spending programs which, in my words, are causing us to eat our seed corn.

By Mr. REID:

S. 1660. 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 that 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. 1660

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 taxpayer's 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 subsection (a)(1) or subsection (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; and

(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; LIMITATION 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 subsection (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 subsection (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 States 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;

(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 (Public Law 111–5, 123 Stat. 218–19), as amended by section 1497(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 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 (Public Law 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 Representatives 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; and

(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; and

(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 be 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 Ssecurity 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; and

(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 paragraphs (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 UNEMPLOYED 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 UNEMPLOYED 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 in 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 in 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 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 in 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 of 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;

(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—SURTAX ON MILLIONAIRES

SEC. 401. SURTAX ON MILLIONAIRES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

''PART VIII—SURTAX ON MILLIONAIRES

''Sec. 59B. Surtax on millionaires.

''SEC. 59B. SURTAX ON MILLIONAIRES.

''(a) GENERAL RULE.—In the case of a taxpayer other than a corporation for any taxable year beginning after 2012, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 5.6 percent of so much of the modified adjusted gross income of the taxpayer for such taxable year as exceeds $1,000,000 ($500,000, in the case of a married individual filing a separate return).

''(b) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2013, each dollar amount under subsection (a) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $10,000, such amount shall be rounded to the next highest multiple of $10,000.

''(c) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income reduced by any deduction (not taken into account in determining adjusted gross income) allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

''(d) SPECIAL RULES.—

''(1) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed under section 871(b) shall be taken into account under this section.

''(2) CITIZENS AND RESIDENTS LIVING ABROAD.—The dollar amount in effect under subsection (a) shall be decreased by the excess of—

''(A) the amounts excluded from the taxpayer's gross income under section 911, over

''(B) the amounts of any deductions or exclusions disallowed under section 911(d)(6) with respect to the amounts described in subparagraph (A).

''(3) CHARITABLE TRUSTS.—Subsection (a) shall not apply to a trust all the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B).

''(4) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART VIII. SURTAX ON MILLIONAIRES.''.

(c) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 286—RECOGNIZING MAY 16, 2012, AS HEREDITARY ANGIOEDEMA AWARENESS DAY AND EXPRESSING THE SENSE OF THE SENATE THAT MORE RESEARCH AND TREATMENTS ARE NEEDED FOR HEREDITARY ANGIOEDEMA

Mr. INOUYE (for himself and Mr. CHAMBLISS) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 286

Whereas Hereditary Angioedema (HAE) is a rare and potentially life-threatening genetic disease, affecting between 1 in 10,000 and 1 in 50,000 people, leading to patients being undiagnosed or misdiagnosed for many years;

Whereas HAE is characterized by symptoms including episodes of edema or swelling in various body parts including the hands, feet, gastrointestinal tract, face, and airway;

Whereas patients often experience swelling in the intestinal wall, causing bouts of excruciating abdominal pain, nausea, and vomiting, and swelling of the airway, which can lead to death by asphyxiation;

Whereas a defect in the gene that controls the C1-inhibitor blood protein causes production of either inadequate or non-functioning C1-inhibitor protein, leading to an inability to regulate complex biochemical interactions of blood-based systems involved in disease fighting, inflammatory response, and coagulation;

Whereas HAE is an autosomal dominant disease, and 50 percent of patients with the disease inherited the defective gene from a parent, while the other 50 percent developed a spontaneous mutation of the C1-inhibitor gene at conception;

Whereas HAE patients often experience their first HAE attack during childhood or adolescence, and continue to suffer from subsequent attacks for the duration of their lives;

Whereas HAE attacks can be triggered by infections, minor injuries or dental procedures, emotional or mental stress, and certain hormonal or blood medications;

Whereas the onset or duration of an HAE attack can negatively affect a person's physical, emotional, economic, educational, and social well-being due to activity limitations;

Whereas the annual cost for treatment per patient can exceed $500,000, causing a substantial economic burden;

Whereas there is a significant need for increased and normalized medical professional education regarding HAE; and

Whereas there is also a significant need for further research on HAE to improve diagnosis and treatment options for patients; Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) recognizes and celebrates May 16, 2012, as Hereditary Angioedema Awareness Day; and

(B) supports increased awareness of Hereditary Angioedema (HAE) by physicians and the public; and

(2) it is the sense of the Senate that increased Federal research on HAE is needed, including that—

(A) the Director of the National Institutes of Health (NIH) should take a leadership role in the search for new treatment options and a cure for HAE by—

(i) encouraging the National Institute of Allergy and Infectious Diseases (NIAID) to implement the research recommendations of the international HAE research community;

(ii) exploring collaborative research opportunities between the NIAID, the Office of Rare Diseases Research, and other NIH Institutes and Centers; and

(iii) encouraging NIAID to provide the necessary funding for continued expansion and advancement of the HAE research portfolio through intramural and extramural research; and

(B) the Commissioner of Food and Drugs should take a leadership role in ensuring new HAE treatments are developed and appropriately monitored by—

(i) issuing further guidance to industry on the development criteria and adverse event standards for HAE treatments; and

(ii) encouraging the participation of patient groups and considering the views of patients when discussing standards and protocols for the development and monitoring of HAE treatments.

Mr. INOUYE. Mr. President, I rise today to submit a resolution recognizing May 16, 2012, as Hereditary Angioedema, HAE, Awareness Day. HAE is a rare and potentially life threatening genetic disease which impacts between 1 in 10,000 and 1 in 50,000 Americans. HAE is characterized by severe swelling throughout the body, including the digestive tract and airways. The swelling caused by episodes of HAE is both very painful and can cause sufferers to asphyxiate when the swelling impacts the airways. To date there is only one Food and Drug Administration approved treatment for HAE, but this treatment is only effective in about a third of patients afflicted with this devastating disease. It is clearly evident that more research is needed to combat this terrible disease.

