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.

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

SEC. 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. 1. Short Title; Table of Contents
Sec. 2. References
Sec. 3. Severability
Sec. 4. Buy American – Use of American Iron, Steel, and Manufactured Goods
Sec. 5. Wage Rate Requirements

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
Sec. 102. Temporary Tax Credit for Increased Payroll

Subtitle B – Other Relief for Businesses

Sec. 111. Extension of Temporary 100 Percent Bonus Depreciation for Certain Business Assets
Sec. 112. Surety Bonds
Sec. 113. Delay in Application of Withholding on Government Contractors

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

Subtitle B – Teacher Stabilization

Sec. 202. Purpose
Sec. 203. Grants for the Outlying Areas and the Secretary of the Interior; Availability of Funds.
Sec. 204. State Allocation
Sec. 205. State Application
Sec. 206. State Reservation and Responsibilities
Sec. 207. Local Educational Agencies
Sec. 208. Early Learning
Sec. 209. Maintenance of Effort
Sec. 210. Reporting
Sec. 211. Definitions
Sec. 212. Authorization of Appropriations

Subtitle C – First Responder Stabilization

Sec. 213. Purpose
Sec. 214. Grant Program
Sec. 215. Appropriations

Subtitle D – School Modernization

Part I – Elementary and Secondary Schools

Sec. 221. Purpose
Sec. 222. Authorization of Appropriations
Sec. 223. Allocation of Funds
Sec. 224. State Use of Funds
Sec. 225. State and Local Applications
Sec. 226. Use of Funds
Sec. 227. Private Schools
Sec. 228. Additional Provisions

Part II – Community College Modernization

Sec. 229. Federal assistance for Community College Modernization

Part III – General Provisions

Sec. 230. Definitions
Sec. 231. Buy American

Subtitle E – Immediate Transportation Infrastructure Investments

Sec. 241. Immediate Transportation Infrastructure Investments

Subtitle F – Building and Upgrading Infrastructure
for Long-Term Development

Sec. 242. Short Title; Table of Contents
Sec. 243. Findings and Purpose
Sec. 244. Definitions

Part I--American Infrastructure Financing Authority

Sec. 245. Establishment and General Authority of AIFA
Sec. 246. Voting Members of the Board Of Directors.
Sec. 247. Chief Executive Officer of AIFA
Sec. 248. Powers and Duties of The Board Of Directors
Sec. 249. Senior Management
Sec. 250. Special Inspector General for AIFA
Sec. 251. Other Personnel
Sec. 252. Compliance

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
Sec. 254. Loan Terms and Repayment
Sec. 255. Compliance and Enforcement

Sec. 256. Audits; Reports to the President and Congress

Part III--Funding of AIFA

Sec. 257. Administrative Fees
Sec. 258. Efficiency of AIFA
Sec. 259. Funding

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

Subtitle G – Project Rebuild

Sec. 261. Project Rebuild

Subtitle H – National Wireless Initiative

Sec. 271. Definitions

Part I – Auctions of Spectrum and Spectrum Management

Sec. 272. Clarification of Authorities to Repurpose Federal Spectrum for Commercial Purposes
Sec. 273. Incentive Auction Authority
Sec. 274. Requirements When Repurposing Mobile Satellite Services Spectrum for Terrestrial Broadband Use
Sec. 275. Permanent Extension of Auction Authority
Sec. 276. Authority to Auction Licenses for Domestic Satellite Services
Sec. 277. Directed Auction of Certain Spectrum
Sec. 278. Authority to Establish Spectrum License User Fees

Part II – Public Safety Broadband Network

Sec. 281. Reallocation of D Block for Public Safety
Sec. 282. Flexible Use of Narrowband Spectrum
Sec. 283. Single Public Safety Wireless Network Licensee
Sec. 284. Establishment of Public Safety Broadband Corporation
Sec. 285. Board of Directors of the Corporation
Sec. 286. Officers, Employees, and Committees of the Corporation
Sec. 287. Nonprofit and Nonpolitical Nature of the Corporation
Sec. 288. Powers, Duties, and Responsibilities of the Corporation
Sec. 289. Initial Funding For Corporation
Sec. 290. Permanent Self-Funding; Duty to Assess and Collect Fees for Network Use
Sec. 291. Audit and Report
Sec. 292. Annual Report to Congress
Sec. 293. Provision of Technical Assistance
Sec. 294. State and Local Implementation
Sec. 295. State and Local Implementation Fund
Sec. 296. Public Safety Wireless Communications Research and Development
Sec. 297. Public Safety Trust Fund
Sec. 298. FCC Report on Efficient Use of Public Safety Spectrum
Sec. 299. Public Safety Roaming and Priority Access

TITLE III – ASSISTANCE FOR THE UNEMPLOYED AND PATHWAYS BACK TO WORK

Subtitle A – Supporting Unemployed Workers

Sec. 301. Short Title

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
Sec. 312. Temporary Extension of Extended Benefit Provisions
Sec. 313. Reemployment Services and Reemployment and Eligibility Assessment Activities
Sec. 314. Federal-State Agreements to Administer a Self-Employment Assistance Program
Sec. 315. Conforming Amendment on Payment of Bridge to Work Wages
Sec. 316. Additional Extended Unemployment Benefits Under The Railroad Unemployment Insurance Act

Part II—Reemployment NOW Program

Sec. 321. Establishment of Reemployment NOW Program
Sec. 322. Distribution of Funds
Sec. 323. State Plan
Sec. 324. Bridge to Work Program
Sec. 325. Wage Insurance
Sec. 326. Enhanced Reemployment Strategies
Sec. 327. Self-Employment Programs
Sec. 328. Additional Innovative Programs
Sec. 329. Guidance and Additional Requirements
Sec. 330. Report of Information and Evaluations to Congress and the Public
Sec. 331. State

Part III – Short-Time Compensation Program

Sec. 341. Treatment of Short-Time Compensation Programs
Sec. 342. Temporary Financing of Short-Time Compensation Payments In States With Programs In Law
Sec. 343. Temporary Financing of Short-Time Compensation Agreements
Sec. 344. Grants for Short-Time Compensation Programs
Sec. 345. Assistance and Guidance In Implementing Programs
Sec. 346. Reports

Subtitle B – Long-Term Unemployed Hiring Preferences

Sec. 351. Long Term Unemployed Workers Work Opportunity Tax Credits

Subtitle C – Pathways Back to Work

Sec. 361. Short Title
Sec. 362. Establishment of Pathways Back To Work Fund
Sec. 363. Availability of Funds
Sec. 364. Subsidized Employment for Unemployed, Low-Income Adults
Sec. 365. Summer Employment and Year-Round Employment Opportunities For Low-Income Youth
Sec. 366. Work-Based Employment Strategies of Demonstrated Effectiveness
Sec. 367. General Requirements
Sec. 368. Definitions

Subtitle D – Prohibition of Discrimination in Employment on the Basis of an Individual's Status as Unemployed

Sec. 371. Short Title
Sec. 372. Findings and Purpose
Sec. 373. Definitions
Sec. 374. Prohibited Acts

Sec. 375. Enforcement
Sec. 376. Federal and State Immunity
Sec. 377. Relationship to Other Laws
Sec. 378. Severability
Sec. 379. 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

Subtitle B – Tax Carried Interest in Investment Partnerships as Ordinary Income

Sec. 411. Partnership Interests Transferred In Connection With Performance of Services

Subtitle C – Close Loophole for Corporate Jet Depreciation

Sec. 421. General Aviation Aircraft Treated As 7-Year Property

Subtitle D -- Repeal Oil Subsidies

Sec. 431. Repeal of Deduction for Intangible Drilling and Development Costs in the Case of Oil and Gas Wells
Sec. 432. Repeal of Deduction for Tertiary Injectants
Sec. 433. Repeal of Percentage Depletion for Oil And Gas Wells
Sec. 434. Section 199 Deduction Not Allowed With Respect to Oil, Natural Gas, or Primary Products Thereof
Sec. 435. Repeal Oil and Gas Working Interest Exception to Passive Activity Rules
Sec. 436. Uniform Seven-Year Amortization for Geological and Geophysical Expenditures
Sec. 437. Repeal Enhanced Oil Recovery Credit
Sec. 438. Repeal Marginal Well Production Credit

Subtitle E -- Dual Capacity Taxpayers

Sec. 441. Modifications of Foreign Tax Credit Rules Applicable to Dual Capacity Taxpayers
Sec. 442. Separate Basket Treatment Taxes Paid on Foreign Oil and Gas Income

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

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 section (a)(1) or section (a)(2) shall not exceed the amount of tax imposed on the qualified employer under section 3111(a) of such Code for the relevant period. Any income tax deduction by a qualified employer for amounts paid under section 3111(a) of such Code or similar Railroad Retirement Tax provisions shall be reduced by the amounts so credited.

(e) Transfers to Federal Old-Age and Survivors Insurance Trust Fund.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by subsection (d). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(f) Application to Railroad Retirement Taxes. For purposes of qualified employers that are employers under section 3231(a) of the Internal Revenue Code of 1986, subsections (a)(1) and (a)(2) of this section shall apply by substituting section 3221 for section 3111, and substituting the term "compensation" for "wages" as appropriate.

SUBTITLE B – OTHER RELIEF FOR BUSINESSES

SEC. 111. EXTENSION OF TEMPORARY 100 PERCENT BONUS DEPRECIATION FOR CERTAIN BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (5) of section 168(k) of the Internal Revenue Code is amended—

(1) by striking ''January 1, 2012'' each place it appears and inserting ''January 1, 2013'', and

(2) by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(b) CONFORMING AMENDMENT.—The heading for paragraph (5) of section 168(k) of the Internal Revenue Code is amended by striking ''PRE-2012 PERIODS'' and inserting ''PRE-2013 PERIODS''.

SEC. 112. SURETY BONDS.

(a) MAXIMUM BOND AMOUNT.— Section 411(a)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(1)) is amended by striking ''$2,000,000'' and inserting ''$5,000,000".

(b) DENIAL OF LIABILITY.— Section 411(e)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)(2)) is amended by striking ''$2,000,000'' and inserting ''$5,000,000".

(c) SUNSET.— The amendments made by subsections (a) and (b) of this section shall remain in effect until September 30, 2012.

(d) FUNDING. — There is appropriated out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until expended, for additional capital for the Surety Bond Guarantees Revolving Fund, as authorized by the Small Business Investment Act of 1958, as amended.

SEC. 113. DELAY IN APPLICATION OF WITHHOLDING ON GOVERNMENT CONTRACTORS.

Subsection (b) of section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking "December 31, 2011" and inserting "December 31, 2013".

TITLE II – PUTTING WORKERS BACK ON THE JOB WHILE REBUILDING AND MODERNIZING AMERICA

SUBTITLE A – VETERANS HIRING PREFERENCES

SEC. 201. RETURNING HEROES AND WOUNDED WARRIORS WORK OPPORTUNITY TAX CREDITS.

(a) IN GENERAL. —Paragraph (3) of section 51(b) of the Internal Revenue Code is amended by striking "($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))" and inserting "($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I), $14,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(iv), and $24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II))".

(b) RETURNING HEROES TAX CREDITS. —section 51(d)(3)(A) of the Internal Revenue Code is amended by striking "or" at the end of paragraph (3)(A)(i), and inserting the following new paragraphs after paragraph (ii)—

"(iii) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months), or

(iv) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months."

(c) SIMPLIFIED CERTIFICATION. —Section 51(d) of the Internal revenue Code is amended by adding a new paragraph 15 as follows—

"(15) Credit allowed for unemployed veterans.

(A) In general. Any qualified veteran under paragraphs (3)(A)(ii)(II), (3)(A)(iii), and (3)(A)(iv) will be treated as certified by the designated local agency as having aggregate periods of unemployment if—

(i) In the case of qualified veterans under paragraphs (3)(A)(ii)(II) and (3)(A)(iv), the veteran is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date; or

(ii) In the case of a qualified veteran under paragraph (3)(A)(iii), the veteran is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date.

(B) Regulatory Authority. The Secretary in his discretion may provide alternative methods for certification.".

(d) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—section 52(c) of the Internal Revenue Code is amended—

(1) by striking the word "No" at the beginning of the section and replacing it with "Except as provided in this subsection, no".

(2) the following new paragraphs are inserted at the end of section 52(c)—

"(1) IN GENERAL.— In the case of a tax-exempt employer, there shall be treated as a credit allowable under subpart C (and not allowable under subpart D) the lesser of—

(A) The amount of the work opportunity credit determined under this subpart with respect to such employer that is related to the hiring of qualified veterans described in sections 51(d)(3)(A)(ii)(II), (iii) or (iv); or

(B) The amount of the payroll taxes of the employer during the calendar year in which the taxable year begins.

(2) CREDIT AMOUNT.—In calculating for tax-exempt employers, the work opportunity credit shall be determined by substituting "26 percent" for "40 percent" in section 51(a) and by substituting "16.25 percent" for "25 percent" in section 51(i)(3)(A).

(3) TAX-EXEMPT EMPLOYER.—For purposes of this subpart, the term "tax-exempt employer" means an employer that is —

(i) an organization described in section 501(c) and exempt from taxation under section 501(a), or

(ii) a public higher education institution (as defined in section 101 of the Higher Education Act of 1965).

(4) PAYROLL TAXES.—For purposes of this subsection—

(A) IN GENERAL.—The term "payroll taxes" means —

(i) amounts required to be withheld from the employees of the tax-exempt employer under section 3401(a),

(ii) amounts required to be withheld from such employees under section 3101(a), and

(iii) amounts of the taxes imposed on the tax-exempt employer under section 3111(a)."

(e) Treatment of Possessions.—

(1) Payments to possessions.—

(A) Mirror code possessions.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(B) Other possessions.— The Secretary of the Treasury shall pay to each possession of the United States, which does not have a mirror code tax system, amounts estimated by the Secretary of the Treasury as being equal to the aggregate credits that would have been provided by the possession by reason of the application of this section (other than this subsection) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments.

(2) Coordination with credit allowed against United States income taxes.--No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 that is attributable to the credit provided by this section (other than this subsection (e)) shall be taken into account with respect to any person -

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

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

(3) Definitions and special rules.—

(A) Possession of the United States.--For purposes of this subsection (e), the term ``possession of the United States'' includes American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.

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

(C) Treatment of payments.-- For purposes of section 1324(b)(2) of title 31, United States Code, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 shall apply.

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SUBTITLE B—TEACHER STABILIZATION

SEC. 202. PURPOSE.

The purpose of this subtitle is to provide funds to States to prevent teacher layoffs and support the creation of additional jobs in public early childhood, elementary, and secondary education in the 2011-2012 and 2012-2013 school years.

SEC. 203. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR; AVAILABILITY OF FUNDS.

(a) RESERVATION OF FUNDS. From the amount appropriated to carry out this subtitle under section 212, the Secretary—

(1) shall reserve up to one-half of one percent to provide assistance to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this part under such terms and conditions as the Secretary may determine;

(2) shall reserve up to one-half of one percent to provide assistance to the Secretary of the Interior to carry out activities consistent with this part, in schools operated or funded by the Bureau of Indian Education; and

(3) may reserve up to $2,000,000 for administration and oversight of this part, including program evaluation.

(b) AVAILABILITY OF FUNDS. Funds made available under section 212 shall remain available to the Secretary until September 30, 2012.

SEC. 204. STATE ALLOCATION

(a) ALLOCATION. After reserving funds under section 203(a), the Secretary shall allocate to the States—

(1) 60 percent on the basis of their relative population of individuals aged 5 through 17; and

(2) 40 percent on the basis of their relative total population.

(b) AWARDS. From the funds allocated under subsection (a), the Secretary shall make a grant to the Governor of each State who submits an approvable application under section 214.

(c) ALTERNATE DISTRIBUTION OF FUNDS.

(1) If, within 30 days after the date of enactment of this Act, a Governor has not submitted an approvable application to the Secretary, the Secretary shall, consistent with paragraph (2), provide for funds allocated to that State to be distributed to another entity or other entities in the State for the support of early childhood, elementary, and secondary education, under such terms and conditions as the Secretary may establish.

(2) MAINTENANCE OF EFFORT.

(A) GOVERNOR ASSURANCE. The Secretary shall not allocate funds under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2012 and 2013 meet the requirements of section 209.

(B) Notwithstanding subparagraph (A), the Secretary may allocate up to 50 percent of the funds that are available to the State under paragraph (1) to another entity or entities in the State, provided that the State educational agency submits data to the Secretary demonstrating that the State will for fiscal year 2012 meet the requirements of section 209(a) or the Secretary otherwise determines that the State will meet those requirements, or such comparable requirements as the Secretary may establish, for that year.

(3) REQUIREMENTS. An entity that receives funds under paragraph (1) shall use those funds in accordance with the requirements of this subtitle.

(d) REALLOCATION. If a State does not receive funding under this subtitle or only receives a portion of its allocation under subsection (c), the Secretary shall reallocate the State's entire allocation or the remaining portion of its allocation, as the case may be, to the remaining States in accordance with subsection (a).

SEC. 205. STATE APPLICATION.

The Governor of a State desiring to receive a grant under this subtitle shall submit an application to the Secretary within 30 days of the date of enactment of this Act, in such manner, and containing such information as the Secretary may reasonably require to determine the State's compliance with applicable provisions of law.

SEC. 206. STATE RESERVATION AND RESPONSIBILITIES.

(a) RESERVATION. Each State receiving a grant under section 204(b) may reserve—

(1) not more than 10 percent of the grant funds for awards to State-funded early learning programs; and

(2) not more than 2 percent of the grant funds for the administrative costs of carrying out its responsibilities under this subtitle.

(b) STATE RESPONSIBILITIES. Each State receiving a grant under this subtitle shall, after reserving any funds under subsection (a)—

(1) use the remaining grant funds only for awards to local educational agencies for the support of early childhood, elementary, and secondary education; and

(2) distribute those funds, through subgrants, to its local educational agencies by distributing—

(A) 60 percent on the basis of the local educational agencies' relative shares of enrollment; and

(B) 40 percent on the basis of the local educational agencies' relative shares of funds received under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2011; and

(3) make those funds available to local educational agencies no later than 100 days after receiving a grant from the Secretary.

(c) PROHIBITIONS. A State shall not use funds received under this subtitle to directly or indirectly—

(1) establish, restore, or supplement a rainy-day fund;

(2) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund;

(3) reduce or retire debt obligations incurred by the State; or

(4) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

SEC. 207. LOCAL EDUCATIONAL AGENCIES.

Each local educational agency that receives a subgrant under this subtitle—

(1) shall use the subgrant funds only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, recall or rehire former employees, or hire new employees to provide early childhood, elementary, or secondary educational and related services;

(2) shall obligate those funds no later than September 30, 2013; and

(3) may not use those funds for general administrative expenses or for other support services or expenditures, as those terms are defined by the National Center for Education Statistics in the Common Core of Data, as of the date of enactment of this Act.

SEC. 208. EARLY LEARNING.

Each State-funded early learning program that receives funds under this subtitle shall—

(1) use those funds only for compensation, benefits, and other expenses, such as support services, necessary to retain early childhood educators, recall or rehire former early childhood educators, or hire new early childhood educators to provide early learning services; and

(2) obligate those funds no later than September 30, 2013.

SEC. 209. MAINTENANCE OF EFFORT.

(a) The Secretary shall not allocate funds to a State under this subtitle unless the State provides an assurance to the Secretary that—

(1) for State fiscal year 2012—

(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per

pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2011; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2011; and

(2) for State fiscal year 2013—

(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2012; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2012.

(b) WAIVER. The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

(2) a precipitous decline in the financial resources of the State.

SEC. 210. REPORTING.

Each State that receives a grant under this subtitle shall submit, on an annual basis, a report to the Secretary that contains—

(1) a description of how funds received under this part were expended or obligated; and

(2) an estimate of the number of jobs supported by the State using funds received under this subtitle.

SEC. 211. DEFINITIONS.

(a) Except as otherwise provided, the terms “local educational agency”, “outlying area”, “Secretary”, “State”, and “State educational agency” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) The term “State” does not include an outlying area.

(c) The term “early childhood educator” means an individual who—

(1) works directly with children in a State-funded early learning program in a low-income community;

(2) is involved directly in the care, development, and education of infants, toddlers, or young children age five and under; and

(3) has completed a baccalaureate or advanced degree in early childhood development or early childhood education, or in a field related to early childhood education.

(d) The term "State-funded early learning program" means a program that provides educational services to children from birth to kindergarten entry and receives funding from the State.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, and there are appropriated, $30,000,000,000 to carry out this subtitle for fiscal year 2012.

SUBTITLE C—FIRST RESPONDER STABILIZATION

SEC. 213. PURPOSE.

The purpose of this subtitle is to provide funds to States and localities to prevent layoffs of, and support the creation of additional jobs for, law enforcement officers and other first responders.

SEC. 214. GRANT PROGRAM.

The Attorney General shall carry out a competitive grant program pursuant to section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) for hiring, rehiring, or retention of career law enforcement officers under part Q of such title. Grants awarded under this section shall not be subject to subsections (g) or (i) of section 1701 or to section 1704 of such Act (42 U.S.C. 3796dd–3(c)).

SEC. 215. APPROPRIATIONS.