On May 16, 2012, an international conference on HAE will be convened in Copenhagen, Denmark to discuss issues relating to HAE research, treatments, and awareness. The American component of this conference will be spearheaded by the U.S. Hereditary Angioedema Association, USHAEA, based in my home state of Hawaii. USHAEA is an organization that provides education, support, funding for research, and a voice to HAE patients, their families, healthcare providers and the general public at large. I urge my colleagues to support this important resolution and help find a cure for HAE.

SENATE RESOLUTION 287—DESIGNATING OCTOBER 2011 AS ''FILIPINO AMERICAN HISTORY MONTH''

Mr. REID of Nevada (for himself, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. AKAKA, Mr. INOUYE, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. SCHUMER, Mrs. MURRAY, Mr. DURBIN, and Mr. HELLER) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas October 18, 1587, when the first ''Luzones Indios'' set foot in Morro Bay, California, on board the Manila-built galleon ship Nuestra Senora de Esperanza, marks the earliest documented Filipino presence in the continental United States;

Whereas the Filipino American National Historical Society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo, Louisiana;

Whereas the recognition of the first permanent Filipino settlement in the United States adds new perspective to United States history by bringing attention to the economic, cultural, social, and other notable contributions that Filipino Americans have made in countless ways toward the development of the United States;

Whereas the Filipino-American community is the third largest Asian-American group in the United States, with a population of approximately 3,417,000 individuals;

Whereas Filipino-American servicemen and servicewomen have a longstanding history of serving in the Armed Forces, from the Civil War to the Iraq and Afghanistan conflicts, including the 250,000 Filipinos who fought under the United States flag during World War II to protect and defend the United States;

Whereas 9 Filipino Americans have received the Congressional Medal of Honor, the highest award for valor in action against an enemy force that can be bestowed upon an individual serving in the Armed Forces;

Whereas Filipino Americans play an integral role in the United States health care system as nurses, doctors, and other medical professionals;

Whereas Filipino Americans have contributed greatly to music, dance, literature, education, business, literature, journalism, sports, fashion, politics, government, science, technology, the fine arts, and other fields in the United States that enrich the landscape of the country;

Whereas efforts should continue to promote the study of Filipino-American history and culture, as mandated in the mission statement of the Filipino American National Historical Society, because the roles of Filipino Americans and other people of color largely have been overlooked in the writing, teaching, and learning of United States history;

Whereas it is imperative for Filipino-American youth to have positive role models to instill in them the significance of education, complemented with the richness of their ethnicity and the value of their legacy; and

Whereas Filipino American History Month is celebrated during the month of October 2011: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2011 as ''Filipino American History Month'';

(2) recognizes the celebration of Filipino American History Month as—

(A) a study of the advancement of Filipino Americans;

(B) a time of reflection and remembrance of the many notable contributions Filipino Americans have made to the United States; and

(C) a time to renew efforts toward the research and examination of history and culture in order to provide an opportunity for all people in the United States to learn and appreciate more about Filipino Americans and their historic contributions to the United States; and

(3) urges the people of the United States to observe Filipino American History Month with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 722. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table.

SA 723. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 724. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 725. Ms. SNOWE (for herself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 726. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 727. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 728. Mr. COONS (for himself, Mr. GRASSLEY, and Mr. RUBIO) submitted an amendment intended to be proposed by him

to the bill S. 1619, supra; which was ordered to lie on the table.

SA 729. Mr. COONS (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 730. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 1619, supra; which was ordered to lie on the table.

SA 731. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 732. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 733. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 734. Mr. JOHNSON, of Wisconsin submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

SA 735. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1619, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 722. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___AGENCY OVERREACH MORATORIUM

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Agency Overreach Moratorium Act''.

SEC. ___02. PROHIBITION ON RETROACTIVE WITHDRAWAL OF CERTAIN PERMITS.

Unless approved by an Act of Congress, the head of a Federal agency shall not—

(1) retroactively withdraw any permit issued for Federal land or any area of the outer Continental Shelf that would have been used—

(A) to produce or harvest a domestic natural resource; or

(B) to create 1 or more jobs; or

(2) issue a designation under any law that would restrict or prohibit access to domestic natural resources on Federal land or any area of the outer Continental Shelf.

SEC. ___03. CONGRESSIONAL APPROVAL OF DESIGNATION OF NATIONAL MONUMENTS.

Section 2 of the Act of June 8, 1906 (commonly known as the ''Antiquities Act of 1906'') (16 U.S.C. 431) is amended—

(1) by striking ''SEC. 2. That the President'' and inserting the following:

''SEC. 2. DESIGNATION OF NATIONAL MONUMENTS.

''(a) IN GENERAL.—Subject to the requirements of this section, the President'';

(2) by striking ''*Provided*, That when such objects are situated upon'' and inserting the following:

''(b) RELINQUISHMENT OF PRIVATE CLAIMS.—In cases in which an object described in subsection (a) is located on''; and

(3) by adding at the end the following:

''(c) CONGRESSIONAL APPROVAL OF PROCLAMATION.—A proclamation issued under subsection (a) shall not be implemented until the proclamation is approved by an Act of Congress.''.

SEC. ___04. ECONOMIC ANALYSIS BY SECRETARY OF COMMERCE REQUIRED.

The head of a Federal agency shall not take any action that modifies the authority of the Federal agency with respect to issuing permits for natural resource development on Federal land or making designations of Federal land under any law until the date on which the Secretary of Commerce completes, and submits to Congress, an economic analysis to determine—

(1) whether the proposed agency action has the potential to reduce revenue to the Treasury; and

(2) the potential impact of the proposed agency action on property rights and existing contracts.

SA 723. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. KEYSTONE XL OIL PIPELINE.

(a) CONDITIONAL APPROVAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall—

(1) issue a conditional approval for the construction of the Keystone XL pipeline; and

(2) recommend to the builder of the pipeline 1 alternative route for the pipeline that parallels the United States portions of Keystone 1.

(b) ACCEPTANCE.—Not later than 15 days after the receipt of the recommendation described in subsection (a)(2), as a condition of any contract to construct the pipeline, the builder shall notify the Secretary of State of whether the builder accepts—

(1) the route for building the Keystone XL pipeline that is in effect on the date of enactment of this Act; or

(2) the alternative route described in subsection (a)(2).

(c) PERMITS.—Not later than 5 days after the receipt of notice under subsection (b), the Secretary of State shall issue all necessary permits for the construction of the Keystone XL pipeline.

(d) RELATIONSHIP TO OTHER LAWS.—The issuance of a conditional approval for the Keystone XL pipeline and permits to construct the pipeline under this section shall be considered to satisfy, and shall not require any further review under, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and any other provision of law.

SA 724. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. PROHIBITION ON EXPORTATION OF DUAL-USE ITEMS TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the United States International Trade Commission, exports from the United States to the People's Republic of China have risen substantially in recent years, totaling approximately $91,900,000,000 in 2010 compared to approximately $69,900,000,000 in 2009.

(2) China is the third-largest export market for goods produced in the United States, including dual-use items, which have both civilian and military applications.

(3) China is also a major trading partner of both the Islamic Republic of Iran and the Democratic People's Republic of North Korea.

(4) The Ambassador of China to Iran recently noted that trade between China and Iran is expected to increase to $40,000,000,000 to $45,000,000,000 in 2011, an increase from approximately $30,000,000,000 in 2010.

(5) A South Korean news agency recently reported that North Korea's trade dependence on China continues to grow, accounting for more than half of all North Korea's foreign trade.

(6) The Department of Commerce requires dual-use items to be licensed before being exported to China. Since 2007, however, preauthorized end-users in China have been authorized to participate in the Validated End-User program, which allows certain items to be exported without a license. While on-site audits of validated end-users in China by the Department of Commerce are permissible, the effectiveness of the Validated End-User program remains uncertain.

(7) The Government of China has a poor track record of enforcement of export controls. Moreover, the Government of China remains largely indifferent to the implementation of international sanctions on both Iran and North Korea for activities relating to the proliferation of weapons of mass destruction.

(8) China's expanding trade relationships with both Iran and North Korea raise concern that sensitive dual-use items exported from the United States may end up in the hands of rogue regimes and dangerous proliferators of weapons of mass destruction.

(b) DENIAL OF LICENSES FOR EXPORTATION OF DUAL-USE ITEMS TO CHINA.—

(1) IN GENERAL.—Notwithstanding any other provision of law, on and after the date of the enactment of this Act, the Secretary of Commerce shall—

(A) require a license for the exportation of any item on the Commerce Control List to China; and

(B) unless the Secretary submits to Congress the certification described in paragraph (2), deny any request for such a license.

(2) CERTIFICATION DESCRIBED.—A certification described in this paragraph is a certification by the Secretary of Commerce, in consultation with the Director of National Intelligence, the Secretary of State, the Secretary of Defense, and the heads of other relevant Federal agencies, that no items on the Commerce Control List that are exported from the United States are transshipped through China to Iran, North Korea, Syria, or any other country of concern with respect to the proliferation of weapons of mass destruction.

(c) REPORT ON PREVENTING TRANSSHIPMENT OF DUAL-USE ITEMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Director of National Intelligence, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, and the heads of other relevant Federal agencies, shall submit to Congress a report setting forth a comprehensive strategy to prevent the transshipment of items on the Commerce Control List to countries of concern with respect to the proliferation of weapons of mass destruction.

(d) COMMERCE CONTROL LIST DEFINED.—In this section, the term ''Commerce Control List'' means the list maintained pursuant to part 774 of title 15, Code of Federal Regulations (or any corresponding similar regulation or ruling).

SA 725. Ms. SNOWE (for herself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. DISASTER FUNDING.

(a) DEFINITIONS.—Section 1101 of title 31, United States Code, is amended by adding at the end the following:

''(3) '10-year average disaster funding appropriation' means the annual average amount appropriated for disaster funding during the most recent 10 fiscal years before the date of the determination of the annual average amount (excluding the highest and lowest years), as determined by the Director of the Office of Management and Budget.

''(4) 'disaster funding'—

''(A) means funding provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for an emergency declared under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191) or a major disaster declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

''(B) includes funding provided under sections 304 and 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5147 and 5187).''.

(b) BUDGET CONTENTS.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

''(39) An allowance for disaster funding of at least the 10-year average disaster funding appropriation.''.

(c) RESCISSION AND REPORTS.—Section 1105 of title 31, United States Code, is amended by adding at the end the following:

''(i) On October 1 of the first fiscal year beginning after the date of enactment of this subsection, and each year thereafter, there are rescinded from the appropriations account appropriated under the heading 'DISASTER RELIEF' under the heading 'FEDERAL EMERGENCY MANAGEMENT AGENCY' any unobligated balances in excess of the product obtained by multiplying the 10-year average disaster funding appropriation by 1.5.

''(j)(1) Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted under subsection (a), and in order to increase accountability and transparency for disaster funding, the President shall submit to Congress a report delineating the amount of disaster funding requested, the necessity for providing the disaster funding, and justifications for the amount of disaster funding requested.

''(2) Not later than 1 day after the date on which the President submits a report under paragraph (1), the President shall publish the report in the Federal Register.''.

(d) CONFORMING AMENDMENT TO THE BBEDCA.—Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)) is amended by striking clause (iii) and inserting the following:

''(iii) For purposes of this subparagraph, the term 'disaster relief' shall have the same meaning given the term 'disaster funding' in section 1101 of title 31, United States Code.''.