There are hereby appropriated to the Community Oriented Policing Stabilization Fund out of any money in the Treasury not otherwise obligated, $5,000,000,000, to remain available until September 30, 2012, of which $4,000,000,000 shall be for the Attorney General to carry out the competitive grant program under Section 214; and of which $1,000,000,000 shall be transferred by the Attorney General to a First Responder Stabilization Fund from which the Secretary of Homeland Security shall make competitive grants for hiring, rehiring, or retention pursuant to the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), to carry out section 34 of such Act (15 U.S.C. 2229a). In making such grants, the Secretary may grant waivers from the requirements in subsections (a)(1)(A), (a)(1)(B), (a)(1)(E), (c)(1), (c)(2), and (c)(4)(A) of section 34. Of the amounts appropriated herein, not to exceed $8,000,000 shall be for administrative costs of the Attorney General, and not to exceed $2,000,000 shall be for administrative costs of the Secretary of Homeland Security.

SUBTITLE D – SCHOOL MODERNIZATION

PART I – ELEMENTARY AND SECONDARY SCHOOLS

SEC. 221. PURPOSE.

The purpose of this part is to provide assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts across America in order to support the achievement of improved educational outcomes in those schools.

SEC. 222. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, and there are appropriated, $25,000,000,000 to carry out this part, which shall be available for obligation by the Secretary until September 30, 2012.

SEC. 223. ALLOCATION OF FUNDS.

(a) RESERVATIONS. Of the amount made available to carry out this part, the Secretary shall reserve—

(1) one-half of one percent for the Secretary of the Interior to carry out modernization, renovation, and repair activities described in section 226 in schools operated or funded by the Bureau of Indian Education;

(2) one-half of one percent to make grants to the outlying areas for modernization, renovation, and repair activities described in section 226; and

(3) such funds as the Secretary determines are needed to conduct a survey, by the National Center for Education Statistics, of the school construction, modernization, renovation, and repair needs of the public schools of the United States.

(b) STATE ALLOCATION. After reserving funds under subsection (a), the Secretary shall allocate the remaining amount among the States in proportion to their respective allocations under part A of title I of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6311 et seq.) for fiscal year 2011, except that—

(1) the Secretary shall allocate 40 percent of such remaining amount to the 100 local educational agencies with the largest numbers of children aged 5-17 living in poverty, as determined using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, in proportion to those agencies' respective allocations under part A of title I of the ESEA for fiscal year 2011; and

(2) the allocation to any State shall be reduced by the aggregate amount of the allocations under paragraph (1) to local educational agencies in that State.

(c) REMAINING ALLOCATION.

(1) If a State does not apply for its allocation (or applies for less than the full allocation for which it is eligible) or does not use that allocation in a timely manner, the Secretary may—

(A) reallocate all or a portion of that allocation to the other States in accordance with subsection (b); or

(B) use all or a portion of that allocation to make direct allocations to local educational agencies within the State based on their respective allocations under

part A of title I of the ESEA for fiscal year 2011 or such other method as the Secretary may determine.

(2) If a local educational agency does not apply for its allocation under subsection (b)(1), applies for less than the full allocation for which it is eligible, or does not use that allocation in a timely manner, the Secretary may reallocate all or a portion of its allocation to the State in which that agency is located.

SEC. 224. STATE USE OF FUNDS.

(a) RESERVATION. Each State that receives a grant under this part may reserve not more than one percent of the State's allocation under section 223(b) for the purpose of administering the grant, except that no State may reserve more than $750,000 for this purpose.

(b) FUNDS TO LOCAL EDUCATIONAL AGENCIES.

(1) FORMULA SUBGRANTS. From the grant funds that are not reserved under subsection (a), a State shall allocate at least 50 percent to local educational agencies, including charter schools that are local educational agencies, that did not receive funds under section 223(b)(1) from the Secretary, in accordance with their respective allocations under part A of title I of the ESEA for fiscal year 2011, except that no such local educational agency shall receive less than $10,000.

(2) ADDITIONAL SUBGRANTS. The State shall use any funds remaining, after reserving funds under subsection (a) and allocating funds under paragraph (1), for subgrants to local educational agencies that did not receive funds under section 223(b)(1), including charter schools that are local educational agencies, to support modernization, renovation, and repair projects that the State determines, using objective criteria, are most needed in the State, with priority given to projects in rural local educational agencies.

(c) REMAINING FUNDS. If a local educational agency does not apply for an allocation under subsection (b)(1), applies for less than its full allocation, or fails to use that allocation in a timely manner, the State may reallocate any unused portion to other local educational agencies in accordance with subsection (b).

SEC. 225. STATE AND LOCAL APPLICATIONS.

(a) STATE APPLICATION. A State that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, which shall include—

(1) an identification of the State agency or entity that will administer the program;

(2) the State's process for determining how the grant funds will be distributed and administered, including—

(A) how the State will determine the criteria and priorities in making subgrants under section 224(b)(2);

(B) any additional criteria the State will use in determining which projects it will fund under that section;

(C) a description of how the State will consider—

(i) the needs of local educational agencies for assistance under this part;

(ii) the impact of potential projects on job creation in the State;

(iii) the fiscal capacity of local educational agencies applying for assistance;

(iv) the percentage of children in those local educational agencies who are from low-income families; and

(v) the potential for leveraging assistance provided by this program through matching or other financing mechanisms;

(D) a description of how the State will ensure that the local educational agencies receiving subgrants meet the requirements of this part;

(E) a description of how the State will ensure that the State and its local educational agencies meet the deadlines established in section 228;

(F) a description of how the State will give priority to the use of green practices that are certified, verified, or consistent with any applicable provisions of—

(i) the LEED Green Building Rating System;

(ii) Energy Star;

(iii) the CHPS Criteria;

(iv) Green Globes; or

(v) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency;

(G) a description of the steps that the State will take to ensure that local educational agencies receiving subgrants will adequately maintain any facilities that are modernized, renovated, or repaired with subgrant funds under this part; and

(H) such additional information and assurances as the Secretary may require.

(b) LOCAL APPLICATION. A local educational agency that is eligible under section 223(b)(1) that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, which shall include —

(1) a description of how the local educational agency will meet the deadlines and requirements of this part;

(2) a description of the steps that the local educational agency will take to adequately maintain any facilities that are modernized, renovated, or repaired with funds under this part; and

(3) such additional information and assurances as the Secretary may require.

SEC. 226. USE OF FUNDS.

(a) IN GENERAL. Funds awarded to local educational agencies under this part shall be used only for either or both of the following modernization, renovation, or repair activities in facilities that are used for elementary or secondary education or for early learning programs:

(1) Direct payments for school modernization, renovation, and repair.

(2) To pay interest on bonds or payments for other financing instruments that are newly issued for the purpose of financing school modernization, renovation, and repair.

(b) SUPPLEMENT, NOT SUPPLANT. Funds made available under this part shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to modernize, renovate, or repair eligible school facilities.

(c) PROHIBITION. Funds awarded to local educational agencies under this part may not be used for—

(1) new construction;

(2) payment of routine maintenance costs; or

(3) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

SEC. 227. PRIVATE SCHOOLS

(a) IN GENERAL. Section 9501 of the ESEA (20 U.S.C. 7881) shall apply to this part in the same manner as it applies to activities under that Act, except that—

(1) section 9501 shall not apply with respect to the title to any real property modernized, renovated, or repaired with assistance provided under this section;

(2) the term "services", as used in section 9501 with respect to funds under this part, shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include only—

(A) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(B) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

(C) asbestos or polychlorinated biphenyls abatement or removal from school facilities; and

(3) expenditures for services provided using funds made available under section 226 shall be considered equal for purposes of section 9501(a)(4) of the ESEA if the per-pupil expenditures for services described in paragraph (2) for students enrolled in private nonprofit elementary and secondary schools that have child-poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this subpart for children enrolled in the public schools of the local educational agency receiving funds under this subpart.

(b) REMAINING FUNDS. If the expenditure for services described in paragraph (2) is less than the amount calculated under paragraph (3) because of insufficient need for those services, the remainder shall be available to the local educational agency for modernization, renovation, and repair of its school facilities.

(c) APPLICATION. If any provision of this section, or the application thereof, to any person or circumstance is judicially determined to be invalid, the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

SEC. 228. ADDITIONAL PROVISIONS

(a) Funds appropriated under section 222 shall be available for obligation by local educational agencies receiving grants from the Secretary under section 223(b)(1), by States reserving funds under section 224(a), and by local educational agencies receiving subgrants under section 224(b)(1) only during the period that ends 24 months after the date of enactment of this Act.

(b) Funds appropriated under section 222 shall be available for obligation by local educational agencies receiving subgrants under section 224(b)(2) only during the period that ends 36 months after the date of enactment of this Act.

(c) Section 439 of the General Education Provisions Act (20 U.S.C. 1232b) shall apply to funds available under this part.

(d) For purposes of section 223(b)(1), Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico are not local educational agencies.

PART II - COMMUNITY COLLEGE MODERNIZATION

SEC. 229. FEDERAL ASSISTANCE FOR COMMUNITY COLLEGE MODERNIZATION

(a) IN GENERAL.

(1) GRANT PROGRAM. From the amounts made available under subsection (h), the Secretary shall award grants to States to modernize, renovate, or repair existing facilities at community colleges.

(2) ALLOCATION.

(A) RESERVATIONS. Of the amount made available to carry out this section, the Secretary shall reserve—

(i) up to 0.25 percent for grants to institutions that are eligible under section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) to provide for modernization, renovation, and repair activities described in this section; and

(ii) up to 0.25 percent for grants to the outlying areas to provide for modernization, renovation, and repair activities described in this section.

(B) ALLOCATION. After reserving funds under subparagraph (A), the Secretary shall allocate to each State that has an application approved by the Secretary an amount that bears the same relation to any remaining funds as the total number of students in such State who are enrolled in institutions described in section 230(b)(1)(A) plus the number of students who are estimated to be enrolled in and pursuing a degree or certificate that is not a bachelor's, master's, professional, or other advanced degree in institutions described in section 230(b)(1)(B), based on the proportion of degrees or certificates awarded by such institutions that are not bachelor's, master's, professional, or other advanced degrees, as reported to the Integrated Postsecondary Data System bears to the estimated total number of such students in all States, except that no State shall receive less than $2,500,000.

(C) REALLOCATION. Amounts not allocated under this section to a State because the State either did not submit an application under subsection (b), the State submitted an application that the Secretary determined did not meet the requirements of such subsection, or the State cannot demonstrate to the Secretary

a sufficient demand for projects to warrant the full allocation of the funds, shall be proportionately reallocated under this paragraph to the other States that have a demonstrated need for, and are receiving, allocations under this section.

(D) STATE ADMINISTRATION. A State that receives a grant under this section may use not more than one percent of that grant to administer it, except that no State may use more than $750,000 of its grant for this purpose.

(3) SUPPLEMENT, NOT SUPPLANT. Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to modernize, renovate, or repair existing community college facilities.

(b) APPLICATION. A State that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require. Such application shall include a description of—

(1) how the funds provided under this section will improve instruction at community colleges in the State and will improve the ability of those colleges to educate and train students to meet the workforce needs of employers in the State; and

(2) the projected start of each project and the estimated number of persons to be employed in the project.

(c) PROHIBITED USES OF FUNDS.

(1) IN GENERAL. No funds awarded under this section may be used for—

(i) payment of routine maintenance costs;

(ii) construction, modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(iii) construction, modernization, renovation, or repair of facilities—

(I) used for sectarian instruction, religious worship, or a school or department of divinity; or

(II) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

(2) FOUR-YEAR INSTITUTIONS. No funds awarded to a four-year public institution of higher education under this section may be used for any facility, service, or program of the institution that is not available to students who are pursuing a degree or certificate that is not a bachelor's, master's, professional, or other advanced degree.

(d) GREEN PROJECTS. In providing assistance to community college projects under this section, the State shall consider the extent to which a community college's project involves activities that are certified, verified, or consistent with the applicable provisions of—

(1) the LEED Green Building Rating System;

(2) Energy Star;

(3) the CHPS Criteria, as applicable;

(4) Green Globes; or

(5) an equivalent program adopted by the State or the State higher education agency that includes a verifiable method to demonstrate compliance with such program.

(e) APPLICATION OF GEPA. Section 439 of the General Education Provisions Act such Act (20 U.S.C. 1232b) shall apply to funds available under this subtitle.

(f) REPORTS BY THE STATES. Each State that receives a grant under this section shall, not later than September 30, 2012, and annually thereafter for each fiscal year in which the State expends funds received under this section, submit to the Secretary a report that includes—

(1) a description of the projects for which the grant was, or will be, used;

(2) a description of the amount and nature of the assistance provided to each community college under this section; and

(3) the number of jobs created by the projects funded under this section.

(g) REPORT BY THE SECRETARY. The Secretary shall submit to the authorizing committees (as defined in section 103 of the Higher Education Act of 1965; 20 U.S.C. 1003) an annual report on the grants made under this section, including the information described in subsection (f).

(h) AVAILABILITY OF FUNDS.

(1) There are authorized to be appropriated, and there are appropriated, to carry out this section (in addition to any other amounts appropriated to carry out this section and out of any money in the Treasury not otherwise appropriated), $5,000,000,000 for fiscal year 2012.

(2) Funds appropriated under this subsection shall be available for obligation by community colleges only during the period that ends 36 months after the date of enactment of this Act.

PART III – GENERAL PROVISIONS

SEC. 230. DEFINITIONS

(a) ESEA TERMS. Except as otherwise provided, in this subtitle, the terms "local educational agency", "Secretary", and "State educational agency" have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) ADDITIONAL DEFINITIONS. The following definitions apply to this title:

(1) COMMUNITY COLLEGE.— The term "community college" means—

(A) a junior or community college, as that term is defined in section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1058(f)); or

(B) a four-year public institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) that awards a significant number of degrees and certificates, as determined by the Secretary, that are not—

(i) bachelor's degrees (or an equivalent); or

(ii) master's, professional, or other advanced degrees.

(2) CHPS CRITERIA. The term "CHPS Criteria" means the green building rating program developed by the Collaborative for High Performance Schools.

(3) ENERGY STAR. The term "Energy Star" means the Energy Star program of the United States Department of Energy and the United States Environmental Protection Agency.

(4) GREEN GLOBES. The term "Green Globes" means the Green Building Initiative environmental design and rating system referred to as Green Globes.

(5) LEED GREEN BUILDING RATING SYSTEM. The term "LEED Green Building Rating System" means the United States Green Building Council Leadership in

Energy and Environmental Design green building rating standard referred to as the LEED Green Building Rating System.

(6) MODERNIZATION, RENOVATION, AND REPAIR. The term modernization, renovation and repair" means—

(A) comprehensive assessments of facilities to identify—

(i) facility conditions or deficiencies that could adversely affect student and staff health, safety, performance, or productivity or energy, water, or materials efficiency; and

(ii) needed facility improvements;

(B) repairing, replacing, or installing roofs (which may be extensive, intensive, or semi-intensive "green" roofs); electrical wiring; water supply and plumbing systems, sewage systems, storm water runoff systems, lighting systems (or components of such systems); or building envelope, windows, ceilings, flooring, or doors, including security doors;

(C) repairing, replacing, or installing heating, ventilation, or air conditioning systems, or components of those systems (including insulation), including by conducting indoor air quality assessments;

(D) compliance with fire, health, seismic, and safety codes, including professional installation of fire and life safety alarms, and modernizations, renovations, and repairs that ensure that facilities are prepared for such emergencies as acts of terrorism, campus violence, and natural disasters, such as improving building infrastructure to accommodate security measures and installing or upgrading technology to ensure that a school or incident is able to respond to such emergencies;

(E) making modifications necessary to make educational facilities accessible in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that such modifications shall not be the primary use of a grant or subgrant;

(F) abatement, removal, or interim controls of asbestos, polychlorinated biphenyls, mold, mildew, or lead-based hazards, including lead-based paint hazards;

(G) retrofitting necessary to increase energy efficiency;

(H) measures, such as selection and substitution of products and materials, and implementation of improved maintenance and operational procedures, such as "green cleaning" programs, to reduce or eliminate potential student or staff exposure to—

(i) volatile organic compounds;

(ii) particles such as dust and pollens; or

(iii) combustion gases;

(I) modernization, renovation, or repair necessary to reduce the consumption of coal, electricity, land, natural gas, oil, or water;

(J) installation or upgrading of educational technology infrastructure;

(K) installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet and

woody biomass), waste-to-energy, solar-thermal, and geothermal systems, and energy audits;

(L) modernization, renovation, or repair activities related to energy efficiency and renewable energy, and improvements to building infrastructures to accommodate bicycle and pedestrian access;

(M) Ground improvements, storm water management, landscaping and environmental clean-up when necessary;

(N) other modernization, renovation, or repair to—

(i) improve teachers' ability to teach and students' ability to learn;

(ii) ensure the health and safety of students and staff; or

(iii) improve classroom, laboratory, and vocational facilities in order to enhance the quality of science, technology, engineering, and mathematics instruction; and

(O) required environmental remediation related to facilities modernization, renovation, or repair activities described in subparagraphs (A) through (L).

(7) OUTLYING AREA. The term ‘‘outlying area’’ means the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(8) STATE. The term “State” means each of the 50 States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

SEC. 231. BUY AMERICAN.

Section 1605 of division A of the American Recovery and Reinvestment Act of 2009 (P.L. 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 Law111-117.

(B) One year following the date of apportionment, the Secretary shall withdraw from each recipient of funds apportioned under paragraph (4) any unobligated funds, and the Secretary shall redistribute such amounts to States that have had no funds withdrawn under this paragraph (excluding funds suballocated within the State) in the manner described in section 120(c) of division A of Public Law 111-117.

(C) At the request of a State, the Secretary may provide an extension of the one-year period only to the extent that the Secretary determines that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary notify in writing the Committee on Transportation and Infrastructure and the Committee on Environment and Public Works , providing a thorough justification for the extension.

(7) TRANSPORTATION ENHANCEMENTS.--Three percent of the funds apportioned to a State under paragraph (4) shall be set aside for the purposes described in section 133(d)(2) of title 23, United States Code (without regard to the comparison to fiscal year 2005).

(8) SUBALLOCATION.--Thirty percent of the funds apportioned to a State under this subsection shall be suballocated within the State in the manner and for the purposes described in the first sentence of sections 133(d)(3)(A), 133(d)(3)(B), and 133(d)(3)(D) of title 23, United States Code. Such suballocation shall be conducted in every State. Funds suballocated within a State to urbanized areas and other areas shall not be subject to the redistribution of amounts required 180 days following the date of apportionment of funds provided by paragraph (6)(A).

(9) PUERTO RICO AND TERRITORIAL HIGHWAY PROGRAMS.--Of the funds provided under this subsection, $105,000,000 shall be set aside for the Puerto Rico highway program authorized under section 165 of title 23, United States Code, and $45,000,000 shall be for the territorial highway program authorized under section 215 of title 23, United States Code.

(10) FEDERAL LANDS AND INDIAN RESERVATIONS.--Of the funds provided under this subsection, $550,000,000 shall be set aside for investments in transportation at Indian reservations and Federal lands in accordance with the following:.

(A) Of the funds set aside by this paragraph, $310,000,000 shall be for the Indian Reservation Roads program, $170,000,000 shall be for the Park Roads and Parkways program, $60,000,000 shall be for the Forest Highway Program, and $10,000,000 shall be for the Refuge Roads program.

(B) For investments at Indian reservations and Federal lands, priority shall be given to capital investments, and to projects and activities that can be completed within 2 years of enactment of this Act.

(C) One year following the enactment of this Act, to ensure the prompt use of the funding provided for investments at Indian reservations and Federal lands, the Secretary shall have the authority to redistribute unobligated funds within the respective program for which the funds were appropriated.

(D) Up to four percent of the funding provided for Indian Reservation Roads may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(E) Section 134(f)(3)(C)(ii)(II) of title 23, United States Code, shall not apply to funds set aside by this paragraph.

(11) JOB TRAINING.--Of the funds provided under this subsection, $50,000,000 shall be set aside for the development and administration of transportation training programs under section 140(b) title 23, United States Code.

(A) Funds set aside under this subsection shall be competitively awarded and used for the purpose of providing training, apprenticeship (including Registered Apprenticeship), skill development, and skill improvement programs, as well as summer transportation institutes and may be transferred to, or administered in partnership with, the Secretary of Labor and shall demonstrate to the Secretary of Transportation program outcomes, including—

(i) Impact on areas with transportation workforce shortages;

(ii) Diversity of training participants;

(iii) Number of participants obtaining certifications or credentials required for specific types of employment;

(iv) Employment outcome metrics, such as job placement and job retention rates, established in consultation with the Secretary of Labor and consistent with metrics used by programs under the Workforce Investment Act;

(v) To the extent practical, evidence that the program did not preclude workers that participate in training or apprenticeship activities under the program from being referred to, or hired on, projects funded under this chapter; and

(vi) Identification of areas of collaboration with the Department of Labor programs, including co-enrollment.

(B) To be eligible to receive a competitively awarded grant under this subsection, a State must certify that at least 0.1 percent of the amounts apportioned under the Surface Transportation Program and Bridge Program will be obligated in the first fiscal year after enactment of this act for job training activities consistent with section 140(b) of title 23, United States Code.

(12) DISADVANTAGED BUSINESS ENTERPRISES.--Of the funds provided under this subsection, $10,000,000 shall be set aside for training programs and assistance programs under section 140(c) of title 23, United States Code. Funds set aside under this paragraph should be allocated to businesses that have proven success in adding staff while effectively completing projects.

(13) STATE PLANNING AND OVERSIGHT EXPENSES.--Of amounts apportioned under paragraph (4) of this subsection, a State may use up to 0.5 percent for activities related to projects funded under this subsection, including activities eligible under sections 134 and 135 of title 23, United States Code, State administration of subgrants, and State oversight of subrecipients.

(14) CONDITIONS.--

(A) Funds made available under this subsection shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds

made available for investments in transportation at Indian reservations and Federal lands, and for the territorial highway program, which shall be administered in accordance with chapter 2 of title 23, United States Code, and except for funds made available for disadvantaged business enterprises bonding assistance, which shall be administered in accordance with chapter 3 of title 49, United States Code.

(B) Funds made available under this subsection shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code.

(C) Funding provided under this subsection shall be in addition to any and all funds provided for fiscal years 2011 and 2012 in any other Act for "Federal-aid Highways" and shall not affect the distribution of funds provided for "Federal-aid Highways" in any other Act.

(D) Section 1101(b) of Public Law 109-59 shall apply to funds apportioned under this subsection.

(15) OVERSIGHT.--The Administrator of the Federal Highway Administration may set aside up to 0.15 percent of the funds provided under this subsection to fund the oversight by the Administrator of projects and activities carried out with funds made available to the Federal Highway Administration in this Act, and such funds shall be available through September 30, 2015.

(d) CAPITAL ASSISTANCE FOR HIGH SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE.--

(1) IN GENERAL.--There is made available to the Secretary of Transportation $4,000,000,000 for grants for high-speed rail projects as authorized under sections 26104 and 26106 of title 49, United States Code, capital investment grants to support intercity passenger rail service as authorized under section 24406 of title 49, United States Code, and congestion grants as authorized under section 24105 of title 49, United States Code, and to enter into cooperative agreements for these purposes as authorized, except that the Administrator of the Federal Railroad Administration may retain up to one percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this subsection, which retained amount shall remain available for obligation until September 30, 2015.

(2) AVAILABILITY.— The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(3) FEDERAL SHARE.--The Federal share payable of the costs for which a grant or cooperative agreements is made under this subsection shall be, at the option of the recipient, up to 100 percent.

(4) INTERIM GUIDANCE.--The Secretary shall issue interim guidance to applicants covering application procedures and administer the grants provided under this subsection pursuant to that guidance until final regulations are issued.

(5) INTERCITY PASSENGER RAIL CORRIDORS.--Not less than 85 percent of the funds provided under this subsection shall be for cooperative agreements that lead to the development of entire segments or phases of intercity or high-speed rail corridors.

(6) CONDITIONS.—

(A) In addition to the provisions of title 49, United States Code, that apply to each of the individual programs funded under this subsection, subsections 24402(a)(2), 24402(i), and 24403(a) and (c) of title 49, United States Code, shall also apply to the provision of funds provided under this subsection.

(B) A project need not be in a State rail plan developed under Chapter 227 of title 49, United States Code, to be eligible for assistance under this subsection.

(C) Recipients of grants under this paragraph shall conduct all procurement transactions using such grant funds in a manner that provides full and open competition, as determined by the Secretary, in compliance with existing labor agreements.

(e) CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION.--

(1) IN GENERAL.-- There is made available $2,000,000,000 to enable the Secretary of Transportation to make capital grants to the National Railroad Passenger Corporation (Amtrak), as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432).

(2) AVAILABILITY.--The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(3) PROJECT PRIORITY.-- The priority for the use of funds shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure, and for capital projects that expand passenger rail capacity including the rehabilitation of rolling stock.

(4) CONDITIONS.—

(A) None of the funds under this subsection shall be used to subsidize the operating losses of Amtrak.

(B) The funds provided under this subsection shall be awarded not later than 90 days after the date of enactment of this Act.

(C) The Secretary shall take measures to ensure that projects funded under this subsection shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources. The Secretary shall certify to the House and Senate Committees on Appropriations in writing compliance with the preceding sentence.

(5) OVERSIGHT.--The Administrator of the Federal Railroad Administration may set aside 0.5 percent of the funds provided under this subsection to fund the oversight by the Administrator of projects and activities carried out with funds made available in this subsection, and such funds shall be available through September 30, 2015.

(f) TRANSIT CAPITAL ASSISTANCE.--

(1) IN GENERAL.-- There is made available to the Secretary of Transportation $3,000,000,000 for grants for transit capital assistance grants as defined by section 5302(a)(1) of title 49, United States Code. Notwithstanding any provision of chapter 53 of title 49, however, a recipient of funding under this subsection may use up to 10 percent

of the amount provided for the operating costs of equipment and facilities for use in public transportation or for other eligible activities.

(2) FEDERAL SHARE; LIMTATION ON OBLIGATIONS.--The applicable requirements of chapter 53 of title 49, United States Code, shall apply to funding provided under this subsection, except that the Federal share of the costs for which any grant is made under this subsection shall be, at the option of the recipient, up to 100 percent. The amount made available under this subsection shall not be subject to any limitation on obligations for transit programs set forth in any Act or chapter 53 of title 49.

(3) AVAILABILITY.--The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) DISTRIBUTION OF FUNDS.--The Secretary of Transportation shall--

(A) Provide 80 percent of the funds appropriated under this subsection for grants under section 5307 of title 49, United States Code, and apportion such funds in accordance with section 5336 of such title;

(B) Provide 10 percent of the funds appropriated under this subsection in accordance with section 5340 of such title; and

(C) Provide 10 percent of the funds appropriated under this subsection for grants under section 5311 of title 49, United States Code, and apportion such funds in accordance with such section.

(5) APPORTIONMENT.--The funds apportioned under this subsection shall be apportioned not later than 21 days after the date of the enactment of this Act.

(6) REDISTRIBUTION.--

(A) The Secretary shall, 180 days following the date of apportionment, withdraw from each urbanized area or State an amount equal to 50 percent of the funds apportioned to such urbanized areas or States less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method he deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly.

(B) One year following the date of apportionment, the Secretary shall withdraw from each urbanized area or State any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas or States that have had no funds withdrawn under this proviso utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this proviso shall be utilized promptly.

(C) At the request of an urbanized area or State, the Secretary of Transportation may provide an extension of such 1-year period if the Secretary determines that the urbanized area or State has encountered an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary shall notify in writing the Committee on Transportation and Infrastructure and the Committee on Banking, Housing and Urban Affairs, providing a thorough justification for the extension.

(7) CONDITIONS.—

(A) Of the funds provided for section 5311 of title 49, United States Code, 2.5 percent shall be made available for section 5311(c)(1).

(B) Section 1101(b) of Public Law 109-59 shall apply to funds appropriated under this subsection.

(C) The funds appropriated under this subsection shall not be comingled with any prior year funds.

(8) OVERSIGHT.--Notwithstanding any other provision of law, 0.3 percent of the funds provided for grants under section 5307 and section 5340, and 0.3 percent of the funds provided for grants under section 5311, shall be available for administrative expenses and program management oversight, and such funds shall be available through September 30, 2015.

(g) STATE OF GOOD REPAIR.--

(1) IN GENERAL.--There is made available to the Secretary of Transportation $6,000,000,000 for capital expenditures as authorized by sections 5309(b)(2) and (3) of title 49, United States Code.

(2) FEDERAL SHARE.--The applicable requirements of chapter 53 of Title 49, United States Code, shall apply, except that the Federal share of the costs for which a grant is made under this subsection shall be, at the option of the recipient, up to 100 percent.

(3) AVAILABILITY.--The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) DISTRIBUTION OF FUNDS.—

(A) The Secretary of Transportation shall apportion not less than 75 percent of the funds under this subsection for the modernization of fixed guideway systems, pursuant to the formula set forth in section 5336(b) title 49, United States Code, other than subsection (b)(2)(A)(ii).

(B) Of the funds appropriated under this subsection, not less than 25 percent shall be available for the restoration or replacement of existing public transportation assets related to bus systems, pursuant to the formula set forth in section 5336 other than subsection (b).

(5) APPORTIONMENT.--The funds made available under this subsection shall be apportioned not later than 30 days after the date of the enactment of this Act.

(6) REDISTRIBUTION.--

(A) The Secretary shall, 180 days following the date of apportionment, withdraw from each urbanized area an amount equal to 50 percent of the funds apportioned to such urbanized area less the amount of funding obligated, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds withdrawn under this paragraph utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this paragraph shall be utilized promptly:

(B) One year following the date of apportionment, the Secretary shall withdraw from each urbanized area any unobligated funds, and the Secretary shall redistribute such amounts to other urbanized areas that have had no funds

withdrawn under this paragraph, utilizing whatever method the Secretary deems appropriate to ensure that all funds redistributed under this paragraph shall be utilized promptly:

(C) At the request of an urbanized area, the Secretary may provide an extension of the 1-year period if the Secretary finds that the urbanized area has encountered an unworkable bidding environment or other extenuating circumstances. Before granting an extension, the Secretary shall notify the Committee on Transportation and Infrastructure and the Committee on Banking, Housing, and Urban Affairs, providing a thorough justification for the extension.

(7) CONDITIONS.—

(A) The provisions of section 1101(b) of Public Law 109-59 shall apply to funds made available under this subsection.

(B) The funds appropriated under this subsection shall not be commingled with any prior year funds.

(8) OVERSIGHT.--Notwithstanding any other provision of law, 0.3 percent of the funds under this subsection shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2015.

(h) TRANSPORTATION INFRASTRUCTURE GRANTS AND FINANCING.—

(1) IN GENERAL.--There is made available to the Secretary of Transportation $5,000,000,000 for capital investments in surface transportation infrastructure. The Secretary shall distribute funds provided under this subsection as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region.

(2) FEDERAL SHARE; LIMTATION ON OBLIGATIONS.--The Federal share payable of the costs for which a grant is made under this subsection, shall be 100 percent.

(3) AVAILABILITY.--The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this Act. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of enactment and obligate remaining amounts not later than two years after enactment.

(4) PROJECT ELIGIBILITY.--Projects eligible for funding provided under this subsection include--

(A) highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments;

(B) public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service;

(C) passenger and freight rail transportation projects; and

(D) port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.

(5) TIFIA PROGRAM.--The Secretary may transfer to the Federal Highway Administration funds made available under this subsection for the purpose of paying the

subsidy and administrative costs of projects eligible for federal credit assistance under chapter 6 of title 23, United States Code, if the Secretary finds that such use of the funds would advance the purposes of this subsection.

(6) PROJECT PRIORITY.--The Secretary shall give priority to projects that are expected to be completed within 3 years of the date of the enactment of this Act.

(7) DEADLINE FOR ISSUANCE OF COMPETITION CRITERIA.--The Secretary shall publish criteria on which to base the competition for any grants awarded under this subsection not later than 90 days after enactment of this Act. The Secretary shall require applications for funding provided under this subsection to be submitted not later than 180 days after the publication of the criteria, and announce all projects selected to be funded from such funds not later than 1 year after the date of the enactment of the Act.

(8) APPLICABILITY OF TITLE 40.--Each project conducted using funds provided under this subsection shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

(9) ADMINISTRATIVE EXPENSES.--The Secretary may retain up to one half of one percent of the funds provided under this subsection, and may transfer portions of those funds to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration, to fund the award and oversight of grants made under this subsection. Funds retained shall remain available for obligation until September 30, 2015.

(i) LOCAL HIRING.--

(1) IN GENERAL.--In the case of the funding made available under subsections (a) through (h) of this section, the Secretary of Transportation may establish standards under which a contract for construction may be advertised that contains requirements for the employment of individuals residing in or adjacent to any of the areas in which the work is to be performed to perform construction work required under the contract, provided that--

(A) all or part of the construction work performed under the contract occurs in an area designated by the Secretary as an area of high unemployment, using data reported by the United States Department of Labor, Bureau of Labor Statistics;

(B) the estimated cost of the project of which the contract is a part is greater than $10 million, except that the estimated cost of the project in the case of construction funded under subsection (c) shall be greater than $50 million; and

(C) the recipient may not require the hiring of individuals who do not have the necessary skills to perform work in any craft or trade; provided that the recipient may require the hiring of such individuals if the recipient establishes reasonable provisions to train such individuals to perform any such work under the contract effectively.

(2) PROJECT STANDARDS.--

(A) IN GENERAL.--Any standards established by the Secretary under this section shall ensure that any requirements specified under subsection (c)(1) --

(i) do not compromise the quality of the project;

(ii) are reasonable in scope and application;

(iii) do not unreasonably delay the completion of the project; and

(iv) do not unreasonably increase the cost of the project;

(B) AVAILABLE PROGRAMS.--The Secretary shall make available to recipients the workforce development and training programs set forth in section 24604(e)(1)(D) of this title to assist recipients who wish to establish training programs that satisfy the provisions of section (c)(1)(C). The Secretary of Labor shall make available its qualifying workforce and training development programs to recipients who wish to establish training programs that satisfy the provisions of section (c)(1)(C).

(3) IMPLEMENTING REGULATIONS.--The Secretary shall promulgate final regulations to implement the authority of this subsection.

(j) ADMINISTRATIVE PROVISIONS. –

(1) APPLICABILITY OF TITLE 40.--Each project conducted using funds provided under this subtitle shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

(2) BUY AMERICAN. -- Section 1605 of division A of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) applies to each project conducted using funds provided under this subtitle.

SUBTITLE F -- BUILDING AND UPGRADING INFRASTRUCTURE FOR LONG-TERM DEVELOPMENT

SEC. 242. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This subtitle may be cited as the "Building and Upgrading Infrastructure for Long-Term Development Act".

SEC. 243. FINDINGS AND PURPOSE.

(a) Findings- Congress finds that--

(1) infrastructure has always been a vital element of the economic strength of the United States and a key indicator of the international leadership of the United States;

(2) the Erie Canal, the Hoover Dam, the railroads, and the interstate highway system are all testaments to American ingenuity and have helped propel and maintain the United States as the world's largest economy;

(3) according to the World Economic Forum's Global Competitiveness Report, the United States fell to second place in 2009, and dropped to fourth place overall in 2010, however, in the `Quality of overall infrastructure' category of the same report, the United States ranked twenty-third in the world;

(4) according to the World Bank's 2010 Logistic Performance Index, the capacity of countries to efficiently move goods and connect manufacturers and consumers with international markets is improving around the world, and the United States now ranks seventh in the world in logistics-related infrastructure behind countries from both Europe and Asia;

(5) according to a January 2009 report from the University of Massachusetts/Alliance for American Manufacturing entitled `Employment, Productivity and Growth,' infrastructure investment is a `highly effective engine of job creation';

(6) according to the American Society of Civil Engineers, the current condition of the infrastructure in the United States earns a grade point average of D, and an estimated $2,200,000,000,000 investment is needed over the next 5 years to bring American infrastructure up to adequate condition;

(7) according to the National Surface Transportation Policy and Revenue Study Commission, $225,000,000,000 is needed annually from all sources for the next 50 years to upgrade the United States surface transportation system to a state of good repair and create a more advanced system;

(8) the current infrastructure financing mechanisms of the United States, both on the Federal and State level, will fail to meet current and foreseeable demands and will create large funding gaps;

(9) published reports state that there may not be enough demand for municipal bonds to maintain the same level of borrowing at the same rates, resulting in significantly decreased infrastructure investment at the State and local level;

(10) current funding mechanisms are not readily scalable and do not--

(A) serve large in-State or cross jurisdiction infrastructure projects, projects of regional or national significance, or projects that cross sector silos;

(B) sufficiently catalyze private sector investment; or

(C) ensure the optimal return on public resources;

(11) although grant programs of the United States Government must continue to play a central role in financing the transportation, environment, and energy infrastructure needs of the United States, current and foreseeable demands on existing Federal, State, and local funding for infrastructure expansion clearly exceed the resources to support these programs by margins wide enough to prompt serious concerns about the United States ability to sustain long-term economic development, productivity, and international competitiveness;

(12) the capital markets, including pension funds, private equity funds, mutual funds, sovereign wealth funds, and other investors, have a growing interest in infrastructure investment and represent hundreds of billions of dollars of potential investment; and

(13) the establishment of a United States Government-owned, independent, professionally managed institution that could provide credit support to qualified infrastructure projects of regional and national significance, making transparent merit-based investment decisions based on the commercial viability of infrastructure projects, would catalyze the participation of significant private investment capital.

(b) Purpose- The purpose of this Act is to facilitate investment in, and long-term financing of, economically viable infrastructure projects of regional or national significance in a manner that both complements existing Federal, State, local, and private funding sources for these projects and introduces a merit-based system for financing such projects, in order to mobilize significant private sector investment, create jobs, and ensure United States competitiveness through an institution that limits the need for ongoing Federal funding.

SEC. 244. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AIFA- The term `AIFA' means the American Infrastructure Financing Authority established under this Act.

(2) BLIND TRUST- The term `blind trust' means a trust in which the beneficiary has no knowledge of the specific holdings and no rights over how those holdings are managed by the fiduciary of the trust prior to the dissolution of the trust.

(3) BOARD OF DIRECTORS- The term `Board of Directors' means Board of Directors of AIFA.

(4) CHAIRPERSON- The term `Chairperson' means the Chairperson of the Board of Directors of AIFA.

(5) CHIEF EXECUTIVE OFFICER- The term `chief executive officer' means the chief executive officer of AIFA, appointed under section 247.

(6) COST- The term `cost' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) DIRECT LOAN- The term `direct loan' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(8) ELIGIBLE ENTITY- The term `eligible entity' means an individual, corporation, partnership (including a public-private partnership), joint venture, trust, State, or other non-Federal governmental entity, including a political subdivision or any other instrumentality of a State, or a revolving fund.

(9) INFRASTRUCTURE PROJECT-

(A) IN GENERAL- The term `eligible infrastructure project' means any non-Federal transportation, water, or energy infrastructure project, or an aggregation of such infrastructure projects, as provided in this Act.

(B) TRANSPORTATION INFRASTRUCTURE PROJECT- The term `transportation infrastructure project' means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors:

(i) Highway or road.
(ii) Bridge.
(iii) Mass transit.
(iv) Inland waterways.
(v) Commercial ports.
(vi) Airports.
(vii) Air traffic control systems.
(viii) Passenger rail, including high-speed rail.
(ix) Freight rail systems.

(C) WATER INFRASTRUCTURE PROJECT- The term `water infrastructure project' means the construction, consolidation, alteration, or repair of the following subsectors:

(i) Waterwaste treatment facility.
(ii) Storm water management system.
(iii) Dam.
(iv) Solid waste disposal facility.
(v) Drinking water treatment facility.
(vi) Levee.
(vii) Open space management system.

(D) ENERGY INFRASTRUCTURE PROJECT- The term `energy infrastructure project' means the construction, alteration, or repair of the following subsectors:

(i) Pollution reduced energy generation.

(ii) Transmission and distribution.

(iii) Storage.

(iv) Energy efficiency enhancements for buildings, including public and commercial buildings.

(E) BOARD AUTHORITY TO MODIFY SUBSECTORS- The Board of Directors may make modifications, at the discretion of the Board, to the subsectors described in this paragraph by a vote of not fewer than 5 of the voting members of the Board of Directors.

(10) INVESTMENT PROSPECTUS-.

(A) The term 'investment prospectus' means the processes and publications described below that will guide the priorities and strategic focus for the Bank's investments. The investment prospectus shall follow rulemaking procedures under section 553 of title 5, United States Code.

(B) The Bank shall publish a detailed description of its strategy in an Investment Prospectus within one year of the enactment of this subchapter. The Investment Prospectus shall--

(i) specify what the Bank shall consider significant to the economic competitiveness of the United States or a region thereof in a manner consistent with the primary objective;

(ii) specify the priorities and strategic focus of the Bank in forwarding its strategic objectives and carrying out the Bank strategy;

(iii) specify the priorities and strategic focus of the Bank in promoting greater efficiency in the movement of freight;

(iv) specify the priorities and strategic focus of the Bank in promoting the use of innovation and best practices in the planning, design, development and delivery of projects;

(v) describe in detail the framework and methodology for calculating application qualification scores and associated ranges as specified in this subchapter, along with the data to be requested from applicants and the mechanics of calculations to be applied to that data to determine qualification scores and ranges;

(vi) describe how selection criteria will be applied by the Chief Executive Officer in determining the competitiveness of an application and its qualification score and range relative to other current applications and previously funded applications; and

(vii) describe how the qualification score and range methodology and project selection framework are consistent with maximizing the Bank goals in both urban and rural areas.

(C) The Investment Prospectus and any subsequent updates thereto shall be approved by a majority vote of the Board of Directors prior to publication.

(D) The Bank shall update the Investment Prospectus on every biennial anniversary of its original publication.

(11) INVESTMENT-GRADE RATING- The term `investment-grade rating' means a rating of BBB minus, Baa3, or higher assigned to an infrastructure project by a ratings agency.

(12) LOAN GUARANTEE- The term `loan guarantee' has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(13) PUBLIC-PRIVATE PARTNERSHIP- The term `public-private partnership' means any eligible entity--

(A)(i) which is undertaking the development of all or part of an infrastructure project that will have a public benefit, pursuant to requirements established in one or more contracts between the entity and a State or an instrumentality of a State; or

(ii) the activities of which, with respect to such an infrastructure project, are subject to regulation by a State or any instrumentality of a State;

(B) which owns, leases, or operates or will own, lease, or operate, the project in whole or in part; and

(C) the participants in which include not fewer than 1 nongovernmental entity with significant investment and some control over the project or project vehicle.

(14) RURAL INFRASTRUCTURE PROJECT- The term `rural infrastructure project' means an infrastructure project in a rural area, as that term is defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)).

(15) SECRETARY- Unless the context otherwise requires, the term `Secretary' means the Secretary of the Treasury or the designee thereof.

(16) SENIOR MANAGEMENT- The term `senior management' means the chief financial officer, chief risk officer, chief compliance officer, general counsel, chief lending officer, and chief operations officer of AIFA established under section 249, and such other officers as the Board of Directors may, by majority vote, add to senior management.

(17) STATE- The term `State' includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of Northern Mariana Islands, and any other territory of the United States.