SA 726. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. EXPANSION OF WORK OPPORTUNITY TAX CREDIT TO INCLUDE THE EMPLOYMENT OF CERTAIN MILITARY VETERANS AND MEMBERS OF THE READY RESERVE AND NATIONAL GUARD.

(a) INCREASED CREDIT AMOUNT FOR CERTAIN MILITARY VETERANS.—Paragraph (3) of section 51(b) of the Internal Revenue Code of 1986 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) INCLUSION OF UNEMPLOYED VETERANS.—Section 51(d)(3)(A) of the Internal Revenue Code of 1986 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) INCLUSION OF UNEMPLOYED MEMBERS OF READY RESERVE AND NATIONAL GUARD.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) qualified member of Ready Reserve or National Guard.''.

(2) DEFINITION.—Subsection (d) of section 51 of such Code is amended by redesignating paragraphs (11) through (14) as paragraphs (12) through (15), respectively, and by inserting after paragraph (10) the following new paragraph:

''(11) QUALIFIED MEMBER OF READY RESERVE OR NATIONAL GUARD.—The term 'qualified member of Ready Reserve or National Guard' means an individual who is certified by the local designated agency as having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks and who is a member of—

''(A) the Ready Reserve (as described in section 10142 of title 10, United States Code), or

''(B) the National Guard (as defined in section 101(c)(1) of such title 10).''.

(d) SIMPLIFIED CERTIFICATION.—Section 51(d) of the Internal Revenue Code of 1986, as amended by subsection (c)(2), is amended by adding at the end the following new paragraph:

''(16) SIMPLIFIED CERTIFICATION FOR UNEMPLOYED VETERANS AND MEMBERS OF THE READY RESERVE AND NATIONAL GUARD.—

''(A) IN GENERAL.—Any individual under paragraph (3)(A)(ii)(II), (3)(A)(iii), (3)(A)(iv), or (11) will be treated as certified by the designated local agency as having aggregate periods of unemployment described in such paragraph if—

''(i) in the case of an individual under paragraph (3)(A)(ii)(II) or (3)(A)(iv), 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,

''(ii) in the case of an individual under paragraph (3)(A)(iii), 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 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date, and

''(iii) in the case of an individual under paragraph (11), 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 4 weeks during the 1-year period ending on the hiring date.

''(B) REGULATORY AUTHORITY.—The Secretary in the Secretary's discretion may provide alternative methods for certification.''.

(e) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—Section 52(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''No credit'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), no'', and

(2) by adding at the end the following new paragraph:

''(2) EXCEPTION.—

''(A) IN GENERAL.—In the case of any tax-exempt employer, there shall be treated as a credit allowable under subpart C (and not allowable under subpart D) the lesser of—

''(i) the amount of the work opportunity credit determined under this subpart with respect to such employer that is related to the hiring of individuals described in paragraphs (3)(A)(ii)(II), (3)(A)(iii), (3)(A)(iv), or (11), or

''(ii) the amount of the payroll taxes of the employer during the calendar year in which the taxable year begins.

''(B) CREDIT AMOUNT.—In the case of any tax-exempt employer, the work opportunity credit under subparagraph (A) shall be determined by substituting '26 percent' for '40 percent' in subsections (a) and (i)(3)(A) of section 51 and by substituting '16.25 percent' for '25 percent' in section 51(i)(3)(A).

''(C) TAX-EXEMPT EMPLOYER.—For purposes of this paragraph, the term 'tax-exempt employer' means an employer which 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).

''(D) PAYROLL TAXES.—For purposes of this paragraph, the term 'payroll taxes' means—

''(i) amounts required to be withheld from the employees of the tax-exempt employer under section 3402(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.''.

(f) 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 the amendments made by 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 the amendments made by 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 the amendments made by this section (other than this subsection) 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 the amendments made by this section for such taxable year, or

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

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes 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 paragraph (2) of section 1324(b) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from any credit allowed under a section specified in such paragraph.

(g) 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.

(h) RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds, appropriated discretionary funds are hereby rescinded in such amounts as determined by the Director of the Office of Management and Budget such that the aggregate amount of such rescission equals the reduction in revenues to the Treasury by reason of the amendments made by this section.

(2) IMPLEMENTATION.—The Director of the Office of Management and Budget shall determine and identify from which appropriation accounts the rescission under paragraph (1) shall apply and the amount of such rescission that shall apply to each such account. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under the preceding sentence.

(3) EXCEPTION.—This subsection shall not apply to the unobligated funds of the Department of Veterans Affairs or the Social Security Administration.

SA 727. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. SENSE OF CONGRESS ON CERTAIN TRADE-DISTORTING PRACTICES OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—It is the sense of Congress that—

(1) the United States Trade Representative and the United States International Trade Commission should investigate the practices of the Government of the People's Republic of China described in subsection (b) to determine if those practices violate the rules of the World Trade Organization or if a remedy for those practices is available under the laws of the United States; and

(2) the United States Trade Representative should hold the Government of the People's Republic of China accountable for failing to adhere to the spirit and the letter of its trade commitments through all available fora, including through bilateral negotiations and the dispute settlement process of the World Trade Organization.

(b) PRACTICES DESCRIBED.—The practices of the Government of the People's Republic of China described in this subsection are practices that—

(1) nullify or impair the benefits provided to the United States or United States persons under the rules of the World Trade Organization;

(2) impose restraints on the exportation from the People's Republic of China of various forms of raw or precursor materials, including rare earth oxides and alloys;

(3) impose requirements that United States persons transfer technology or other intellectual property to entities of the People's Republic of China as a precondition for gaining or increasing access to the market of the People's Republic of China;

(4) impose nontariff barriers to the importation of goods and services from the United States, including goods and services produced or provided by the renewable and clean energy, clean transportation, and new energy vehicle sectors; and

(5) discriminate against intellectual property on the basis of its national origin.

(c) DEFINITIONS.—In this section:

(1) ENTITY OF THE PEOPLE'S REPUBLIC OF CHINA.—The term ''entity of the People's Republic of China'' means an entity owned or controlled by the Government of the People's Republic of China or by citizens of the People's Republic of China.

(2) UNITED STATES PERSON.—The term ''United States person'' means—

(A) an individual who is a citizen of the United States or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States.

SA 728. Mr. COONS (for himself, Mr. GRASSLEY, and Mr. RUBIO) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PREVENTING THE IMPORTATION OF COUNTERFEIT PRODUCTS AND INFRINGING DEVICES.

Notwithstanding section 1905 of title 18, United States Code—

(1) if United States Customs and Border Protection suspects a product of being imported or exported in violation of section 42 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1124), and subject to any applicable bonding requirements, the Secretary of Homeland Security is authorized to share information on, and unredacted samples of, products and their packaging and labels, or photos of such products, packaging and labels, with the rightholders of the trademark suspected of being copied or simulated, for purposes of determining whether the products are prohibited from importation under that section; and

(2) upon seizure of material by United States Customs and Border Protection imported in violation of subsection (a)(2) or subsection (b) of section 1201 of title 17, United States Code, the Secretary of Homeland Security is authorized to share information about, and provide samples to affected parties, subject to any applicable bonding requirements, as to the seizure of material designed to circumvent technological measures or protection afforded by a technological measure that controls access to or protects the owner's work protected by copyright under such title.

SA 729. Mr. COONS (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. FEDERAL JURISDICTION FOR THEFT OF TRADE SECRETS.

(a) IN GENERAL.—Section 1836 of title 18, United States Code, is amended to read as follows:

''§ 1836. Civil proceedings

''(a) BY ATTORNEY GENERAL.—

''(1) IN GENERAL.—The Attorney General may bring a civil action to obtain relief described in paragraph (2) for any violation of this chapter.

''(2) RELIEF.—Relief described in this paragraph is—

''(A) appropriate injunctive relief against any violation of this chapter, including the actual or threatened misappropriation of trade secrets;

''(B) if determined appropriate by the court, an order requiring affirmative actions to be taken to protect a trade secret; and

''(C) if the court determines that it would be unreasonable to prohibit use of a trade secret, an order requiring payment of a reasonable royalty for any use of the trade secret.

''(b) PRIVATE CIVIL ACTIONS.—

''(1) IN GENERAL.—Any person aggrieved by a violation of section 1832(a) may bring a civil action under this subsection.

''(2) PLEADINGS.—A complaint filed in a civil action brought under this subsection shall—

''(A) describe with specificity the reasonable measures taken to protect the secrecy of the alleged trade secrets in dispute; and

''(B) include a sworn representation by the party asserting the claim that the dispute involves either substantial need for nationwide service of process or misappropriation of trade secrets from the United States to another country.

''(3) CIVIL EX PARTE SEIZURE ORDER.—

''(A) IN GENERAL.—In a civil action brought under this subsection, the court may, upon ex parte application and if the court finds by clear and convincing evidence that issuing the order is necessary to prevent irreparable harm, issue an order providing for—

''(i) the seizure of any property (including computers) used or intended to be used, in any manner or part, to commit or facilitate the commission of the violation alleged in the civil action; and

''(ii) the preservation of evidence in the civil action.

''(B) SCOPE OF ORDERS.—An order issued under subparagraph (A) shall—

''(i) authorize the retention of the seized property for a reasonably limited period, not to exceed 72 hours under the initial order, which may be extended by the court after notice to the affected party and an opportunity to be heard;

''(ii) require that any copies of seized property made by the requesting party be made at the expense of the requesting party; and

''(iii) require the requesting party to return the seized property to the party from which the property were seized at the end of the period authorized under clause (i), including any extension.

''(4) REMEDIES.—In a civil action brought under this subsection, a court may—

''(A) order relief described in subsection (a)(2);

''(B) award—

''(i) damages for actual loss caused by the misappropriation of a trade secret; and

''(ii) damages for any unjust enrichment caused by the misappropriation of the trade secret that is not addressed in computing damages for actual loss;

''(C) if the trade secret is willfully or maliciously misappropriated, award exemplary damages in an amount not more than the amount of the damages awarded under subparagraph (B); and

''(D) if a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or opposed in bad faith, or a trade secret is willfully and maliciously misappropriated, award reasonable attorney's fees to the prevailing party.

''(c) JURISDICTION.—The district courts of the United States shall have original jurisdiction of civil actions brought under this section.

''(d) PERIOD OF LIMITATIONS.—A civil action under this section may not be commenced later than 3 years after the date on which the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For purposes of this subsection, a continuing misappropriation constitutes a single claim of misappropriation.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 90 of title 18, United States Code, is amended by striking the item relating to section 1836 and inserting the following:

''1836. Civil proceedings.''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to modify the rule of construction under section 1838 of title 18, United States Code, or to preempt any other provision of law.

SA 730. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. DEPUTY UNITED STATES TRADE REPRESENTATIVE FOR TRADE ENFORCEMENT.

(a) ESTABLISHMENT OF POSITION.—Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended by inserting '', one of whom shall be the Deputy United States Trade Representative for Trade Enforcement,'' after ''three Deputy United States Trade Representatives''.

(b) FUNCTIONS OF POSITION.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) in paragraph (4), by striking ''Each'' and inserting ''Except as provided in paragraph (6), each'';

(2) by moving paragraph (5) 2 ems to the left; and

(3) by adding at the end the following new paragraph:

''(6)(A) The principal function of the Deputy United States Trade Representative for Trade Enforcement shall be to ensure that United States trading partners comply with trade agreements to which the United States is a party.