PART I--AMERICAN INFRASTRUCTURE FINANCING AUTHORITY

SEC. 245. ESTABLISHMENT AND GENERAL AUTHORITY OF AIFA.

(a) Establishment of AIFA- The American Infrastructure Financing Authority is established as a wholly owned Government corporation.

(b) General Authority of AIFA- AIFA shall provide direct loans and loan guarantees to facilitate infrastructure projects that are both economically viable and of regional or national significance, and shall have such other authority, as provided in this Act.

(c) Incorporation-

(1) IN GENERAL- The Board of Directors first appointed shall be deemed the incorporator of AIFA, and the incorporation shall be held to have been effected from the date of the first meeting of the Board of Directors.

(2) CORPORATE OFFICE- AIFA shall--

(A) maintain an office in Washington, DC; and

(B) for purposes of venue in civil actions, be considered to be a resident of Washington, DC.

(d) Responsibility of the Secretary- The Secretary shall take such action as may be necessary to assist in implementing AIFA, and in carrying out the purpose of this Act.

(e) Rule of Construction- Chapter 91 of title 31, United States Code, does not apply to AIFA, unless otherwise specifically provided in this Act.

SEC. 246. VOTING MEMBERS OF THE BOARD OF DIRECTORS.

(a) Voting Membership of the Board of Directors-

(1) IN GENERAL- AIFA shall have a Board of Directors consisting of 7 voting members appointed by the President, by and with the advice and consent of the Senate, not more than 4 of whom shall be from the same political party.

(2) CHAIRPERSON- One of the voting members of the Board of Directors shall be designated by the President to serve as Chairperson thereof.

(3) CONGRESSIONAL RECOMMENDATIONS- Not later than 30 days after the date of enactment of this Act, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall each submit a recommendation to the President for appointment of a member of the Board of Directors, after consultation with the appropriate committees of Congress.

(b) Voting Rights- Each voting member of the Board of Directors shall have an equal vote in all decisions of the Board of Directors.

(c) Qualifications of Voting Members- Each voting member of the Board of Directors shall--

(1) be a citizen of the United States; and

(2) have significant demonstrated expertise in--

(A) the management and administration of a financial institution relevant to the operation of AIFA; or a public financial agency or authority; or

(B) the financing, development, or operation of infrastructure projects; or

(C) analyzing the economic benefits of infrastructure investment.

(d) Terms-

(1) IN GENERAL- Except as otherwise provided in this Act, each voting member of the Board of Directors shall be appointed for a term of 4 years.

(2) INITIAL STAGGERED TERMS- Of the voting members first appointed to the Board of Directors--

(A) the initial Chairperson and 3 of the other voting members shall each be appointed for a term of 4 years; and

(B) the remaining 3 voting members shall each be appointed for a term of 2 years.

(3) DATE OF INITIAL NOMINATIONS- The initial nominations for the appointment of all voting members of the Board of Directors shall be made not later than 60 days after the date of enactment of this Act.

(4) BEGINNING OF TERM- The term of each of the initial voting members appointed under this section shall commence immediately upon the date of appointment, except that, for purposes of calculating the term limits specified in this subsection, the initial terms shall each be construed as beginning on January 22 of the year following the date of the initial appointment.

(5) VACANCIES- A vacancy in the position of a voting member of the Board of Directors shall be filled by the President, and a member appointed to fill a vacancy on the Board of Directors occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(e) Meetings-

(1) OPEN TO THE PUBLIC; NOTICE- Except as provided in paragraph (3), all meetings of the Board of Directors shall be--

(A) open to the public; and

(B) preceded by reasonable public notice.

(2) FREQUENCY- The Board of Directors shall meet not later than 60 days after the date on which all members of the Board of Directors are first appointed, at least quarterly thereafter, and otherwise at the call of either the Chairperson or 5 voting members of the Board of Directors.

(3) EXCEPTION FOR CLOSED MEETINGS- The voting members of the Board of Directors may, by majority vote, close a meeting to the public if, during the meeting to be closed, there is likely to be disclosed proprietary or sensitive information regarding an infrastructure project under consideration for assistance under this Act. The Board of Directors shall prepare minutes of any meeting that is closed to the public, and shall make such minutes available as soon as practicable, not later than 1 year after the date of the closed meeting, with any necessary redactions to protect any proprietary or sensitive information.

(4) QUORUM- For purposes of meetings of the Board of Directors, 5 voting members of the Board of Directors shall constitute a quorum.

(f) Compensation of Members- Each voting member of the Board of Directors shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board of Directors.

(g) Conflicts of Interest- A voting member of the Board of Directors may not participate in any review or decision affecting an infrastructure project under consideration for assistance under this Act, if the member has or is affiliated with an entity who has a financial interest in such project.

SEC. 247. CHIEF EXECUTIVE OFFICER OF AIFA.

(a) In General- The chief executive officer of AIFA shall be a nonvoting member of the Board of Directors, who shall be responsible for all activities of AIFA, and shall support the

Board of Directors as set forth in this Act and as the Board of Directors deems necessary or appropriate.

(b) Appointment and Tenure of the Chief Executive Officer-

(1) IN GENERAL- The President shall appoint the chief executive officer, by and with the advice and consent of the Senate.

(2) TERM- The chief executive officer shall be appointed for a term of 6 years.

(3) VACANCIES- Any vacancy in the office of the chief executive officer shall be filled by the President, and the person appointed to fill a vacancy in that position occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(c) Qualifications- The chief executive officer--

(1) shall have significant expertise in management and administration of a financial institution, or significant expertise in the financing and development of infrastructure projects, or significant expertise in analyzing the economic benefits of infrastructure investment ; and

(2) may not--

(A) hold any other public office;

(B) have any financial interest in an infrastructure project then being considered by the Board of Directors, unless that interest is placed in a blind trust; or

(C) have any financial interest in an investment institution or its affiliates or any other entity seeking or likely to seek financial assistance for any infrastructure project from AIFA, unless any such interest is placed in a blind trust for the tenure of the service of the chief executive officer plus 2 additional years.

(d) Responsibilities- The chief executive officer shall have such executive functions, powers, and duties as may be prescribed by this Act, the bylaws of AIFA, or the Board of Directors, including--

(1) responsibility for the development and implementation of the strategy of AIFA, including--

(A) the development and submission to the Board of Directors of the investment prospectus, the annual business plans and budget;

(B) the development and submission to the Board of Directors of a long-term strategic plan; and

(C) the development, revision, and submission to the Board of Directors of internal policies; and

(2) responsibility for the management and oversight of the daily activities, decisions, operations, and personnel of AIFA, including--

(A) the appointment of senior management, subject to approval by the voting members of the Board of Directors, and the hiring and termination of all other AIFA personnel;

(B) requesting the detail, on a reimbursable basis, of personnel from any Federal agency having specific expertise not available from within AIFA, following which request the head of the Federal agency may detail, on a reimbursable basis, any personnel of such agency reasonably requested by the chief executive officer;

(C) assessing and recommending in the first instance, for ultimate approval or disapproval by the Board of Directors, compensation and adjustments to compensation of senior management and other personnel of AIFA as may be necessary for carrying out the functions of AIFA;

(D) ensuring, in conjunction with the general counsel of AIFA, that all activities of AIFA are carried out in compliance with applicable law;

(E) overseeing the involvement of AIFA in all projects, including--

(i) developing eligible projects for AIFA financial assistance;

(ii) determining the terms and conditions of all financial assistance packages;

(iii) monitoring all infrastructure projects assisted by AIFA, including responsibility for ensuring that the proceeds of any loan made, guaranteed, or participated in are used only for the purposes for which the loan or guarantee was made;

(iv) preparing and submitting for approval by the Board of Directors the documents required under paragraph (1); and

(v) ensuring the implementation of decisions of the Board of Directors; and

(F) such other activities as may be necessary or appropriate in carrying out this Act.

(e) Compensation-

(1) IN GENERAL- Any compensation assessment or recommendation by the chief executive officer under this section shall be without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

(2) CONSIDERATIONS- The compensation assessment or recommendation required under this subsection shall take into account merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel.

SEC. 248. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors shall--

(1) as soon as is practicable after the date on which all members are appointed, approve or disapprove senior management appointed by the chief executive officer;

(2) not later than 180 days after the date on which all members are appointed--

(A) develop and approve the bylaws of AIFA, including bylaws for the regulation of the affairs and conduct of the business of AIFA, consistent with the purpose, goals, objectives, and policies set forth in this Act;

(B) establish subcommittees, including an audit committee that is composed solely of members of the Board of Directors who are independent of the senior management of AIFA;

(C) develop and approve, in consultation with senior management, a conflict-of-interest policy for the Board of Directors and for senior management;

(D) approve or disapprove internal policies that the chief executive officer shall submit to the Board of Directors, including--

(i) policies regarding the loan application and approval process, including--

(I) disclosure and application procedures to be followed by entities in the course of nominating infrastructure projects for assistance under this Act;

(II) guidelines for the selection and approval of projects;

(III) specific criteria for determining eligibility for project selection, consistent with title II; and

(IV) standardized terms and conditions, fee schedules, or legal requirements of a contract or program, so as to carry out this Act; and

(ii) operational guidelines; and

(E) approve or disapprove a multi-year or 1-year business plan and budget for AIFA;

(3) ensure that AIFA is at all times operated in a manner that is consistent with this Act, by--

(A) monitoring and assessing the effectiveness of AIFA in achieving its strategic goals;

(B) periodically reviewing internal policies;

(C) reviewing and approving annual business plans, annual budgets, and long-term strategies submitted by the chief executive officer;

(D) reviewing and approving annual reports submitted by the chief executive officer;

(E) engaging one or more external auditors, as set forth in this Act; and

(F) reviewing and approving all changes to the organization of senior management;

(4) appoint and fix, by a vote of 5 of the 7 voting members of the Board of Directors, and without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United Sates Code, the compensation and adjustments to compensation of all AIFA personnel, provided that in appointing and fixing any compensation or adjustments to compensation under this paragraph, the Board shall--

(A) consult with, and seek to maintain comparability with, other comparable Federal personnel;

(B) consult with the Office of Personnel Management; and

(C) carry out such duties consistent with merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel;

(5) establish such other criteria, requirements, or procedures as the Board of Directors may consider to be appropriate in carrying out this Act;

(6) serve as the primary liaison for AIFA in interactions with Congress, the Executive Branch, and State and local governments, and to represent the interests of AIFA in such interactions and others;

(7) approve by a vote of 5 of the 7 voting members of the Board of Directors any changes to the bylaws or internal policies of AIFA;

(8) have the authority and responsibility--

(A) to oversee entering into and carry out such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out this Act with--

(i) any Federal department or agency;

(ii) any State, territory, or possession (or any political subdivision thereof, including State infrastructure banks) of the United States; and

(iii) any individual, public-private partnership, firm, association, or corporation;

(B) to approve of the acquisition, lease, pledge, exchange, and disposal of real and personal property by AIFA and otherwise approve the exercise by AIFA of all of the usual incidents of ownership of property, to the extent that the exercise of such powers is appropriate to and consistent with the purposes of AIFA;

(C) to determine the character of, and the necessity for, the obligations and expenditures of AIFA, and the manner in which the obligations and expenditures will be incurred, allowed, and paid, subject to this Act and other Federal law specifically applicable to wholly owned Federal corporations;

(D) to execute, in accordance with applicable bylaws and regulations, appropriate instruments;

(E) to approve other forms of credit enhancement that AIFA may provide to eligible projects, as long as the forms of credit enhancements are consistent with the purposes of this Act and terms set forth in title II;

(F) to exercise all other lawful powers which are necessary or appropriate to carry out, and are consistent with, the purposes of AIFA;

(G) to sue or be sued in the corporate capacity of AIFA in any court of competent jurisdiction;

(H) to indemnify the members of the Board of Directors and officers of AIFA for any liabilities arising out of the actions of the members and officers in such capacity, in accordance with, and subject to the limitations contained in this Act;

(I) to review all financial assistance packages to all eligible infrastructure projects, as submitted by the chief executive officer and to approve, postpone, or deny the same by majority vote;

(J) to review all restructuring proposals submitted by the chief executive officer, including assignation, pledging, or disposal of the interest of AIFA in a project, including payment or income from any interest owned or held by AIFA, and to approve, postpone, or deny the same by majority vote; and

(K) to enter into binding commitments, as specified in approved financial assistance packages;

(9) delegate to the chief executive officer those duties that the Board of Directors deems appropriate, to better carry out the powers and purposes of the Board of Directors under this section; and

(10) to approve a maximum aggregate amount of outstanding obligations of AIFA at any given time, taking into consideration funding, and the size of AIFA's addressable market for infrastructure projects.

SEC. 249. SENIOR MANAGEMENT.

(a) In General- Senior management shall support the chief executive officer in the discharge of the responsibilities of the chief executive officer.

(b) Appointment of Senior Management- The chief executive officer shall appoint such senior managers as are necessary to carry out the purpose of AIFA, as approved by a majority vote of the voting members of the Board of Directors.

(c) Term- Each member of senior management shall serve at the pleasure of the chief executive officer and the Board of Directors.

(d) Removal of Senior Management- Any member of senior management may be removed, either by a majority of the voting members of the Board of Directors upon request by the chief executive officer, or otherwise by vote of not fewer than 5 voting members of the Board of Directors.

(e) Senior Management-

(1) IN GENERAL- Each member of senior management shall report directly to the chief executive officer, other than the Chief Risk Officer, who shall report directly to the Board of Directors.

(2) DUTIES AND RESPONSIBILITIES-

(A) CHIEF FINANCIAL OFFICER- The Chief Financial Officer shall be responsible for all financial functions of AIFA, provided that, at the discretion of the Board of Directors, specific functions of the Chief Financial Officer may be delegated externally.

(B) CHIEF RISK OFFICER- The Chief Risk Officer shall be responsible for all functions of AIFA relating to--

(i) the creation of financial, credit, and operational risk management guidelines and policies;

(ii) credit analysis for infrastructure projects;

(iii) the creation of conforming standards for infrastructure finance agreements;

(iv) the monitoring of the financial, credit, and operational exposure of AIFA; and

(v) risk management and mitigation actions, including by reporting such actions, or recommendations of such actions to be taken, directly to the Board of Directors.

(C) CHIEF COMPLIANCE OFFICER- The Chief Compliance Officer shall be responsible for all functions of AIFA relating to internal audits, accounting safeguards, and the enforcement of such safeguards and other applicable requirements.

(D) GENERAL COUNSEL- The General Counsel shall be responsible for all functions of AIFA relating to legal matters and, in consultation with the chief executive officer, shall be responsible for ensuring that AIFA complies with all applicable law.

(E) CHIEF OPERATIONS OFFICER- The Chief Operations Officer shall be responsible for all operational functions of AIFA, including those relating to the continuing operations and performance of all infrastructure projects in which AIFA retains an interest and for all AIFA functions related to human resources.

(F) CHIEF LENDING OFFICER- The Chief Lending Officer shall be responsible for--

(i) all functions of AIFA relating to the development of project pipeline, financial structuring of projects, selection of infrastructure projects to be reviewed by the Board of Directors, preparation of infrastructure projects to be presented to the Board of Directors, and set aside for rural infrastructure projects; and

(ii) the creation and management of--

(I) a Center for Excellence to provide technical assistance to public sector borrowers in the development and financing of infrastructure projects; and

(II) an Office of Rural Assistance to provide technical assistance in the development and financing of rural infrastructure projects.

(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)(a)(3) shall be available without further action; provided further, that the source of

fees paid under this section shall not be a loan or debt obligation guaranteed by the Federal Government.

SEC. 258. EFFICIENCY OF AIFA.

The chief executive officer shall, to the extent possible, take actions consistent with this Act to minimize the risk and cost to the taxpayer of AIFA activities. Fees and premiums for loan guarantee or insurance coverage will be set at levels that minimize administrative and Federal credit subsidy costs to the Government, as defined in Section 502 of the Federal Credit Reform Act of 1990, as amended, of such coverage, while supporting achievement of the program's objectives, consistent with policies as set forth in the Business Plan.

SEC. 259. FUNDING.

There is hereby appropriated to AIFA to carry out this Act, for the cost of direct loans and loan guarantees subject to the limitations under Section 253, and for administrative costs, $10,000,000,000, to remain available until expended; Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Federal Credit Reform Act of 1990, as amended; Provided further, that of this amount, not more than $25,000,000 for each of fiscal years 2012 through 2013, and not more than $50,000,000 for fiscal year 2014 may be used for administrative costs of AIFA; provided further, that not more than 5 percent of such amount shall be used to offset subsidy costs associated with rural projects. Amounts authorized shall be available without further action.

PART IV--EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS

SEC. 260. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) In General- Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended--

(1) by striking `January 1, 2011' in subclause (I) and inserting `January 1, 2013'; and

(2) by striking `AND 2010' in the heading and inserting `, 2010, 2011, AND 2012'.

(b) Adjusted Current Earnings- Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended--

(1) by striking `January 1, 2011' in subclause (I) and inserting `January 1, 2013'; and

(2) by striking `AND 2010' in the heading and inserting `, 2010, 2011, AND 2012'.

(c) Effective Date- The amendments made by this section shall apply to obligations issued after December 31, 2010.

SUBTITLE G – PROJECT REBUILD

SEC. 261. PROJECT REBUILD

(a) Direct Appropriations.— There is appropriated, out of any money in the Treasury not otherwise appropriated, $15,000,000,000, to remain available until September 30, 2014, for assistance to eligible entities including States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)), and qualified nonprofit organizations, businesses or consortia of eligible entities for the redevelopment of abandoned and foreclosed-upon properties and for the stabilization of affected neighborhoods.

(b) Allocation of Appropriated Amounts.—

(1) IN GENERAL.-Of the amounts appropriated, two thirds shall be allocated to States and units of general local government based on a funding formula established by the Secretary of Housing and Urban Development (in this subtitle referred to as the `Secretary'). Of the amounts appropriated, one third shall be distributed competitively to eligible entities.

(2) FORMULA TO BE DEVISED SWIFTLY.— The funding formula required under paragraph (1) shall be established and the Secretary shall announce formula funding allocations, not later than 30 days after the date of enactment of this section.

(3) FORMULA CRITERIA.— The Secretary may establish a minimum grant size, and the funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes in default or delinquency in each State or unit of general local government; and

(C) other factors such as established program designs, grantee capacity and performance, number and percentage of commercial foreclosures, overall economic conditions, and other market needs data, as determined by the Secretary.

(4) COMPETITION CRITERIA.

(A) For the funds distributed competitively, eligible entities shall be States, units of general local government, nonprofit entities, for-profit entities, and consortia of eligible entities that demonstrate capacity to use funding within the period of this program.

(B) In selecting grantees, the Secretary shall ensure that grantees are in areas with the greatest number and percentage of residential and commercial foreclosures and other market needs data, as determined by the Secretary. Additional award criteria shall include demonstrated grantee capacity to execute projects involving acquisition and rehabilitation or redevelopment of foreclosed residential and commercial property and neighborhood stabilization, leverage, knowledge of market conditions and of effective stabilization activities to address identified conditions, and any additional factors determined by the Secretary.

(C) The Secretary may establish a minimum grant size; and

(D) The Secretary shall publish competition criteria for any grants awarded under this heading not later than 60 days after appropriation of funds, and applications shall be due to the Secretary within 120 days.

(c) Use of Funds.—

(1) OBLIGATION and EXPENDITURE.— The Secretary shall obligate all funding within 150 days of enactment of this Act. Any eligible entity that receives amounts pursuant to this section shall expend all funds allocated to it within three years of the date the funds become available to the grantee for obligation. Furthermore, the Secretary shall by Notice establish intermediate expenditure benchmarks at the one and two year dates from the date the funds become available to the grantee for obligation.

(2) PRIORITIES

(A) JOB CREATION. Each grantee or eligible entity shall describe how its proposed use of funds will prioritize job creation, and secondly, will address goals to stabilize neighborhoods, reverse vacancy, or increase or stabilize residential and commercial property values.

(B) TARGETING. Any State or unit of general local government that receives formula amounts pursuant to this section shall, in distributing and targeting such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(i) with the greatest percentage of home foreclosures;

(ii) identified as likely to face a significant rise in the rate of residential or commercial foreclosures; and

(iii) with higher than national average unemployment rate

(C) LEVERAGE. Each grantee or eligible entity shall describe how its proposed use of funds will leverage private funds.

(3) ELIGIBLE USES.— Amounts made available under this section may be used to—

(A) establish financing mechanisms for the purchase and redevelopment of abandoned and foreclosed-upon properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such properties;

(C) establish and operate land banks for properties that have been abandoned or foreclosed upon;

(D) demolish blighted structures;

(E) redevelop abandoned, foreclosed, demolished, or vacant properties; and

(F) engage in other activities, as determined by the Secretary through notice, that are consistent with the goals of creating jobs, stabilizing neighborhoods, reversing vacancy reduction, and increasing or stabilizing residential and commercial property values.

(d) Limitations.—

(1) ON PURCHASES.— Any purchase of a property under this section shall be at a price not to exceed its current market value, taking into account its current condition.

(2) REHABILITATION. – Any rehabilitation of an eligible property under this section shall be to the extent necessary to comply with applicable laws, and other requirements relating to safety, quality, marketability, and habitability, in order to sell, rent, or redevelop such properties or provide a renewable energy source or sources for such properties.

(3) SALE OF HOMES.— If an abandoned or foreclosed-upon home is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, marketable, and habitable condition.

(4) ON DEMOLITION OF PUBLIC HOUSING. – Public housing, as defined at section 3(b)(6) of the United States Housing Act of 1937, may not be demolished with funds under this section.

(5) ON DEMOLITION ACTIVITIES.—No more than 10 percent of any grant made under this section may be used for demolition activities unless the Secretary determines that such use represents an appropriate response to local market conditions.

(6) ON USE OF FUNDS FOR NON-RESIDENTIAL PROPERTY.— No more than 30 percent of any grant made under this section may be used for eligible activities under subparagraphs (A),(B), and (E) of subsection (c)(3) that will not result in residential use of the property involved unless the Secretary determines that such use represents an appropriate response to local market conditions.

(e) Rules of Construction—

(1) IN GENERAL.— Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to eligible entities under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH- No matching funds shall be required in order for an eligible entity to receive any amounts under this section.

(3) TENANT PROTECTIONS.—An eligible entity receiving a grant under this section shall comply with the 14th, 17th, 18th, 19th, 20th, 21st, 22nd and 23rd provisos of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, 123 Stat. 218-19), as amended by section 1497(b)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 2211)

(4) VICINITY HIRING. — An eligible entity receiving a grant under this section shall comply with section 1497(a)(8) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 129 Stat. 2210).

(5) BUY AMERICAN.— Section 1605 of Title XVI—General Provisions of the American Recovery and Reinvestment Act of 2009—shall apply to amounts appropriated, revenues generated, and amounts otherwise made available to eligible entities under this section.

(f) Authority to Specify Alternative Requirements.—

(1) IN GENERAL.— In administering the program under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 or under title I of the Cranston-Gonzalez National Affordable Housing Act of 1990 (except for those provisions in these

laws related to fair housing, nondiscrimination, labor standards, and the environment) for the purpose of expediting and facilitating the use of funds under this section

(2) NOTICE.— The Secretary shall provide written notice of intent to the public via internet to exercise the authority to specify alternative requirements under paragraph.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.— Notwithstanding the authority of the Secretary under paragraph (1)—

(i) all of the formula and competitive grantee funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the formula and competitive grantee funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of eligible properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

(B) RECURRENT REQUIREMENT.— The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

(g) NATIONWIDE DISTRIBUTION OF RESOURCES. Notwithstanding any other provision of this section or the amendments made by this section, each State shall receive not less than $20,000,000 of formula funds.

(h) LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN. No State or unit of general local government may use any amounts received pursuant to this section to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use, which shall not be construed to include economic development that primarily benefits private entities.

(i) LIMITATION ON DISTRIBUTION OF FUNDS.

(1) IN GENERAL. — None of the funds made available under this title or title IV shall be distributed to—

(A) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(B) an organization which employs applicable individuals.

(2) APPLICABLE INDIVIDUALS DEFINED.- In this section, the term `applicable individual' means an individual who--

(A) is—

(i) employed by the organization in a permanent or temporary capacity;

(ii) contracted or retained by the organization; or

(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

(B) has been indicted for a violation under Federal law relating to an election for Federal office.

(j) RENTAL HOUSING PREFERENCES. Each State and local government receiving formula amounts shall establish procedures to create preferences for the development of affordable rental housing.

(k) JOB CREATION. If a grantee chooses to use funds to create jobs by establishing and operating a program to maintain eligible neighborhood properties, not more than 10 percent of any grant may be used for that purpose.

(l) PROGRAM SUPPORT AND CAPACITY BUILDING. The Secretary may use up to 0.75 percent of the funds appropriated for capacity building of and support for eligible entities and grantees undertaking neighborhood stabilization programs, staffing, training, technical assistance, technology, monitoring, travel, enforcement, research and evaluation activities.

(1) Funds set aside for the purposes of this subparagraph shall remain available until September 30, 2016;

(2) Any funds made available under this subparagraph and used by the Secretary for personnel expenses related to administering funding under this subparagraph shall be transferred to ''Personnel Compensation and Benefits, Community Planning and Development'';

(3) Any funds made available under this subparagraph and used by the Secretary for training or other administrative expenses shall be transferred to ''Administration, Operations, and Management, Community Planning and Development'' for non-personnel expenses; and

(4) Any funds made available under this subparagraph and used by the Secretary for technology shall be transferred to ''Working Capital Fund''."

(m) ENFORCEMENT AND PREVENTION OF FRAUD AND ABUSE. The Secretary shall establish and implement procedures to prevent fraud and abuse of funds under this section, and shall impose a requirement that grantees have an internal auditor to continuously monitor grantee performance to prevent fraud, waste, and abuse. Grantees shall provide the Secretary and citizens with quarterly progress reports. The Secretary shall recapture funds from formula and competitive grantees that do not expend 100 percent of allocated funds within 3 years of the date that funds become available, and from underperforming or mismanaged grantees, and shall re-allocate those funds by formula to target areas with the greatest need, as determined by the Secretary through notice. The Secretary may take an alternative sanctions action only upon determining that such action is necessary to achieve program goals in a timely manner.

(n) The Secretary of Housing and Urban Development shall to the extent feasible conform policies and procedures for grants made under this section to the policies and practices already in place for the grants made under Section 2301 of the Housing and Economic Recovery Act of 2008; Division A, Title XII of the American Recovery and Reinvestment Act of 2009; or Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SUBTITLE H – NATIONAL WIRELESS INITIATIVE

SEC. 271. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) 700 MHZ BAND.—The term "700 MHz band" means the portion of the electromagnetic spectrum between the frequencies from 698 megahertz to 806 megahertz.

(2) 700 MHZ D BLOCK SPECTRUM.—The term "700 MHz D block spectrum" means the portion of the electromagnetic spectrum frequencies from 758 megahertz to 763 megahertz and from 788 megahertz to 793 megahertz.

(3) APPROPRIATE COMMITTEES OF CONGRESS.—Except as otherwise specifically provided, the term "appropriate committees of Congress" means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(4) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information.

(5) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(6) CORPORATION.—The term "Corporation" means the Public Safety Broadband Corporation established in section 284.

(7) EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.—The term "existing public safety broadband spectrum" means the portion of the electromagnetic spectrum between the frequencies—

(A) from 763 megahertz to 768 megahertz;

(B) from 793 megahertz to 798 megahertz;

(C) from 768 megahertz to 769 megahertz; and

(D) from 798 megahertz to 799 megahertz.

(8) FEDERAL ENTITY.—The term "Federal entity" has the same meaning as in section 113(i) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(i)).

(9) NARROWBAND SPECTRUM.—The term "narrowband spectrum" means the portion of the electromagnetic spectrum between the frequencies from 769 megahertz to 775 megahertz and between the frequencies from 799 megahertz to 805 megahertz.

(10) NIST.—The term "NIST" means the National Institute of Standards and Technology.

(11) NTIA.—The term "NTIA" means the National Telecommunications and Information Administration.

(12) PUBLIC SAFETY ENTITY.—The term "public safety entity" means an entity that provides public safety services.

(13) PUBLIC SAFETY SERVICES.—The term "public safety services"—

(A) has the meaning given the term in section 337(f) of the Communications Act of 1934 (47 U.S.C. 337(f)); and

(B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

PART I – AUCTIONS OF SPECTRUM AND SPECTRUM MANAGEMENT

SEC. 272. CLARIFICATION OF AUTHORITIES TO REPURPOSE FEDERAL SPECTRUM FOR COMMERCIAL PURPOSES.

(a) Paragraph (1) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1) is amended by striking paragraph (1) and inserting the following:

''(1) ELIGIBLE FEDERAL ENTITIES.—Any Federal entity that operates a Federal Government station authorized to use a band of frequencies specified in paragraph (2) and that incurs relocation costs because of planning for a potential auction of spectrum frequencies, a planned auction of spectrum frequencies or the reallocation of spectrum frequencies from Federal use to exclusive non-Federal use, or shared Federal and non-Federal use may receive payment for such costs from the Spectrum Relocation Fund, in accordance with section 118 of this Act. For purposes of this paragraph, Federal power agencies exempted under subsection (c)(4) that choose to relocate from the frequencies identified for reallocation pursuant to subsection (a), are eligible to receive payment under this paragraph.".

(b) Eligible Frequencies. – Section 113(g)(2)(B) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) is amended by deleting and replacing subsection (B) with the following:

"(B) any other band of frequencies reallocated from Federal use to non-Federal or shared use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C 309(j)) or is assigned as a result of later legislation or other administrative direction.".

(c) Paragraph (3) of subsection 113(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(3)) is amended by striking it in its entirety and replacing it with the following:

"(3) DEFINITION OF RELOCATION AND SHARING COSTS.--For purposes of this subsection, the terms "relocation costs" and "sharing costs" mean the costs incurred by a Federal entity to plan for a potential or planned auction or sharing of spectrum frequencies and to achieve comparable capability of systems, regardless of whether that capability is achieved by relocating to a new frequency assignment, relocating a Federal Government station to a different geographic location, modifying Federal government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology. Comparable capability of systems includes the acquisition of state-of-the art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality. Such costs include--

"(A) the costs of any modification or replacement of equipment, spares, associated ancillary equipment, software, facilities, operating manuals, training costs, or regulations that are attributable to relocation or sharing;

"(B) the costs of all engineering, equipment, software, site acquisition and construction costs, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary, which may be renewed, to carry out the relocation activities of an eligible Federal entity, and reasonable additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs above recurring costs

of the system before relocation for the remaining estimated life of the system being relocated;

"(C) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with (i) calculating the estimated relocation costs that are provided to the Commission pursuant to paragraph (4) of this subsection, or in calculating the estimated sharing costs; (ii) determining the technical or operational feasibility of relocation to one or more potential relocation bands; or (iii) planning for or managing a relocation or sharing project (including spectrum coordination with auction winners) or potential relocation or sharing project;

"(D) the one-time costs of any modification of equipment reasonably necessary to accommodate commercial use of shared frequencies or, in the case of frequencies reallocated to exclusive commercial use, prior to the termination of the Federal entity's primary allocation or protected status, when the eligible frequencies as defined in paragraph (2) of this subsection are made available for private sector uses by competitive bidding and a Federal entity retains primary allocation or protected status in those frequencies for a period of time after the completion of the competitive bidding process;

"(E) the costs associated with the accelerated replacement of systems and equipment if such acceleration is necessary to ensure the timely relocation of systems to a new frequency assignment or the timely accommodation of sharing of Federal frequencies; and

"(F) the costs of the use of commercial systems and services (including systems not utilizing spectrum) to replace Federal systems discontinued or relocated pursuant to this Act, including lease, subscription, and equipment costs over an appropriate period, such as the anticipated life of an equivalent Federal system or other period determined by the Director of the Office of Management and Budget.".

(d) A new subsection (7) is added to Section 113(g) as follows:

"(7) SPECTRUM SHARING.--Federal entities are permitted to allow access to their frequency assignments by non-Federal entities upon approval of the terms of such access by NTIA, in consultation with the Office of Management and Budget. Such non-Federal entities must comply with all applicable rules of the Commission and NTIA, including any regulations promulgated pursuant to this section. Remuneration associated with such access shall be deposited into the Spectrum Relocation Fund. Federal entities that incur costs as a result of such access are eligible for payment from the Fund for the purposes specified in subsection (3) of this section. The revenue associated with such access must be at least 110 percent of the estimated Federal costs.".

(e) Section 118 of such Act (47 U.S.C. 928) is amended by:

(1) In subsection (b), adding at the end, "and any payments made by non-Federal entities for access to Federal spectrum pursuant to 47 U.S.C. 113(g)(7)";

(2) replacing subsection (c) with the following:

"The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation costs, as defined in section (g)(3) of this title, of an eligible Federal entity incurring such costs with respect to relocation from any eligible frequency. In addition, the amounts in the Fund from payments

by non-Federal entities for access to Federal spectrum are authorized to be used to pay Federal costs associated with such sharing, as defined in section (g)(3) of this title. The Director of the Office of Management and Budget (OMB) may transfer at any time (including prior to any auction or contemplated auction, or sharing initiative) such sums as may be available in the Fund to an eligible federal entity to pay eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title. However, the Director may not transfer more than $100,000,000 associated with authorized pre-auction activities before an auction is completed and proceeds are deposited in the Spectrum Relocation Fund. Within the $100,000,000 that may be transferred before an auction, the Director of OMB may transfer up to $10,000,000 in total to eligible federal entities for eligible relocation or sharing costs related to pre-auction estimates or research as defined in subparagraph (C) of section 923(g)(3) of this title for costs incurred prior to the enactment of this legislation, but after June 28th, 2010. These amounts transferred pursuant to the previous proviso are in addition to amounts that the Director of OMB may transfer after the enactment of this legislation ";

(3) amending subsection (d)(1) to add, "and sharing" before "costs";

(4) amending subsection (d)(2)(B) to add, "and sharing" before "costs", and adding at the end, "and sharing";

(5) replacing subsection (d)(3) with the following:

"Any amounts in the Fund that are remaining after the payment of the relocation and sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury not later than 15 years after the date of the deposit of such proceeds to the Fund, unless the Director of OMB, in consultation with the Assistant Secretary for Communications and Information, notifies the Committees on Appropriations and Energy and Commerce of the House of Representative and the Committees on Appropriations and Commerce, Science, and Transportation of the Senate at least 60 days in advance of the reversion of the funds to the general fund of the Treasury that such funds are needed to complete or to implement current or future relocations or sharing initiatives.";

(6) amending subsection (e)(2) by adding "and sharing" before "costs"; by adding "or sharing" before "is complete"; and by adding "or sharing" before "in accordance"; and

(7) adding a new subsection at the end thereof:

"(f) Notwithstanding subsections (c) through (e) of this section and after the amount specified in subsection (b), up to twenty percent of the amounts deposited in the Spectrum Relocation Fund from the auction of licenses following the date of enactment of this section for frequencies vacated by Federal entities, or up to twenty percent of the amounts paid by non-Federal entities for sharing of Federal spectrum, after the date of enactment are hereby appropriated and available at the discretion of the Director of the Office of Management and Budget, in consultation with the Assistant Secretary for Communications and Information, for payment to the eligible Federal entities, in addition to the

relocation and sharing costs defined in paragraph (3) of subsection 923(g), for the purpose of encouraging timely access to those frequencies, provided that:

"(1) Such payments may be based on the market value of the spectrum, timeliness of clearing, and needs for agencies' essential missions;

"(2) Such payments are authorized for:

"(A) the purposes of achieving enhanced capabilities of systems that are affected by the activities specified in subparagraphs (A) through (F) of paragraph (3) of subsection 923(g) of this title; and

"(B) other communications, radar and spectrum-using investments not directly affected by such reallocation or sharing but essential for the missions of the Federal entity that is relocating its systems or sharing frequencies;

"(3) The increase to the Fund due to any one auction after any payment is not less than 10 percent of the winning bids in the relevant auction, or is not less than 10 percent of the payments from non-Federal entities in the relevant sharing agreement;

"(4) Payments to eligible entities must be based on the proceeds generated in the auction that an eligible entity participates in; and

"(5) Such payments will not be made until 30 days after the Director of OMB has notified the Committees on Appropriations and Commerce, Science, and Transportation of the Senate, and the Committees on Appropriations and Energy and Commerce of the House of Representatives.".

(f) Subparagraph D of section 309 (j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)) is amended by adding ", after the retention of revenue described in subparagraph (B)," before "attributable" and "and frequencies identified by the Federal Communications Commission to be auctioned in conjunction with eligible frequencies described in 47 U.S.C. 923(g)(2)" before the first "shall" in the subparagraph.

(g) If the head of an executive agency of the Federal Government determines that public disclosure of any information contained in notifications and reports required by sections 923 or 928 of Title 47 of the United States Code would reveal classified national security information or other information for which there is a legal basis for nondisclosure and such public disclosure would be detrimental to national security, homeland security, public safety, or jeopardize law enforcement investigations the head of the executive agency shall notify the NTIA of that determination prior to release of such information. In that event, such information shall be included in a separate annex, as needed and to the extent the agency head determines is consistent with national security or law enforcement purposes. These annexes shall be provided to the appropriate subcommittee in accordance with applicable stipulations, but shall not be disclosed to the public or provided to any unauthorized person through any other means.

SECTION 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.".

SECTION 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.

SECTION 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.

SECTION 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.".

SECTION 277. DIRECTED AUCTION OF CERTAIN SPECTRUM.

(a) IDENTIFICATION OF SPECTRUM.—Not later than 1 year after the date of enactment of this subtitle, the Assistant Secretary shall identify and make available for immediate reallocation, at a minimum, 15 megahertz of contiguous spectrum at frequencies located between 1675 megahertz and 1710 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA's October 2010 report entitled ''An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands,'' to be made available for reallocation or sharing with incumbent Government operations.

(b) AUCTION.—Not later than January 31, 2016, the Commission shall conduct, in such combination as deemed appropriate by the Commission, the auctions of the following licenses covering at least the frequencies described in this section, by commencing the bidding for:

(1) The spectrum between the frequencies of 1915 megahertz and 1920 megahertz, inclusive.

(2) The spectrum between the frequencies of 1995 megahertz and 2000 megahertz, inclusive.

(3) The spectrum between the frequencies of 2020 megahertz and 2025 megahertz, inclusive.

(4) The spectrum between the frequencies of 2155 megahertz and 2175 megahertz, inclusive.

(5) The spectrum between the frequencies of 2175 megahertz and 2180 megahertz, inclusive.

(6) At least 25 megahertz of spectrum between the frequencies of 1755 megahertz and 1850 megahertz, minus appropriate geographic exclusion zones if necessary, unless the President of the United States determines that —

(A) such spectrum should not be reallocated due to the need to protect incumbent Federal operations; or reallocation must be delayed or progressed in phases to ensure protection or continuity of Federal operations; and

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to auction of spectrum frequencies identified in this paragraph.

(7) The Commission may substitute alternative spectrum frequencies for the spectrum frequencies identified in paragraphs (1) through (5) of this subsection, if the Commission determines that alternative spectrum would better serve the public interest and the Office of Management and Budget certifies that such alternative spectrum frequencies are reasonably expected to produce receipts comparable to auction of the spectrum frequencies identified in paragraphs (1) through (5) of this subsection.

(c) AUCTION ORGANIZATION.—The Commission may, if technically feasible and consistent with the public interest, combine the spectrum identified in paragraphs (4), (5), and the portion of paragraph (6) between the frequencies of 1755 megahertz and 1850 megahertz, inclusive, of subsection (b) in an auction of licenses for paired spectrum blocks.

(d) FURTHER REALLOCATION OF CERTAIN OTHER SPECTRUM.—

(1) COVERED SPECTRUM.—For purposes of this subsection, the term ‘‘covered spectrum’’ means the portion of the electromagnetic spectrum between the frequencies of 3550 to 3650 megahertz, inclusive, minus the geographic exclusion zones, or any amendment thereof, identified in NTIA’s October 2010 report entitled ‘‘An Assessment of Near-Term Viability of Accommodating Wireless Broadband Systems in 1675–1710 MHz, 1755–1780 MHz, 3500–3650 MHz, and 4200–4220 MHz, 4380–4400 MHz Bands’’.

(2) IN GENERAL.—Consistent with requirements of section 309(j) of the Communications Act of 1934, the Commission shall reallocate covered spectrum for assignment by competitive bidding or allocation to unlicensed use, minus appropriate exclusion zones if necessary, unless the President of the United States determines that—

(A) such spectrum cannot be reallocated due to the need to protect incumbent Federal systems from interference; or

(B) allocation of other spectrum—

(i) better serves the public interest, convenience, and necessity; and

(ii) can reasonably be expected to produce receipts comparable to what the covered spectrum might auction for without the geographic exclusion zones.

(3) ACTIONS REQUIRED IF COVERED SPECTRUM CANNOT BE REALLOCATED.—

(A) IN GENERAL.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, then the President shall, within 1 year after the date of such determination—

(i) identify alternative bands of frequencies totaling more than 20 megahertz and no more than 100 megahertz of spectrum used primarily by Federal agencies that satisfy the requirements of clauses (i)and (ii) of paragraph (2)(B);

(ii) report to the appropriate committees of Congress and the Commission an identification of such alternative spectrum for assignment by competitive bidding; and

(iii) make such alternative spectrum for assignment immediately available for reallocation.

(B) AUCTION.—If the President makes a determination under paragraph (2) that the covered spectrum cannot be reallocated, the Commission shall commence the bidding of the alternative spectrum identified pursuant to subparagraph (A) within 3 years of the date of enactment of this subtitle.

(4) ACTIONS REQUIRED IF COVERED SPECTRUM CAN BE REALLOCATED.—If the President does not make a determination under paragraph (1) that the covered spectrum cannot be reallocated, the Commission shall commence the competitive bidding for the covered spectrum within 3 years of the date of enactment of this subtitle.

(e) AMENDMENTS TO DESIGN REQUIREMENTS RELATED TO COMPETITIVE BIDDING.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (E)(ii), by striking ‘‘; and’’ and inserting a semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(2) by amending clause (i) of the second sentence of paragraph (8)(C) to read as follows:

‘‘(i) the deposits—

‘‘(I) of successful bidders of any auction conducted pursuant to subparagraph (F) of section 106 of this act shall be paid to the Public Safety Trust Fund established under section 217 of such Act; and

‘‘(II) of successful bidders of any other auction shall be paid to the Treasury;’’.

SECTION 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

SECTION 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".

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 285. BOARD OF DIRECTORS OF THE CORPORATION.

(a) Membership.—The management of the Corporation shall be vested in a Board of Directors (referred to in this Title as the "Board"), which shall consist of the following members:

(1) FEDERAL MEMBERS.—The following individuals, or their respective designees, shall serve as Federal members:

(A) The Secretary of Commerce.

(B) The Secretary of Homeland Security.

(C) The Attorney General of the United States.