''(B) The Deputy United States Trade Representative for Trade Enforcement shall—

''(i) assist the United States Trade Representative in investigating and prosecuting disputes pursuant to trade agreements to which the United States is a party, including before the World Trade Organization;

''(ii) assist the Secretary of the Treasury in determining under section 7(a) of the Currency Exchange Rate Oversight Reform Act of 2011 if a country the currency of which has been designated for priority action under section 4(a)(3) of that Act has adopted appropriate policies, and taken identifiable action, to eliminate the fundamental misalignment of that currency;

''(iii) assist the United States Trade Representative in consultations in the World Trade Organization under section 7(a)(1) of the Currency Exchange Rate Oversight Reform Act of 2011;

''(iv) assist the United States Trade Representative in carrying out the Trade Representative's functions under subsection (d);

''(v) make recommendations with respect to the administration of United States trade laws relating to foreign government barriers to United States goods, services, investment, and intellectual property, and with respect to government procurement and other trade matters; and

''(vi) perform such other functions as the United States Trade Representative may direct.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date on which an individual nominated by the President to the position of Deputy United States Trade Representative for Trade Enforcement is confirmed by the United States Senate.

SA 731. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. UNFUNDED MANDATES REFORM.

(a) REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.—

(1) REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.—Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 202. REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.'';

(B) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(C) by striking subsection (a) and inserting the following:

''(a) DEFINITION.—In this section, the term 'cost' means the cost of compliance and any reasonably foreseeable indirect costs, including revenues lost as a result of an agency rule subject to this section.

''(b) IN GENERAL.—Before promulgating any proposed or final rule that may have an annual effect on the economy of $100,000,000 or more (adjusted for inflation), or that may result in the expenditure by State, local, and tribal governments, in the aggregate, of $100,000,000 or more (adjusted for inflation) in any 1 year, each agency shall prepare and publish in the Federal Register an initial and final regulatory impact analysis. The initial regulatory impact analysis shall accompany the agency's notice of proposed rulemaking and shall be open to public comment. The final regulatory impact analysis shall accompany the final rule.

''(c) CONTENT.—The initial and final regulatory impact analysis under subsection (b) shall include—

''(1)(A) an analysis of the anticipated benefits and costs of the rule, which shall be quantified to the extent feasible;

''(B) an analysis of the benefits and costs of a reasonable number of regulatory alternatives within the range of the agency's discretion under the statute authorizing the rule, including alternatives that—

''(i) require no action by the Federal Government; and

''(ii) use incentives and market-based means to encourage the desired behavior, provide information upon which choices can be made by the public, or employ other flexible regulatory options that permit the greatest flexibility in achieving the objectives of the statutory provision authorizing the rule; and

''(C) an explanation that the rule meets the requirements of section 205;

''(2) an assessment of the extent to which—

''(A) the costs to State, local and tribal governments may be paid with Federal financial assistance (or otherwise paid for by the Federal Government); and

''(B) there are available Federal resources to carry out the rule;

''(3) estimates of—

''(A) any disproportionate budgetary effects of the rule upon any particular regions of the Nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector; and

''(B) the effect of the rule on job creation or job loss, which shall be quantified to the extent feasible; and

''(4)(A) a description of the extent of the agency's prior consultation with elected representatives (under section 204) of the affected State, local, and tribal governments;

''(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency; and

''(C) a summary of the agency's evaluation of those comments and concerns.'';

(D) in subsection (d) (as redesignated by paragraph (2) of this subsection), by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(E) in subsection (e) (as redesignated by paragraph (2) of this subsection), by striking

''subsection (a)'' each place that term appears and inserting ''subsection (b)''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for the Unfunded Mandates Reform Act of 1995 is amended by striking the item relating to section 202 and inserting the following:

''Sec. 202. Regulatory impact analyses for certain rules.''.

(b) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—Section 205 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1535) is amended by striking section 205 and inserting the following:

''SEC. 205. LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.

''Before promulgating any proposed or final rule for which a regulatory impact analysis is required under section 202, the agency shall—

''(1) identify and consider a reasonable number of regulatory alternatives within the range of the agency's discretion under the statute authorizing the rule, including alternatives required under section 202(b)(1)(B); and

''(2) from the alternatives described under paragraph (1), select the least costly or least burdensome alternative that achieves the objectives of the statute.''.

SA 732. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. INCLUSION OF APPLICATION TO INDEPENDENT REGULATORY AGENCIES.

(a) IN GENERAL.—Section 421(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(1)) is amended by striking '', but does not include independent regulatory agencies''.

(b) EXEMPTION FOR MONETARY POLICY.—The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.) is amended by inserting after section 5 the following:

''SEC. 6. EXEMPTION FOR MONETARY POLICY.

''Nothing in title II, III, or IV shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

SA 733. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, between lines 24 and 25, insert the following:

(6) SUBSIDIES COUNTERNOTIFICATION.—The United States Trade Representative shall—

(A) not later than 90 days after the Secretary determines that the country has failed to adopt appropriate policies, or take identifiable action, to eliminate the fundamental misalignment of its currency, and annually thereafter, review the notification of subsidies, if any, submitted by the country under Article 25 of the Agreement on Subsidies and Countervailing Measures (referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12))); and

(B) notify the Committee on Subsidies and Countervailing Measures under Article 25 of that Agreement of all subsidies of the country identified by the United States not later than 180 days after conducting the review required by subparagraph (A) if the Trade Representative determines that the country has, for 2 consecutive years—

(i) failed to submit such a notification; or

(ii) omitted information or included inaccurate information in such a notification that is material with respect to the totality of the subsidies of the country.

SA 734. Mr. JOHNSON of Wisconsin submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. REGULATION MORATORIUM AND JOBS PRESERVATION ACT OF 2011.

(a) SHORT TITLE.—This section may be cited as the ''Regulation Moratorium and Jobs Preservation Act of 2011''.

(b) DEFINITIONS.—In this section—

(1) the term ''agency'' has the meaning given under section 3502(1) of title 44, United States Code;

(2) the term ''regulatory action'' means any substantive action by an agency that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking;

(3) the term ''significant regulatory action'' means any regulatory action that is likely to result in a rule or guidance that may—

(A) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities;

(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(D) raise novel legal or policy issues; and

(4) the term ''small entities'' has the meaning given under section 601(6) of title 5, United States Code.

(c) SIGNIFICANT REGULATORY ACTIONS.—

(1) IN GENERAL.—No agency may take any significant regulatory action, until the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(2) DETERMINATION.—The Secretary of Labor shall submit a report to the Director of the Office of Management and Budget whenever the Secretary determines that the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(d) WAIVERS.—

(1) NATIONAL SECURITY OR NATIONAL EMERGENCY.—The President may waive the application of subsection (c) to any significant regulatory action, if the President—

(A) determines that the waiver is necessary on the basis of national security or a national emergency; and

(B) submits notification to Congress of that waiver and the reasons for that waiver.

(2) ADDITIONAL WAIVERS.—

(A) SUBMISSION.—The President may submit a request to Congress for a waiver of the application of subsection (c) to any significant regulatory action.

(B) CONTENTS.—A submission under this paragraph shall include—

(i) an identification of the significant regulatory action; and

(ii) the reasons which necessitate a waiver for that significant regulatory action.

(C) CONGRESSIONAL ACTION.—Congress shall give expeditious consideration and take appropriate legislative action with respect to any waiver request submitted under this paragraph.

(e) JUDICIAL REVIEW.—

(1) DEFINITION.—In this subsection, the term ''small business'' means any business, including an unincorporated business or a sole proprietorship, that employs not more than 500 employees or that has a net worth of less than $7,000,000 on the date a civil action arising under this section is filed.

(2) REVIEW.—Any person that is adversely affected or aggrieved by any significant regulatory action in violation of this section is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

(3) JURISDICTION.—Each court having jurisdiction to review any significant regulatory action for compliance with any other provision of law shall have jurisdiction to review all claims under this section.

(4) RELIEF.—In granting any relief in any civil action under this subsection, the court shall order the agency to take corrective action consistent with this section and chapter 7 of title 5, United States Code, including remanding the significant regulatory action to the agency and enjoining the application or enforcement of that significant regulatory action, unless the court finds by a preponderance of the evidence that application or enforcement is required to protect against an imminent and serious threat to the national security from persons or states engaged in hostile or military activities against the United States.

(5) REASONABLE ATTORNEY FEES FOR SMALL BUSINESSES.—The court shall award reasonable attorney fees and costs to a substantially prevailing small business in any civil action arising under this section. A party qualifies as substantially prevailing even without obtaining a final judgment in its favor if the agency changes its position as a result of the civil action.

(6) LIMITATION ON COMMENCING CIVIL ACTION.—A person may seek and obtain judicial review during the 1-year period beginning on the date of the challenged agency action or within 90 days after an enforcement action or notice thereof, except that where another provision of law requires that a civil action be commenced before the expiration of that 1-year period, such lesser period shall apply.

SA 735. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1619, to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION B—AMERICAN JOBS ACT OF 2011

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

SEC. 2. REFERENCES.

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

SEC. 3. SEVERABILITY.

If any provision of this division, or the application thereof to any person or circumstance, is held invalid, the remainder of the division 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 division 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 division, 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 division 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 taxpayer's 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 subsection (a)(1) or subsection (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; and

(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; LIMITATION 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 subsection (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 subsection (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 States 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;

(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 (Public Law 111–5, 123 Stat. 218–19), as amended by section 1497(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 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 (Public Law 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 Representatives 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; and

(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; and

(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 be 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 Ssecurity 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; and

(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 paragraphs (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 UNEMPLOYED 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 UNEMPLOYED 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 in 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 in 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 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 in 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 of 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;

(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

SEC. 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 1 of 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 1 of 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.''.

NOTICES OF INTENT TO SUSPEND THE RULES

Mr. COBURN. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, Paragraph 2, including germaneness requirements, for the purpose of proposing and considering amendment No. 670 to S. 1619.

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 671 to S. 1619 or any related substitute amendment to S. 1619.

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 672 to S. 1619 or any related substitute amendment to S. 1619.

Mr. PAUL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 678 to S. 1619.

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 680 to S. 1619 or any related substitute amendment to S. 1619.

Mr. JOHANNS. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 692 to S. 1619 or any related substitute amendment to S. 1619.

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 703 to S. 1619 or any related substitute amendment to S. 1619.

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 720 to S. 1619

or any related substitute amendment to S. 1619.

(The afore mentioned amendments are printed in the RECORD of October 3, 2011, under ''Text of Amendments.'')

Mr. MCCONNELL. Mr. President, I submit the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, including germaneness requirements, for the purpose of proposing and considering amendment No. 735 to S. 1619 or any related substitute amendment to S. 1619.

(The amendment is printed in today's RECORD under ''Text of Amendments'')

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Tuesday, October 11, 2011, at 1 p.m. at the Kellogg Conference Center, Gallaudet University, 800 Florida Avenue, NE, Washington, DC, to conduct a hearing entitled ''Leveraging Higher Education to Improve Employment Outcomes for People Who Are Deaf or Hard of Hearing.''