(D) The Director of the Office of Management and Budget.

(2) NON-FEDERAL MEMBERS.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall appoint 11 individuals to serve as non-Federal members of the Board.

(B) STATE, TERRITORIAL, TRIBAL AND LOCAL GOVERNMENT INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should—

(i) appoint at least 3 individuals with significant expertise in the collective interests of State, Territorial, Tribal and Local governments; and

(ii) seek to ensure geographic and regional representation of the United States in such appointments;

(iii) seek to ensure rural and urban representation in such appointments.

(C) PUBLIC SAFETY INTERESTS.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint at least 3 individuals who have served or are currently serving as public safety professionals.

(D) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.— Each non-Federal member appointed under subparagraph (A) should meet at least 1 of the following criteria:

(I) PUBLIC SAFETY EXPERIENCE.—Knowledge and experience in the use of Federal, State, local, or tribal public safety or emergency response.

(II) TECHNICAL EXPERTISE.—Technical expertise and fluency regarding broadband communications, including public safety communications and cybersecurity.

(III) NETWORK EXPERTISE.—Expertise in building, deploying, and operating commercial telecommunications networks.

(IV) FINANCIAL EXPERTISE.—Expertise in financing and funding telecommunications networks.

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under subparagraph (A), the Secretary of Commerce should appoint—

(I) at least one individual who satisfies the requirement under subclause (II) of clause (i);

(II) at least one individual who satisfies the requirement under subclause (III) of clause (i); and

(III) at least one individual who satisfies the requirement under subclause (IV) of clause (i).

(E) INDEPENDENCE.—

(i) IN GENERAL.—Each non-Federal member of the Board shall be independent and neutral and maintain a fiduciary relationship with the Corporation in performing his or her duties.

(ii) INDEPENDENCE DETERMINATION.—In order to be considered independent for purposes of this subparagraph, a member of the Board—

(I) may not, other than in his or her capacity as a member of the Board or any committee thereof—

(aa) accept any consulting, advisory, or other compensatory fee from the Corporation; or

(bb) be a person associated with the Corporation or with any affiliated company thereof; and

(II) shall be disqualified from any deliberation involving any transaction of the Corporation in which the Board member has a financial interest in the outcome of the transaction.

(F) NOT OFFICERS OR EMPLOYEES.—The non-Federal members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(G) CITIZENSHIP.—No individual other than a citizen of the United States may serve as a non-Federal member of the Board.

(H) CLEARANCE FOR CLASSIFIED INFORMATION. —In order to have the threat and vulnerability information necessary to make risk management decisions regarding the network, the non-Federal members of the Board shall be required, prior to appointment, to obtain a clearance held by the Director of

National Intelligence that permits them to receive information classified at the level of Top Secret, Special Compartmented Information.

(b) Terms of Appointment.—

(1) INITIAL APPOINTMENT DEADLINE.—Members of the Board shall be appointed not later than 180 days after the date of the enactment of this subtitle.

(2) TERMS.—

(A) LENGTH.—

(i) FEDERAL MEMBERS.—Each Federal member of the Board shall serve as a member of the Board for the life of the Corporation while serving in their appointed capacity.

(ii) NON-FEDERAL MEMBERS.—The term of office of each non-Federal member of the Board shall be 3 years. No non-Federal member of the Board may serve more than 2 consecutive full 3-year terms.

(B) EXPIRATION OF TERM.—Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

(C) APPOINTMENT TO FILL VACANCY.—Any non-Federal member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term.

(D) STAGGERED TERMS.—With respect to the initial non-Federal members of the Board—

(i) 4 members shall serve for a term of 3 years;

(ii) 4 members shall serve for a term of 2 years; and

(iii) 3 members shall serve for a term of 1 year.

(3) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(c) Chair.—

(1) SELECTION.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board.

(2) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(3) REMOVAL FOR CAUSE.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, may remove the Chair of the Board and any non-Federal member for good cause.

(d) Removal.—All members of the Board may by majority vote—

(1) remove any non-Federal member of the Board from office for conduct determined by the Board to be detrimental to the Board or Corporation; and

(2) request that the Secretary of Commerce exercise his or her authority to remove the Chair of the Board for conduct determined by the Board to be detrimental to the Board or Corporation.

(e) Meetings.—

(1) FREQUENCY.—The Board shall meet in accordance with the bylaws of the Corporation—

(A) at the call of the Chairperson; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, to discuss security vulnerabilities when making those vulnerabilities public would increase risk to the network or otherwise materially threaten network operations, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(f) Quorum.—Eight members of the Board shall constitute a quorum.

(g) Bylaws.—A majority of the members of the Board of Directors may amend the bylaws of the Corporation.

(h) Attendance.—Members of the Board of Directors may attend meetings of the Corporation and vote in person, via telephone conference, or via video conference.

(i) Prohibition on Compensation. Members of the Board of the Corporation shall serve without pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the Corporation, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Corporation.

SECTION 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.

SECTION 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))).

SECTION 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;

(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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 297. PUBLIC SAFETY TRUST FUND

(a) Establishment of Public Safety Trust Fund.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Public Safety Trust Fund".

(2) CREDITING OF RECEIPTS.—

(A) IN GENERAL.—There shall be deposited into or credited to the Public Safety Trust Fund the proceeds from the auction of spectrum carried out pursuant to—

(i) section 273 of this subtitle; and

(ii) section 309(j)(8)(F) of the Communications Act of 1934, as added by section 273 of this subtitle.

(B) AVAILABILITY.—Amounts deposited into or credited to the Public Safety Trust Fund in accordance with subparagraph (A) shall remain available until the end of fiscal year 2018. Upon the expiration of the period described in the prior sentence such amounts shall be deposited in the General Fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) Use of Fund.—Amounts deposited in the Public Safety Trust Fund shall be used in the following manner:

(1) PAYMENT OF AUCTION INCENTIVE.—

(A) REQUIRED DISBURSALS.—Amounts in the Public Safety Trust Fund shall be used to make any required disbursal of payments to licensees required pursuant to clause (i) and subclause (IV) of clause (ii) of section 309(j)(8)(F) of the Communications Act of 1934.

(B) NOTIFICATION TO CONGRESS.—

(i) IN GENERAL.—At least 3 months in advance of any incentive auction conducted pursuant to subparagraph (F) of section 309(j)(8) of the Communications Act of 1934, the Chairman of the Commission, in

consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress—

(I) of the methodology for calculating the disbursal of payments to certain licensees required pursuant to clause (i) and subclauses (III) and (IV) of clause of (ii) of such section;

(II) that such methodology considers the value of the spectrum voluntarily relinquished in its current use and the timeliness with which the licensee cleared its use of such spectrum; and

(III) of the estimated payments to be made from the Incentive Auction Relocation fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(ii) DEFINITION.—In this clause, the term "appropriate committees of Congress" means—

(I) the Committee on Commerce, Science, and Transportation of the Senate;

(II) the Committee on Appropriations of the Senate;

(III) the Committee on Energy and Commerce of the House of Representatives; and

(IV) the Committee on Appropriations of the House of Representatives.

(2) INCENTIVE AUCTION RELOCATION FUND.—Not more than $1,000,000,000 shall be deposited in the Incentive Auction Relocation Fund established under section 309(j)(8)(G) of the Communications Act of 1934.

(3) STATE AND LOCAL IMPLEMENTATION FUND.—$200,000,000 shall be deposited in the State and Local Implementation Fund established under section 294.

(4) PUBLIC SAFETY BROADBAND CORPORATION.—$6,450,000,000 shall deposited with the Public Safety Broadband Corporation established under section 284, of which pursuant to its responsibilities and duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network. Funds deposited with the Public Safety Broadband Corporation shall be available after submission of a five -year budget by the Corporation and approval by the Secretary of Commerce, in consultation with the Secretary of Homeland Security, Director of the Office of Management and Budget and Attorney General of the United States.

(5) PUBLIC SAFETY RESEARCH AND DEVELOPMENT.—After approval by the Office of Management and Budget of a spend plan developed by the Director of NIST, a Wireless Innovation (WIN) Fund of up to $300,000,000 shall be made available for use by the Director of NIST to carry out the research program established under section 296 and be available until expended. If less than $300,000,000 is approved by the Office of Management and Budget, the remainder shall be transferred to the Public Safety Broadband Corporation established in section 284 and be available for duties set forth under section 288 to deploy and operate a nationwide public safety interoperable broadband network.

(6) DEFICIT REDUCTION.—Any amounts remaining after the deduction of the amounts required under paragraphs (1) through (5) shall be deposited in the General Fund

of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

SECTION 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).

SECTION 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;

(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

SECTION 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 4001of the Supplemental Appropriations Act, 2008, (Public Law 110-252; 26 U.S.C. 3304 note), is amended by inserting the following new subsection (h):

"(h) IN GENERAL.—

"(1) REQUIRED PROVISION OF SERVICES AND ACTIVITIES.—An agreement under this section shall require that the State provide reemployment services and reemployment and eligibility assessment activities to each individual receiving emergency unemployment compensation who, on or after the date that is 30 days after the date of enactment of the Supporting Unemployed Workers Act of 2011, establishes an account under section 4002(b), commences receiving the amounts described in section 4002(c), commences receiving the amounts described in section 4002(d), or commences receiving the amounts described in subsection 4002(e), whichever occurs first. Such services and activities shall be provided by the staff of the State agency responsible for administration of the State unemployment compensation law or the Wagner-Peyser Act from funds available pursuant to section 4004(c)(2) and may also be provided from funds available under the Wagner-Peyser Act.

"(2) DESCRIPTION OF SERVICES AND ACTIVITIES.—The reemployment services and in-person reemployment and eligibility assessment activities provided to individuals receiving emergency unemployment compensation described in paragraph (1)—

"(A) shall include—

"(i) the provision of labor market and career information;

"(ii) an assessment of the skills of the individual;

"(iii) orientation to the services available through the One-Stop centers established under title I of the Workforce Investment Act of 1998;

"(iv) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops and may include referrals to appropriate training services; and

"(v) review of the eligibility of the individual for emergency unemployment compensation relating to the job search activities of the individual; and

"(B) may include the provision of—

"(i) comprehensive and specialized assessments;

"(ii) individual and group career counseling; and

"(iii) additional reemployment services.

"(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection

shall participate, or shall have completed participation in, such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that there is justifiable cause for failure to participate or complete such services or activities, as defined in guidance to be issued by the Secretary of Labor."

(2) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessments activities required to be provided under the amendments made by paragraph (1).

(b) FUNDING.—

(1) IN GENERAL. —Section 4004(c) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), is amended—

(A) by striking "There" and inserting "(1) ADMINISTRATION.—There"; and

(B) by inserting the following new paragraph:

"(2) REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.—

"(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, out of the employment security administration account as established by section 901(a) of the Social Security Act, such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

"(B) DETERMINATION OF TOTAL AMOUNT.—The amount referred to in subparagraph (A) is the amount the Secretary estimates is equal to—

"(i) the number of individuals who will receive reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2) in all States through the date specified in section 4007(b)(3), multiplied by

"(ii) $200.

"(C) DISTRIBUTION AMONG STATES.—Of the amounts appropriated under subparagraph (A), the Secretary of Labor shall distribute amounts to each State, in accordance with section 4003(c), that the Secretary estimates is equal to—

"(i) the number of individuals who will receive reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2) in such State through the date specified in section 4007(b)(3), multiplied by

"(ii) $200."

(2) TRANSFER OF FUNDS.—Section 4004(e) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), is amended—

(A) in paragraph (2), by striking the period and inserting "; and"; and
(B) by inserting the following paragraph (3):

"(3) to the employment security administration account (as established by section 901(a) of the Social Security Act) such sums as the Secretary of Labor determines to be necessary in accordance with subsection (c)(2) to assist States in providing reemployment services and reemployment eligibility and assessment activities described in section 4001(h)(2).".

SEC. 314. FEDERAL-STATE AGREEMENTS TO ADMINISTER A SELF-EMPLOYMENT ASSISTANCE PROGRAM.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 313, is further amended by inserting a new subsection (i) as follows:

"(i) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Any agreement under subsection (a) may provide that the State agency of the State shall establish a self-employment assistance program described in paragraph (2), to provide for the payment of emergency unemployment compensation as self-employment assistance allowances to individuals who meet the eligibility criteria specified in subsection (b).

"(B) PAYMENT OF ALLOWANCES.—The self-employment assistance allowance described in subparagraph (A) shall be paid for up to 26 weeks to an eligible individual from such individual's emergency unemployment compensation account described in section 4002, and the amount in such account shall be reduced accordingly.

"(2) DEFINITION OF 'SELF-EMPLOYMENT ASSISTANCE PROGRAM'.— For the purposes of this title, the term 'self-employment assistance program' means a program as defined under section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), except as follows:

"(A) all references to 'regular unemployment compensation under the State law' shall be deemed to refer instead to 'emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note)';

"(B) paragraph (3)(B) shall not apply;

"(C) clause (i) of paragraph (3)(C) shall be deemed to state as follows:

"(i) include any entrepreneurial training that the State may provide in coordination with programs of training offered by the Small Business Administration, which may include business counseling, mentorship for participants, access to small business development resources, and technical assistance; and";

"(D) the reference to '5 percent' in paragraph (4) shall be deemed to refer instead to '1 percent'; and

"(E) paragraph (5) shall not apply.

"(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who has received any emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 26 times the individual's average weekly benefit amount of emergency unemployment compensation.

"(4) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

"(A) TERMINATION.—An individual who is participating in a State's self -employment assistance program may opt to discontinue participation in such program.

"(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—An individual whose participation in the self-employment assistance program is terminated as described in paragraph (1) or who has completed participation in such program, and who continues to meet the eligibility requirements for emergency unemployment compensation under this title, shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.".

SEC. 315. CONFORMING AMENDMENT ON PAYMENT OF BRIDGE TO WORK WAGES.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 103, is further amended by inserting a new subsection (j) as follows:

"(j) AUTHORIZATION TO PAY WAGES FOR PURPOSES OF A BRIDGE TO WORK PROGRAM.—Any State that establishes a Bridge to Work program under section 204 of the Supporting Unemployed Workers Act of 2011 is authorized to deduct from an emergency unemployment compensation account established for such individual under section 4002 such sums as may be necessary to pay wages for such individual as authorized under section 204(b)(1) of such Act.".

SEC. 316. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law

111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), is amended—

(1) by striking ''June 30, 2011'' and inserting ''June 30, 2012''; and

(2) by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of the enactment of this Act.

PART II—REEMPLOYMENT NOW PROGRAM

SEC. 321. ESTABLISHMENT OF REEMPLOYMENT NOW PROGRAM.

(a) IN GENERAL.—There is hereby established the Reemployment NOW program to be carried out by the Secretary of Labor in accordance with this part in order to facilitate the reemployment of individuals who are receiving emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) (hereafter in this part referred to as "EUC claimants").

(b) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated and appropriated from the general fund of the Treasury for fiscal year 2012 $4,000,000,000 to carry out the Reemployment NOW program under this part.

SEC. 322. DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—Of the funds appropriated under section 321(b) to carry out this part, the Secretary of Labor shall—

(1) reserve up to 1 percent for the costs of Federal administration and for carrying out rigorous evaluations of the activities conducted under this part; and

(2) allot the remainder of the funds not reserved under paragraph (1) in accordance with the requirements of subsection (b) and (c) to States that have approved plans under section 323.

(b) ALLOTMENT FORMULA.—

(1) FORMULA FACTORS.—The Secretary of Labor shall allot the funds available under subsection (a)(2) as follows:

(A) two-thirds of such funds shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(B) one-third of such funds shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 27 weeks or more, compared to the total number of individuals in all States who have been unemployed for 27 weeks or more.

(2) CALCULATION.—For purposes of paragraph (1), the number of unemployed individuals and the number of individuals unemployed for 27 weeks or more

shall be based on the data for the most recent 12-month period, as determined by the Secretary.

(c) REALLOTMENT.

(1) FAILURE TO SUBMIT STATE PLAN.—If a State does not submit a State plan by the time specified in section 323(b), or a State does not receive approval of a State plan, the amount the State would have been eligible to receive pursuant to the formula under subsection (b) shall be allotted to States that receive approval of the State plan under section 323 in accordance with the relative allotments of such States as determined by the Secretary under subsection (b).

(2) FAILURE TO IMPLEMENT ACTIVITIES ON A TIMELY BASIS. —The Secretary of Labor may, in accordance with procedures and criteria established by the Secretary, recapture the portion of the State allotment under this part that remains unobligated if the Secretary determines such funds are not being obligated at a rate sufficient to meet the purposes of this part. The Secretary shall reallot such recaptured funds to other States that are not subject to recapture in accordance with the relative share of the allotments of such States as determined by the Secretary under subsection (b).

(3) RECAPTURE OF FUNDS.—Funds recaptured under paragraph (2) shall be available for reobligation not later than December 31, 2012.

SEC. 323. STATE PLAN.

(a) IN GENERAL.— For a State to be eligible to receive an allotment under section 322, a State shall submit to the Secretary of Labor a State plan in such form and containing such information as the Secretary may require, which at a minimum shall include:

(1) a description of the activities to be carried out by the State to assist in the reemployment of eligible individuals to be served in accordance with this part, including which of the activities authorized in sections 324-328 the State intends to carry out and an estimate of the amounts the State intends to allocate to the activities, respectively;

(2) a description of the performance outcomes to be achieved by the State through the activities carried out under this part, including the employment outcomes to be achieved by participants and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes;

(3) a description of coordination of activities to be carried out under this part with activities under title I of the Workforce Investment Act of 1998, the Wagner-Peyser Act, and other appropriate Federal programs;

(4) the timelines for implementation of the activities described in the plan and the number of EUC claimants expected to be enrolled in such activities by quarter;

(5) assurances that the State will participate in the evaluation activities carried out by the Secretary of Labor under this section;

(6) assurances that the State will provide appropriate reemployment services, including counseling, to any EUC claimant who participates in any of the programs authorized under this part; and

(7) assurances that the State will report such information as the Secretary may require relating to fiscal, performance and other matters, including employment outcomes

and effects, which the Secretary determines are necessary to effectively monitor the activities carried out under this part.

(b) PLAN SUBMISSION AND APPROVAL.—A State plan under this section shall be submitted to the Secretary of Labor for approval not later than 30 days after the Secretary issues guidance relating to submission of such plan. The Secretary shall approve such plans if the Secretary determines that the plans meet the requirements of this part and are appropriate and adequate to carry out the purposes of this part.

(c) PLAN MODIFICATIONS.—A State may submit modifications to a State plan that has been approved under this part, and the Secretary of Labor may approve such modifications, if the plan as modified would meet the requirements of this part and are appropriate and adequate to carry out the purposes of this part.

SEC. 324. BRIDGE TO WORK PROGRAM.

(a) IN GENERAL.—A State may use funds allotted to the State under this part to establish and administer a Bridge to Work program described in this section.

(b) DESCRIPTION OF PROGRAM.— In order to increase individuals' opportunities to move to permanent employment, a State may establish a Bridge to Work program to provide an EUC claimant with short-term work experience placements with an eligible employer, during which time such individual—

(1) shall be paid emergency unemployment compensation payable under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as wages for work performed, and as specified in subsection (c);

(2) shall be paid the additional amount described in subsection (e) as augmented wages for work performed; and

(3) may be paid compensation in addition to the amounts described in paragraphs (1) and (2) by a State or by a participating employer as wages for work performed.

(c) PROGRAM ELIGIBILITY AND OTHER REQUIREMENTS.—For purposes of this program—

(1) individuals who, except for the requirements described in paragraph (3), are eligible to receive emergency unemployment compensation payments under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), and who choose to participate in the program described in subsection (b), shall receive such payments as wages for work performed during their voluntary participation in the program described under subsection (b);

(2) the wages payable to individuals described in paragraph (1) shall be paid from the emergency unemployment compensation account for such individual as described in section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), and the amount in such individual's account shall be reduced accordingly;

(3) the wages payable to an individual described in paragraph (1) shall be payable in the same amount, at the same interval, on the same terms, and subject to the same conditions under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), except that—

(A) State requirements applied under such Act relating to availability for work and active search for work are not applicable to such individuals who

participate for at least 25 hours per week in the program described in subsection (b) for the duration of such individual's participation in the program;

(B) State requirements applied under such Act relating to disqualifying income regarding wages earned shall not apply to such individuals who participate for at least 25 hours per week in the program described in subsection (b), and shall not apply with respect to—

(i) the wages described under subsection (b); and

(ii) any wages, in addition to those described under subsection (b), whether paid by a State or a participating employer for the same work activities;

(C) State prohibitions or limitations applied under such Act relating to employment status shall not apply to such individuals who participate in the program described in subsection (b); and

(D) State requirements applied under such Act relating to an individual's acceptance of an offer of employment shall not apply with regard to an offer of long-term employment from a participating employer made to such individual who is participating in the program described in subsection (b) in a work experience provided by such employer, where such long-term employment is expected to commence or commences at the conclusion of the duration specified in paragraph (4)(A);

(4) the program shall be structured so that individuals described in paragraph (1) may participate in the program for up to—

(A) 8 weeks, and

(B) 38 hours for each such week;

(5) a State shall ensure that all individuals participating in the program are covered by a workers' compensation insurance program; and

(6) the program meets such other requirements as the Secretary of Labor determines to be appropriate in guidance issued by the Secretary.

(d) STATE REQUIREMENTS.—

(1) CERTIFICATION OF ELIGIBLE EMPLOYER.—A State may certify as eligible for participation in the program under this section any employer that meets the eligibility criteria as established in guidance by the Secretary of Labor, except that an employer shall not be certified as eligible for participation in the program described under subsection (b)—

(A) if such employer—

(i) is a Federal, State, or local government entity;

(ii) would engage an eligible individual in work activities under any employer's grant, contract, or subcontract with a Federal, State, or local government entity, except with regard to work activities under any employer's supply contract or subcontract;

(iii) is delinquent with respect to any taxes or employer contributions described under sections 3301 and 3303(a)(1) of the Internal Revenue Code of 1986 or with respect to any related reporting requirements;

(iv) is engaged in the business of supplying workers to other employers and would participate in the program for the purpose of supplying individuals participating in the program to other employers; or

(v) has previously participated in the program and the State has determined that such employer has failed to abide by any of the requirements specified in subsections (h), (i), or (j), or by any other requirements that the Secretary may establish for employers under subsection (c)(6); and

(B) unless such employer provides assurances that it has not displaced existing workers pursuant to the requirements of subsection (h).

(2) AUTHORIZED ACTIVITIES.—Funds allotted to a State under this part for the program—

(A) shall be used to—

(i) recruit employers for participation in the program;

(ii) review and certify employers identified by eligible individuals seeking to participate in the program;

(iii) ensure that reemployment and counseling services are available for program participants, including services describing the program under subsection (b), prior to an individual's participation in such program;

(iv) establish and implement processes to monitor the progress and performance of individual participants for the duration of the program;

(v) prevent misuse of the program; and

(vi) pay augmented wages to eligible individuals, if necessary, as described in subsection (e); and

(B) may be used—

(i) to pay workers' compensation insurance premiums to cover all individuals participating in the program, except that, if a State opts not to make such payments directly to a State administered workers' compensation program, the State involved shall describe in the approved State plan the means by which such State shall ensure workers' compensation or equivalent coverage for all individuals who participate in the program;

(ii) to pay compensation to a participating individual that is in addition to the amounts described in subsections (c)(1) and (e) as wages for work performed;

(iii) to provide supportive services, such as transportation, child care, and dependent care, that would enable individuals to participate in the program;

(iv) for the administration and oversight of the program; and

(v) to fulfill additional program requirements included in the approved State plan.

(e) PAYMENT OF AUGMENTED WAGES IF NECESSARY.—In the event that the wages described in subsection (c)(1) are not sufficient to equal or exceed the minimum wages that are required to be paid by an employer under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law, whichever is

higher, a State shall pay augmented wages to a program participant in any amount necessary to cover the difference between—

(1) such minimum wages amount; and

(2) the wages payable under subsection (c)(1).

(f) EFFECT OF WAGES ON ELIGIBILITY FOR OTHER PROGRAMS.—None of the wages paid under this section shall be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally assisted program based on need.

(g) EFFECT OF WAGES, WORK ACTIVITIES, AND PROGRAM PARTICIPATION ON CONTINUING ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—Any wages paid under this section and any additional wages paid by an employer to an individual described in subsection (c)(1), and any work activities performed by such individual as a participant in the program, shall not be construed so as to render such individual ineligible to receive emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note).

(h) NONDISPLACEMENT OF EMPLOYEES.—

(1) PROHIBITION.—An employer shall not use a program participant to displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any current employee (as of the date of the participation).

(2) OTHER PROHIBITIONS.—An employer shall not permit a program participant to perform work activities related to any job for which—

(A) any other individual is on layoff from the same or any substantially equivalent position;

(B) the employer has terminated the employment of any employee or otherwise reduced the workforce of the employer with the intention of filling or partially filling the vacancy so created with the work activities to be performed by a program participant;

(C) there is a strike or lock out at the worksite that is the participant's place of employment; or

(D) the job is created in a manner that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(i) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—An employer shall not, by means of assigning work activities under this section, impair an existing contract for services or a collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization that is signatory to the collective bargaining agreement.

(j) LIMITATION ON EMPLOYER PARTICIPATION.—If, after 24 weeks of participation in the program, an employer has not made an offer of suitable long-term employment to any individual described under subsection (c)(1) who was placed with such employer and has completed the program, a State shall bar such employer from further participation in the program. States may impose additional conditions on participating employers to ensure that an appropriate number of participants receive offers of suitable long term employment.

(k) FAILURE TO MEET PROGRAM REQUIREMENTS.—If a State makes a determination based on information provided to the State, or acquired by the State by means of its administration and oversight functions, that a participating employer under this section has violated a requirement of this section, the State shall bar such employer from further participation in the program. The State shall establish a process whereby an individual described in subsection (c)(1), or any other affected individual or entity, may file a complaint with the State relating to a violation of any requirement or prohibition under this section.

(l) PARTICIPANT OPTION TO TERMINATE PARTICIPATION IN BRIDGE TO WORK PROGRAM.—

(1) TERMINATION.—An individual who is participating in a program described in subsection (b) may opt to discontinue participation in such program.

(2) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—An individual who opts to discontinue participation in such program, is terminated from such program by a participating employer, or who has completed participation in such program, and who continues to meet the eligibility requirements for emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) of such Act or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.

(m) EFFECT OF OTHER LAWS.—Unless otherwise provided in this section, nothing in this section shall be construed to alter or affect the rights or obligations under any Federal, State, or local laws with respect to any individual described in subsection (c)(1) and with respect to any participating employer under this section.

(n) TREATMENT OF PAYMENTS.—All wages or other payments to an individual under this section shall be treated as payments of unemployment insurance for purposes of section 209 of the Social Security Act (42 U.S.C. 409) and for purposes of subtitle A and sections 3101 and 3111 of the Internal Revenue Code of 1986.

SEC. 325. WAGE INSURANCE.

(a) IN GENERAL.—A State may use the funds allotted to the State under this part to provide a wage insurance program for EUC claimants.

(b) BENEFITS.—The wage insurance program provided under this section may use funds allotted to the State under this part to pay, for a period not to exceed 2 years, to a worker described in subsection (c), up to 50 percent of the difference between—

(1) the wages received by the worker at the time of separation; and

(2) the wages received by the worker for reemployment.

(c) INDIVIDUAL ELIGIBILITY.—The benefits described in subsection (b) may be paid to an individual who is an EUC claimant at the time such individual obtains reemployment and who—

(1) is at least 50 years of age;

(2) earns not more than $50,000 per year in wages from reemployment;

(3) is employed on a full-time basis as defined by the law of the State; and

(4) is not employed by the employer from which the individual was last separated.

(d) TOTAL AMOUNT OF PAYMENTS.—A State shall establish a maximum amount of payments per individual for purposes of payments described in subsection (b) during the eligibility period described in such subsection.

(e) NON-DISCRIMINATION REGARDING WAGES.—An employer shall not pay a worker described in subsection (c) less than such employer pays to a regular worker in the same or substantially equivalent position.

SEC. 326. ENHANCED REEMPLOYMENT STRATEGIES.

(a) IN GENERAL.—A State may use funds allotted under this part to provide a program of enhanced reemployment services to EUC claimants. In addition to the provision of services to such claimants, the program may include the provision of reemployment services to individuals who are unemployed and have exhausted their rights to emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008, (Public Law 110-252; 26 U.S.C. 3304 note). The program shall provide reemployment services that are more intensive than the reemployment services provided by the State prior to the receipt of the allotment under this part.

(b) TYPES OF SERVICES.—The enhanced reemployment services described in subsection (a) may include services such as—

(1) assessments, counseling, and other intensive services that are provided by staff on a one-to-one basis and may be customized to meet the reemployment needs of EUC claimants and individuals described in subsection (a);

(2) comprehensive assessments designed to identify alternative career paths;

(3) case management;

(4) reemployment services that are provided more frequently and more intensively than such reemployment services have previously been provided by the State; and

(5) services that are designed to enhance communication skills, interviewing skills, and other skills that would assist in obtaining reemployment.

SEC. 327. SELF-EMPLOYMENT PROGRAMS.

A State may use funds allotted to the State under this part, in an amount specified under an approved State plan, for the administrative costs associated with starting up the self-employment assistance program described in section 4001(i) of the Supplemental Appropriations Act, 2008, (Public Law 110-252; 26 U.S.C. 3304 note).

SEC. 328. ADDITIONAL INNOVATIVE PROGRAMS.

(a) IN GENERAL.— A State may use funds allotted under this part to provide a program for innovative activities, which use a strategy that is different from the reemployment strategies described in sections 324-327 and which are designed to facilitate the reemployment of EUC claimants. In addition to the provision of activities to such claimants, the program may include the provision of activities to individuals who are unemployed and have exhausted their rights to emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008, (Public Law 110-252; 26 U.S.C. 3304 note).

(b) CONDITIONS.—The innovative activities approved in accordance with subsection (a)—

(1) shall directly benefit EUC claimants and, if applicable, individuals described in subsection (a), either as a benefit paid to such claimant or individual or as a service provided to such claimant or individual;

(2) shall not result in a reduction in the duration or amount of, emergency unemployment compensation for which EUC claimants would otherwise be eligible;

(3) shall not include a reduction in the duration, amount of or eligibility for regular compensation or extended benefits;

(4) shall not be used to displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation) or allow a program participant to perform work activities related to any job for which—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling or partially filling the vacancy so created with the work activities to be performed by a program participant;

(C) there is a strike or lock out at the worksite that is the participant's place of employment; or

(D) the job is created in a manner that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation);

(5) shall not be in violation of any Federal, State, or local law.

SEC. 329. GUIDANCE AND ADDITIONAL REQUIREMENTS.

The Secretary of Labor may establish through guidance, without regard to the requirements of section 553 of title 5, United States Code, such additional requirements, including requirements regarding the allotment, recapture, and reallotment of funds, and reporting requirements, as the Secretary determines to be necessary to ensure fiscal integrity, effective monitoring, and appropriate and prompt implementation of the activities under this Act.

SEC. 330. REPORT OF INFORMATION AND EVALUATIONS TO CONGRESS AND THE PUBLIC.

The Secretary of Labor shall provide to the appropriate Committees of the Congress and make available to the public the information reported pursuant to section 329 and the evaluations of activities carried out pursuant to the funds reserved under section 322(a)(1).

SEC. 331. STATE.

For purposes of this part, the term "State" has the meaning given that term in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

PART III – SHORT-TIME COMPENSATION PROGRAM

SEC. 341. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

"(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

"(1) the participation of an employer is voluntary;

"(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

"(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are eligible for unemployment compensation;

"(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were totally unemployed from the participating employer;

"(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by their participation in the short-time compensation program;

"(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by the State agency;

"(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program, subject to other requirements in this section;

"(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

"(9) in the case of employees represented by a union as the sole and exclusive representative, the appropriate official of the union has agreed to the terms of the employer's written plan and implementation is consistent with employer obligations under the applicable Federal laws; and

"(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.".

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));".

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

"(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and"; and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking "the payment of short-time compensation under a plan approved by the Secretary of Labor" and inserting "the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)".

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

SEC. 342. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)) under the provisions of the State law.

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—

(1) IN GENERAL.—Payments to a State under subsection (a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

(2) THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 343.—States may receive payments under this section and section 343 with respect to a total of not more than 156 weeks.

(c) TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.—During any period that the transition provision under section 341(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a), the State shall be eligible for payments under this section after the effective date of such enactment.

(d) FUNDING AND CERTIFICATIONS.—

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

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

(e) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 343. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State's law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)).

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State's unemployment fund and shall not be used for purposes of calculating an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

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

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

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

(d) APPLICABILITY.—

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

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

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 342(b), shall be eligible to receive payments under section 342 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 344. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraph (1) and (2).

(B) CLARIFICATION.—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 341(a)(3) and 342(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 341(a)), and a State with an agreement under section 343, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying $700,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

(2) NOTICE.—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as

to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, $700,000,000 to carry out this section, to remain available without fiscal year limitation.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(2) SHORT-TIME COMPENSATION PROGRAM.—The term “short-time compensation program” has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 345. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)), the Secretary of Labor (in this section referred to as the "Secretary") shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers; and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

SEC. 346. REPORTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this Act.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 341(a)).

(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in States that have not enacted a short-time compensation program or entered into an agreement with the Secretary on a short-time compensation plan to determine the level of interest among such employers in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, $1,500,000 to carry out this section, to remain available without fiscal year limitation.

SUBTITLE B – LONG TERM UNEMPLOYED HIRING PREFERENCES

SEC. 351. LONG TERM UNEMPLOYEED WORKERS WORK OPPORTUNITY TAX CREDITS.

(a) IN GENERAL.—Paragraph (3) of section 51(b) of the Internal Revenue Code is amended by inserting "$10,000 per year in the case of any individual who is a qualified long term unemployed individual by reason of subsection (d)(11), and" before "$12,000 per year".

(b) LONG TERM UNEMPLOYEED INDIVIDUALS TAX CREDITS. —paragraph (d) of section 51 of the Internal Revenue Code is amended by—

(1) inserting "(J) qualified long term unemployed individual" at the end of paragraph (d)(1),

(2) inserting a new paragraph after paragraph (10) as follows

"(11) Qualified long term unemployed individual.

(A) In general. The term "qualified long term unemployed individual" means any individual who was not a student for at least 6 months during the 1-year period ending on the hiring date and is certified by the designated local agency as having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.

(B) Student. For purposes of this subsection, a student is an individual enrolled at least half-time in a program that leads to a degree, certificate, or other recognized educational credential for at least 6 months whether or not consecutive during the 1-year period ending on the hiring date."; and

(3) renumbering current paragraphs (11) through (14) as paragraphs (12) through (15).

(c) SIMPLIFIED CERTIFICATION. —Section 51(d) of the Internal Revenue Code is amended by adding a new paragraph 16 as follows—

"(16) Credit allowed for qualified long term unemployed individuals.

(A) In general. Any qualified long term unemployed individual under paragraph (11) will be treated as certified by the designated local agency as having aggregate periods of unemployment if—

(i) the individual is certified by the designated local agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date.

(B) Regulatory Authority. The Secretary in his discretion may provide alternative methods for certification.".

(d) CREDIT MADE AVAILABLE TO TAX-EXEMPT EMPLOYERS IN CERTAIN CIRCUMSTANCES.—Section 52(c) of the Internal Revenue Code is amended—

(1) by striking the word "No" at the beginning of the section and replacing it with "Except as provided in this subsection, no".

(2) the following new paragraphs are inserted at the end of section 52(c)—

"(1) IN GENERAL.— In the case of a tax-exempt employer, there shall be treated as a credit allowable under subpart C (and not allowable under subpart D) the lesser of—

(A) The amount of the work opportunity credit determined under this subpart with respect to such employer that is related to the hiring of qualified long term unemployed individuals described in subsection (d)(11); or

(B) The amount of the payroll taxes of the employer during the calendar year in which the taxable year begins.

(2) CREDIT AMOUNT.—In calculating tax-exempt employers, the work opportunity credit shall be determined by substituting "26 percent" for "40 percent" in section 51(a) and by substituting "16.25 percent" for "25 percent" in section 51(i)(3)(A).

(3) TAX-EXEMPT EMPLOYER.—For purposes of this subtitle, the term "tax-exempt employer" means an employer that is —

(A) an organization described in section 501(c) and exempt from taxation under section 501(a), or

(B) a public higher education institution (as defined in section 101 of the Higher Education Act of 1965).

(4) PAYROLL TAXES.—For purposes of this subsection—

(A) IN GENERAL.—The term "payroll taxes" means —

(i) amounts required to be withheld from the employees of the tax-exempt employer under section 3401(a),

(ii) amounts required to be withheld from such employees under section 3101, and

(iii) amounts of the taxes imposed on the tax-exempt employer under section 3111."

(e) Treatment of Possessions.—

(1) Payments to possessions.—

(A) Mirror code possessions.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(B) Other possessions.— The Secretary of the Treasury shall pay to each possession of the United States, which does not have a mirror code tax system, amounts estimated by the Secretary of the Treasury as being equal to the aggregate credits that would have been provided by the possession by reason of the application of this section (other than this subsection) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession

has a plan, which has been approved by the Secretary of the Treasury, under which such possession will promptly distribute such payments.

(2) Coordination with credit allowed against United States income taxes.--No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 that is attributable to the credit provided by this section (other than this subsection (e)) shall be taken into account with respect to any person -

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

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

(3) Definitions and special rules.—

(A) Possession of the United States.--For purposes of this subsection (e), the term ``possession of the United States'' includes American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.

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

(C) Treatment of payments.-- For purposes of section 1324(b)(2) of title 31, United States Code, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 shall apply.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SUBTITLE C – PATHWAYS BACK TO WORK

SEC. 361. SHORT TITLE.

This subtitle may be cited as the “Pathways Back to Work Act of 2011”.

SEC. 362. ESTABLISHMENT OF PATHWAYS BACK TO WORK FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund which shall be known as the Pathways Back to Work Fund (hereafter in this Act referred to as “the Fund”.)

(b) DEPOSITS INTO THE FUND. —Out of any amounts in the Treasury of the United States not otherwise appropriated, there are appropriated $5,000,000,000 for payment to the Fund to be used by the Secretary of Labor to carry out this Act.

SEC. 363. AVAILABILITY OF FUNDS.—

(a) IN GENERAL.—Of the amounts available to the Fund under section 362(b), the Secretary of Labor shall—

(1) allot $2,000,000,000 in accordance with section 364 to provide subsidized employment to unemployed, low-income adults;

(2) allot $1,500,000,000 in accordance with section 365 to provide summer and year-round employment opportunities to low-income youth;

(3) award $1,500,000,000 in competitive grants in accordance with section 366 to local entities to carry out work-based training and other work-related and educational strategies and activities of demonstrated effectiveness to unemployed, low-income adults and low-income youth to provide the skills and assistance needed to obtain employment.

(b) RESERVATION.—The Secretary of Labor may reserve not more than 1 percent of amounts available to the Fund under each of paragraphs (1)-(3) of subsection (a) for the costs of technical assistance, evaluations and Federal administration of this Act.

(c) PERIOD OF AVAILABILITY.—The amounts appropriated under this Act shall be available for obligation by the Secretary of Labor until December 31, 2012, and shall be available for expenditure by grantees and subgrantees until September 30, 2013.

SEC. 364. SUBSIDIZED EMPLOYMENT FOR UNEMPLOYED, LOW-INCOME ADULTS.

(a) IN GENERAL.—

(1) ALLOTMENTS.—From the funds available under section 363(a)(1), the Secretary of Labor shall make an allotment under subsection (b) to each State that has a State plan approved under subsection (c) and to each outlying area and Native American grantee under section 166 of the Workforce Investment Act of 1998 that meets the requirements of this section, for the purpose of providing subsidized employment opportunities to unemployed, low-income adults.

(2) GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor, in coordination with the Secretary of Health and Human Services, shall issue guidance regarding the implementation of this section. Such guidance shall, consistent with this section, include procedures for the submission and approval of State and local plans and the allotment and allocation of funds, including reallotment and reallocation of such funds, that promote the expeditious and effective implementation of the activities authorized under this section.

(b) STATE ALLOTMENTS.—

(1) RESERVATIONS FOR OUTLYING AREAS AND TRIBES. —Of the funds described subsection (a)(1), the Secretary shall reserve—

(A) not more than one-quarter of one percent to provide assistance to outlying areas to provide subsidized employment to low-income adults who are unemployed; and

(B) 1.5 percent to provide assistance to grantees of the Native American programs under section 166 of the Workforce Investment Act of 1998 to provide subsidized employment to low-income adults who are unemployed.

(2) STATES.—After determining the amounts to be reserved under paragraph (1), the Secretary of Labor shall allot the remainder of the amounts described in subsection (a)(1) among the States as follows:

(A) one-third shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(B) one-third shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(C) one-third shall be allotted on the basis of the relative number of disadvantaged adults and youth]in each State, compared to the total number of disadvantaged adults and youth in all States.

(3) DEFINITIONS.—For purposes of the formula described in paragraph (2)—

(A) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term "area of substantial unemployment" means any contiguous area with a population of at least 10,000 and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary.

(B) DISADVANTAGED ADULTS AND YOUTH.—The term "disadvantaged adults and youth" means an individual who is age 16 and older (subject to section 132(b)(1) (B)(v)(I) of the Workforce Investment Act of 1998) who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(i) the poverty line; or

(ii) 70 percent of the lower living standard income level.

(C) EXCESS NUMBER.—The term "excess number" means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(4) REALLOTMENT.—If the Governor of a State does not submit a State plan by the time specified in subsection (c), or a State does not receive approval of a State plan, the amount the State would have been eligible to receive pursuant to the formula under paragraph (2) shall be transferred within the Fund and added to the amounts available for the competitive grants under section 363(a)(3).

(c) STATE PLAN.—

(1) IN GENERAL.—For a State to be eligible to receive an allotment of the funds under subsection (b), the Governor of the State shall submit to the Secretary of Labor a State plan in such form and containing such information as the Secretary may require. At a minimum, such plan shall include—

(A) a description of the strategies and activities to be carried out by the State, in coordination with employers in the State, to provide subsidized employment opportunities to unemployed, low-income adults, including strategies relating to the level and duration of subsidies consistent with subsection (e)(2);

(B) a description of the requirements the State will apply relating to the eligibility of unemployed, low-income adults, consistent with section 368(6), for subsidized employment opportunities, which may include criteria to target assistance to particular categories of such adults, such as individuals with

disabilities or individuals who have exhausted all rights to unemployment compensation;

(C) a description of how the funds allotted to provide subsidized employment opportunities will be administered in the State and local areas, in accordance with subsection (d);

(D) a description of the performance outcomes to be achieved by the State through the activities carried out under this section and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes and with section 367(b);

(E) a description of the coordination of activities to be carried out with the funds provided under this section with activities under title I of the Workforce Investment Act of 1998, the TANF program under part A of title IV of the Social Security Act, and other appropriate Federal and State programs that may assist unemployed, low-income adults in obtaining and retaining employment;

(F) a description of the timelines for implementation of the activities described in subparagraph (A), and the number of unemployed, low-income adults expected to be placed in subsidized employment by quarter;

(G) assurances that the State will report such information as the Secretary of Labor may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(H) assurances that the State will ensure compliance with the labor standards and protections described in section 367(a) of this Act.