For further information regarding this hearing, please contact Andrew Imparato of the committee staff on (202) 228–3453.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Wednesday, October 12, 2011, at 2:30 p.m. in SD–430 to conduct a hearing entitled ''The State of Chronic Disease Prevention.''

For further information regarding this hearing, please contact Craig Martinez of the committee staff on (202) 224–7675.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in executive session on Tuesday, October 18, 2011, at 2:30 p.m. in SD–106 to mark up a bill that would reauthorize the Elementary and Secondary Education Act; and, any nominations cleared for action.

For further information regarding this meeting, please contact the committee on (202) 224–5375.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on October 5, 2011.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on October 5, 2011, at 10 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on October 5, 2011, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 5, 2011, at 2:30 p.m., in room SH–216 of the Hart Senate Office Building, to conduct a hearing entitled ''Considering the Role of Judges Under the Constitution of the United States.''

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on October 5, 2011, at 2 p.m. to conduct a hearing entitled ''Food Service Management Contracts: Are Contractors Overcharging the Government?''

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

SUBCOMMITTEE ON ECONOMIC POLICY

Mrs. HAGAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Economic Policy be authorized to meet during the session of the Senate on October 5, 2011, at 10 a.m., to conduct a hearing entitled ''Consumer Protection and Middle Class Wealth Building in an Age of Growing Household Debt.''

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Juliana Richard and Kathryn Berge of my staff be granted floor privileges for the duration of today's proceedings.

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

FILIPINO AMERICAN HISTORY MONTH

Mr. REID. I ask unanimous consent the Senate proceed to S. Res. 287.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 287) designating October 2011 as ''Filipino American History Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 287

Whereas October 18, 1587, when the first ''Luzones Indios'' set foot in Morro Bay, California, on board the Manila-built galleon ship Nuestra Senora de Esperanza, marks the earliest documented Filipino presence in the continental United States;

Whereas the Filipino American National Historical Society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo, Louisiana;

Whereas the recognition of the first permanent Filipino settlement in the United States adds new perspective to United States history by bringing attention to the economic, cultural, social, and other notable contributions that Filipino Americans have made in countless ways toward the development of the United States;

Whereas the Filipino-American community is the third largest Asian-American group in the United States, with a population of approximately 3,417,000 individuals;

Whereas Filipino-American servicemen and servicewomen have a longstanding history of serving in the Armed Forces, from the Civil War to the Iraq and Afghanistan conflicts, including the 250,000 Filipinos who fought under the United States flag during World War II to protect and defend the United States;

Whereas 9 Filipino Americans have received the Congressional Medal of Honor, the highest award for valor in action against an enemy force that can be bestowed upon an individual serving in the Armed Forces;

Whereas Filipino Americans play an integral role in the United States health care system as nurses, doctors, and other medical professionals;

Whereas Filipino Americans have contributed greatly to music, dance, literature, education, business, literature, journalism, sports, fashion, politics, government, science, technology, the fine arts, and other fields in the United States that enrich the landscape of the country;

Whereas efforts should continue to promote the study of Filipino-American history and culture, as mandated in the mission statement of the Filipino American National Historical Society, because the roles of Filipino Americans and other people of color largely have been overlooked in the writing, teaching, and learning of United States history;

Whereas it is imperative for Filipino-American youth to have positive role models to instill in them the significance of education, complemented with the richness of

their ethnicity and the value of their legacy; and

Whereas Filipino American History Month is celebrated during the month of October 2011: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2011 as ''Filipino American History Month'';

(2) recognizes the celebration of Filipino American History Month as—

(A) a study of the advancement of Filipino Americans;

(B) a time of reflection and remembrance of the many notable contributions Filipino Americans have made to the United States; and

(C) a time to renew efforts toward the research and examination of history and culture in order to provide an opportunity for all people in the United States to learn and appreciate more about Filipino Americans and their historic contributions to the United States; and

(3) urges the people of the United States to observe Filipino American History Month with appropriate programs and activities.

MEASURE READ THE FIRST TIME—S. 1660

Mr. REID. Mr. President, I am told that S. 1660 is at the desk and due for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1660) 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.

Mr. REID. I ask for a second reading of this matter but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read the second time on the next legislative day.

ORDERS FOR THURSDAY, OCTOBER 6, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, October 6, 2011; that following the prayer and 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 resume consideration of S. 1619, the Currency Exchange Rate Oversight Reform Act, with the time until 10:30 a.m. equally divided and controlled between the two leaders or their designees.

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

PROGRAM

Mr. REID. The second-degree filing deadline for amendments to S. 1619 is at 10 a.m. tomorrow. There will be a rollcall vote at 10:30 a.m. tomorrow on the motion to invoke cloture on S. 1619, the China currency bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. 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 8:09 p.m., adjourned until Thursday, October 6, 2011, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

PATTY SHWARTZ, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE MARYANNE TRUMP BARRY, RETIRED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. PETER R. MASCIOLA

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF OF THE ARMY AND APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

To be general

GEN. LLOYD J. AUSTIN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JANET L. COBB

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARY A. LEGERE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL S. TUCKER

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. TIMOTHY M. GIARDINA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WILLIAM D. FRENCH

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

KENT T. CRITCHLOW

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

CARLETON W. BIRCH
DEAN E. BONURA
DAVID M. BROWN
PETER M. BRZEZINSKI
MARC S. GAUTHIER
MITCHELL I. LEWIS
TERRY L. MCBRIDE
PETER L. MUELLER
ROBERT L. POWERS, JR.
CARL R. RAU
HARRY A. RAUCH III
MARK E. ROEDER
MICHAEL L. THOMAS
DARRELL E. THOMSEN, JR.
ROBERT C. WARDEN
TERRY L. WHITESIDE
ROBERT H. WHITLOCK
JERRY M. WOODBERY

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

WILLIAM B. CARTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JUDITH A. CIESLA