(2) SUBMISSION AND APPROVAL OF STATE PLAN.—

(A) SUBMISSION WITH OTHER PLANS.—The State plan described in this subsection may be submitted in conjunction with the State plan modification or request for funds required under section 365, and may be submitted as a modification to a State plan that has been approved under section 112 of the Workforce Investment Act of 1998.

(B) SUBMISSION AND APPROVAL.—

(i) SUBMISSION.— The Governor shall submit a plan to the Secretary of Labor not later than 75 days after the enactment of this Act and the Secretary of Labor shall make a determination regarding the approval or disapproval of such plans not later than 45 days after the submission of such plan. If the plan is disapproved, the Secretary of Labor may provide a reasonable period of time in which a disapproved plan may be amended and resubmitted for approval.

(ii) APPROVAL.—The Secretary of Labor shall approve a State plan that the Secretary determines is consistent with requirements of this section and reasonably appropriate and adequate to carry out the purposes of this section. If the plan is approved, the Secretary shall allot funds to States within 30 days after such approval.

(3) MODIFICATIONS TO STATE PLAN.—The Governor may submit a modification to a State plan under this subsection consistent with the requirements of this section.

(d) ADMINISTRATION WITHIN THE STATE.—

(1) OPTION. —The State may administer the funds for activities under this section through—

(A) the State and local entities responsible for the administration of the adult formula program under title I-B of the Workforce Investment Act of 1998;

(B) the entities responsible for the administration of the TANF program under part A of title IV of the Social Security Act; or

(C) a combination of the entities described in subparagraphs (A) and (B).

(2) WITHIN-STATE ALLOCATIONS.—

(A) ALLOCATION OF FUNDS.—The Governor may reserve up to 5 percent of the allotment under subsection (b)(2) for administration and technical assistance, and shall allocate the remainder, in accordance with the option elected under paragraph (1)—

(i) among local workforce investment areas within the State in accordance with the factors identified in subsection (b)(2), except that for purposes of such allocation references to a State in such paragraph shall be deemed to be references to a local workforce investment area and references to all States shall be deemed to be references to all local areas in the State involved, of which not more than 10 percent of the funds allocated to a local workforce investment area may be used for the costs of administration of this section; or

(ii) through entities responsible for the administration of the TANF program under part A of title IV of the Social Security Act in local areas in such manner as the State may determine appropriate.

(B) LOCAL PLANS.—

(i) IN GENERAL.—In the case where the responsibility for the administration of activities is to be carried out by the entities described under paragraph (1)(A), in order to receive an allocation under subparagraph (A)(i), a local workforce investment board, in partnership with the chief elected official of the local workforce investment area involved, shall submit to the Governor a local plan for the use of such funds under this section not later than 30 days after the submission of the State plan. Such local plan may be submitted as a modification to a local plan approved under section 118 of the Workforce Investment Act of 1998.

(ii) CONTENTS.—The local plan described in clause (i) shall contain the elements described in subparagraphs (A)-(H) of subsection (c)(1), as applied to the local workforce investment area.

(iii) APPROVAL.—The Governor shall approve or disapprove the local plan submitted under clause (i) within 30 days after submission, or if later, 30 days after the approval of the State plan. The Governor shall approve the plan unless the Governor determines that the plan is inconsistent with requirements of this section or is not reasonably appropriate and adequate to carry out the purposes of this section. If the Governor has not made a determination within the period specified under the first sentence of this clause, the plan shall be considered approved. If the plan is disapproved, the Governor may provide a reasonable period of

time in which a disapproved plan may be amended and resubmitted for approval. The Governor shall allocate funds to local workforce investment areas with approved plans within 30 days after such approval.

(C) REALLOCATION OF FUNDS TO LOCAL AREAS.—If a local workforce investment board does not submit a local plan by the time specified in subparagraph (B) or the Governor does not approve a local plan, the amount the local workforce investment area would have been eligible to receive pursuant to the formula under subparagraph (A)(i) shall be allocated to local workforce investment areas that receive approval of the local plan under subparagraph (B). Such reallocations shall be made in accordance with the relative share of the allocations to such local workforce investment areas applying the formula factors described under subparagraph (A)(i).

(e) USE OF FUNDS.—

(1) IN GENERAL.—The funds under this section shall be used to provide subsidized employment for unemployed, low-income adults. The State and local entities described in subsection (d)(1) may use a variety of strategies in recruiting employers and identifying appropriate employment opportunities, with a priority to be provided to employment opportunities likely to lead to unsubsidized employment in emerging or in-demand occupations in the local area. Funds under this section may be used to provide support services, such as transportation and child care, that are necessary to enable the participation of individuals in subsidized employment opportunities.

(2) LEVEL OF SUBSIDY AND DURATION.—The States or local entities described in subsection (d)(1) may determine the percentage of the wages and costs of employing a participant for which an employer may receive a subsidy with the funds provided under this section, and the duration of such subsidy, in accordance with guidance issued by the Secretary. The State or local entities may establish criteria for determining such percentage or duration using appropriate factors such as the size of the employer and types of employment.

(f) COORDINATION OF FEDERAL ADMINISTRATION.—The Secretary of Labor shall administer this section in coordination with the Secretary of Health and Human Services to ensure the effective implementation of this section.

SEC. 365. SUMMER EMPLOYMENT AND YEAR-ROUND EMPLOYMENT OPPORTUNITIES FOR LOW-INCOME YOUTH.

(a) IN GENERAL.—From the funds available under section 363(a)(2), the Secretary of Labor shall make an allotment under subsection (c) to each State that has a State plan modification (or other form of request for funds specified in guidance under subsection (b)) approved under subsection (d) and to each outlying area and Native American grantee under section 166 of the Workforce Investment Act of 1998 that meets the requirements of this section, for the purpose of providing summer employment and year-round employment opportunities to low-income youth.

(b) GUIDANCE AND APPLICATION OF REQUIREMENTS.—

(1) GUIDANCE.—Not later than 20 days after the date of enactment of this Act, the Secretary of Labor shall issue guidance regarding the implementation of this section. Such guidance shall, consistent with this section, include procedures for the submission

and approval of State plan modifications, or for forms of requests for funds by the State as may be identified in such guidance, local plan modifications, or other forms of requests for funds from local workforce investment areas as may be identified in such guidance, and the allotment and allocation of funds, including reallotment and reallocation of such funds, that promote the expeditious and effective implementation of the activities authorized under this section.

(2) REQUIREMENTS.—Except as otherwise provided in the guidance described in paragraph (1) and in this section and other provisions of this Act, the funds provided for activities under this section shall be administered in accordance with subtitles B and E of title I of the Workforce Investment Act of 1998 relating to youth activities.

(c) STATE ALLOTMENTS.—

(1) RESERVATIONS FOR OUTLYING AREAS AND TRIBES. —Of the funds described subsection (a), the Secretary shall reserve—

(A) not more than one-quarter of one percent to provide assistance to outlying areas to provide summer and year-round employment opportunities to low-income youth; and

(B) 1.5 percent to provide assistance to grantees of the Native American programs under section 166 of the Workforce Investment Act of 1998 to provide summer and year-round employment opportunities to low-income youth.

(2) STATES.—After determining the amounts to be reserved under paragraph (1), the Secretary of Labor shall allot the remainder of the amounts described in subsection (a) among the States in accordance with the factors described in section 364(b)(2) of this Act.

(3) REALLOTMENT.— If the Governor of a State does not submit a State plan modification or other request for funds specified in guidance under subsection (b) by the time specified in subsection (d)(2)(B), or a State does not receive approval of such State plan modification or request, the amount the State would have been eligible to receive pursuant to the formula under paragraph (2) shall be transferred within the Fund and added to the amounts available for the competitive grants under section 363(a)(3).

(d) STATE PLAN MODIFICATION.—

(1) IN GENERAL.—For a State to be eligible to receive an allotment of the funds under subsection (c), the Governor of the State shall submit to the Secretary of Labor a modification to a State plan approved under section 112 of the Workforce Investment Act of 1998, or other request for funds described in guidance in subsection (b), in such form and containing such information as the Secretary may require. At a minimum, such plan modification or request shall include:

(A) a description of the strategies and activities to be carried out to provide summer employment opportunities and year-round employment opportunities, including the linkages to educational activities, consistent with subsection (f);

(B) a description of the requirements the States will apply relating to the eligibility of low-income youth, consistent with section 368(4), for summer employment opportunities and year-round employment opportunities, which may include criteria to target assistance to particular categories of such low-income youth, such as youth with disabilities, consistent with subsection (f);

(C) a description of the performance outcomes to be achieved by the State through the activities carried out under this section and the processes the State will use to track performance, consistent with guidance provided by the Secretary of Labor regarding such outcomes and processes and with section 367(b);

(D) a description of the timelines for implementation of the activities described in subparagraph (A), and the number of low-income youth expected to be placed in summer employment opportunities, and year-round employment opportunities, respectively, by quarter;

(E) assurances that the State will report such information as the Secretary may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(F) assurances that the State will ensure compliance with the labor standards protections described in section 367(a).

(2) SUBMISSION AND APPROVAL OF STATE PLAN MODIFICATION OR REQUEST.—

(A) SUBMISSION .— The Governor shall submit a modification of the State plan or other request for funds described in guidance in subsection (b) to the Secretary of Labor not later than 30 days after the issuance of such guidance. The State plan modification or request for funds required under this subsection may be submitted in conjunction with the State plan required under section 364.

(B) APPROVAL.—The Secretary of Labor shall approve the plan or request submitted under subparagraph (A) within 30 days after submission, unless the Secretary determines that the plan or request is inconsistent with the requirements of this section. If the Secretary has not made a determination within 30 days, the plan or request shall be considered approved. If the plan or request is disapproved, the Secretary may provide a reasonable period of time in which a disapproved plan or request may be amended and resubmitted for approval. If the plan or request is approved, the Secretary shall allot funds to States within 30 days after such approval.

(3) MODIFICATIONS TO STATE PLAN OR REQUEST.—The Governor may submit further modifications to a State plan or request for funds identified under subsection (b) to carry out this section in accordance with the requirements of this section.

(e) WITHIN-STATE ALLOCATION AND ADMINISTRATION.—

(1) IN GENERAL.—Of the funds allotted to the State under subsection (c), the Governor—

(A) may reserve up to 5 percent of the allotment for administration and technical assistance; and

(B) shall allocate the remainder of the allotment among local workforce investment areas within the State in accordance with the factors identified in section 364(b)(2), except that for purposes of such allocation references to a State in such paragraph shall be deemed to be references to a local workforce investment area and references to all States shall be deemed to be references to all local areas in the State involved. Not more than 10 percent of the funds allocated

to a local workforce investment area may be used for the costs of administration of this section.

(2) LOCAL PLAN.—

(A) SUBMISSION.—In order to receive an allocation under paragraph (1)(B), the local workforce investment board, in partnership with the chief elected official for the local workforce investment area involved, shall submit to the Governor a modification to a local plan approved under section 118 of the Workforce Investment Act of 1998, or other form of request for funds as may be identified in the guidance issued under subsection (b), not later than 30 days after the submission by the State of the modification to the State plan or other request for funds identified in subsection (b), describing the strategies and activities to be carried out under this section.

(B) APPROVAL.—The Governor shall approve the local plan submitted under subparagraph (A) within 30 days after submission, unless the Governor determines that the plan is inconsistent with requirements of this section. If the Governor has not made a determination within 30 days, the plan shall be considered approved. If the plan is disapproved, the Governor may provide a reasonable period of time in which a disapproved plan may be amended and resubmitted for approval. The Governor shall allocate funds to local workforce investment areas with approved plans within 30 days after approval.

(3) REALLOCATION.—If a local workforce investment board does not submit a local plan modification (or other request for funds identified in guidance under subsection (b)) by the time specified in paragraph (2), or does not receive approval of a local plan, the amount the local workforce investment area would have been eligible to receive pursuant to the formula under paragraph (1)(B) shall be allocated to local workforce investment areas that receive approval of the local plan modification or request for funds under paragraph (2). Such reallocations shall be made in accordance with the relative share of the allocations to such local workforce investment areas applying the formula factors described under paragraph (1)(B).

(f) USE OF FUNDS.—

(1) IN GENERAL.—The funds provided under this section shall be used—

(A) to provide summer employment opportunities for low-income youth, ages 16 through 24, with direct linkages to academic and occupational learning, and may include the provision of supportive services, such as transportation or child care, necessary to enable such youth to participate; and

(B) to provide year round employment opportunities, which may be combined with other activities authorized under section 129 of the Workforce Investment Act of 1998,to low-income youth, ages 16 through 24, with a priority to out-of school youth who are—

(i) high school dropouts; or

(ii) recipients of a secondary school diploma or its equivalent but who are basic skills deficient unemployed or underemployed.

(2) PROGRAM PRIORITIES.—In administering the funds under this section, the local board and local chief elected officials shall give a priority to—

(A) identifying employment opportunities that are—

(i) in emerging or in-demand occupations in the local workforce investment area; or

(ii) in the public or nonprofit sector that meet community needs; and

(B) linking year-round program participants to training and educational activities that will provide such participants an industry-recognized certificate or credential.

(3) PERFORMANCE ACCOUNTABILITY.—For activities funded under this section, in lieu of the requirements described in section 136 of the Workforce Investment Act of 1998, State and local workforce investment areas shall provide such reports as the Secretary of Labor may require regarding the performance outcomes described in section 367(a)(5).

SEC. 366. WORK-BASED EMPLOYMENT STRATEGIES OF DEMONSTRATED EFFECTIVENESS.

(a) IN GENERAL.—From the funds available under section 363(a)(3), the Secretary of Labor shall award grants on a competitive basis to eligible entities to carry out work-based strategies of demonstrated effectiveness.

(b) USE OF FUNDS.—The grants awarded under this section shall be used to support strategies and activities of demonstrated effectiveness that are designed to provide unemployed, low-income adults or low-income youth with the skills that will lead to employment as part of or upon completion of participation in such activities. Such strategies and activities may include—

(1) on-the-job training, registered apprenticeship programs, or other programs that combine work with skills development;

(2) sector-based training programs that have been designed to meet the specific requirements of an employer or group of employers in that sector and where employers are committed to hiring individuals upon successful completion of the training;

(3) training that supports an industry sector or an employer-based or labor-management committee industry partnership which includes a significant work-experience component;

(4) acquisition of industry-recognized credentials in a field identified by the State or local workforce investment area as a growth sector or demand industry in which there are likely to be significant job opportunities in the short-term;

(5) connections to immediate work opportunities, including subsidized employment opportunities, or summer employment opportunities for youth, that includes concurrent skills training and other supports.

(6) career academies that provide students with the academic preparation and training, including paid internships and concurrent enrollment in community colleges or other postsecondary institutions, needed to pursue a career pathway that leads to postsecondary credentials and high-demand jobs; and

(7) adult basic education and integrated basic education and training models for low-skilled adults, hosted at community colleges or at other sites, to prepare individuals for jobs that are in demand in a local area.

(c) ELIGIBLE ENTITY.—An eligible entity shall include a local chief elected official, in collaboration with the local workforce investment board for the local workforce investment area

involved (which may include a partnership with of such officials and boards in the region and in the State), or an entity eligible to apply for an Indian and Native American grant under section 166 of the Workforce Investment Act of 1998, and may include, in partnership with such officials, boards, and entities, the following:

(1) employers or employer associations;

(2) adult education providers and postsecondary educational institutions, including community colleges;

(3) community-based organizations;

(4) joint labor-management committees;

(5) work-related intermediaries; or

(6) other appropriate organizations.

(d) APPLICATION.—An eligible entity seeking to receive a grant under this section shall submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall—

(1) describe the strategies and activities of demonstrated effectiveness that the eligible entities will carry out to provide unemployed, low-income adults and low-income youth with the skills that will lead to employment upon completion of participation in such activities;

(2) describe the requirements that will apply relating to the eligibility of unemployed, low-income adults or low-income youth, consistent with paragraphs (4) and (6) of section 368, for activities carried out under this section, which may include criteria to target assistance to particular categories of such adults and youth, such as individuals with disabilities or individuals who have exhausted all rights to unemployment compensation;

(3) describe how the strategies and activities address the needs of the target populations identified in paragraph (2) and the needs of employers in the local area;

(4) describe the expected outcomes to be achieved by implementing the strategies and activities;

(5) provide evidence that the funds provided may be expended expeditiously and efficiently to implement the strategies and activities;

(6) describe how the strategies and activities will be coordinated with other Federal, State and local programs providing employment, education and supportive activities;

(7) provide evidence of employer commitment to participate in the activities funded under this section, including identification of anticipated occupational and skill needs;

(8) provide assurances that the grant recipient will report such information as the Secretary may require relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out under this section; and

(9) provide assurances that the use of the funds provided under this section will comply with the labor standards and protections described section 367(a).

(e) PRIORITY IN AWARDS.—In awarding grants under this section, the Secretary of Labor shall give a priority to applications submitted by eligible entities from areas of high poverty and high unemployment, as defined by the Secretary, such as Public Use Microdata Areas (PUMAs) as designated by the Census Bureau.

(f) COORDINATION OF FEDERAL ADMINISTRATION.—The Secretary of Labor shall administer this section in coordination with the Secretary of Education, Secretary of Health and Human Services, and other appropriate agency heads, to ensure the effective implementation of this section.

SEC. 367. GENERAL REQUIREMENTS.—

(a) LABOR STANDARDS AND PROTECTIONS.—Activities provided with funds under this Act shall be subject to the requirements and restrictions, including the labor standards, described in section 181 of the Workforce Investment Act of 1998 and the nondiscrimination provisions of section 188 of such Act, in addition to other applicable federal laws.

(b) REPORTING. —The Secretary may require the reporting of information relating to fiscal, performance and other matters that the Secretary determines is necessary to effectively monitor the activities carried out with funds provided under this Act. At a minimum, grantees and subgrantees shall provide information relating to—

(1) the number individuals participating in activities with funds provided under this Act and the number of such individuals who have completed such participation;

(2) the expenditures of funds provided under the Act;

(3) the number of jobs created pursuant to the activities carried out under this Act;

(4) the demographic characteristics of individuals participating in activities under this Act;

(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));

(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; or

(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;

(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;

(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:

"SECTION 613A. PERCENTAGE DEPLETION NOT ALLOWED IN CASE OF OIL AND GAS WELLS. The allowance for depletion under section 611 with respect to any oil and gas well shall be computed without regard to section 613.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 434. SECTION 199 DEDUCTION NOT ALLOWED WITH RESPECT TO OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) In General.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to income attributable to domestic production activities) is amended--

(1) by striking "or" at the end of clause (ii),

(2) by striking the period at the end of clause (iii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iv) the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof.".

(b) Conforming Amendment.—Paragraph (9) of section 199(d) is amended to read as follows:

"(9) Primary product. —For purposes of subsection (c)(4)(B)(iv), the term "primary product" has the same meaning as when used in section 927(a)(2)(C) as in effect before its repeal.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 435. REPEAL OIL AND GAS WORKING INTEREST EXCEPTION TO PASSIVE ACTIVITY RULES.

(a) In General.—Paragraph (3) of section 469(c) of the Internal Revenue Code of 1986 (relating to passive activity defined) is amended by adding at the end thereof the following new subparagraph—

"(C) Termination. —Subparagraph (A) shall not apply for any taxable year beginning after December 31 2012.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 436. UNIFORM SEVEN-YEAR AMORTIZATION FOR GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) In General.—Paragraph (1) of section 167(h) of the Internal Revenue Code of 1986 (relating to amortization of geological and geophysical expenditures) is amended by striking "24-month" and inserting in lieu thereof "7-year".

(b) Conforming Amendments. —Section 167(h) is amended —

(1) by striking "24-month" in paragraph (4) and inserting in lieu thereof "7-year", and

(2) by striking paragraph (5).

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2012.

SEC. 437. REPEAL ENHANCED OIL RECOVERY CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1of the Internal Revenue Code of 1986 (relating to business related credits) is amended by striking section 43 (relating to enhanced oil recovery credit).

(b) Clerical Amendment. —The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 43.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. 438. REPEAL MARGINAL WELL PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1of the Internal Revenue Code of 1986 (relating to business related credits) is amended by striking section 45I (relating to credit for producing oil and gas from marginal wells).

(b) Clerical Amendment. —The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 45I.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

SUBTITLE E – DUAL CAPACITY TAXPAYERS

SEC. 441. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 (relating to credit for taxes of foreign countries and of possessions of the United States) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES RELATING TO DUAL CAPACITY TAXPAYERS.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer or any member of the worldwide affiliated group of which such dual capacity taxpayer is also a member to any foreign country or to any possession of the United States for any period shall not be considered a tax to the extent such amount exceeds the amount (determined in accordance with regulations) which would have been required to be paid if the taxpayer were not a dual capacity taxpayer.

''(2) DUAL CAPACITY TAXPAYER.—For purposes of this subsection, the term 'dual capacity taxpayer' means, with respect to any foreign country or possession of the United States, a person who—

''(A) is subject to a levy of such country or possession, and

''(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.

"(3) REGULATIONS. – The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection.''.

(b) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this section shall not apply to the extent contrary to any treaty obligation of the United States.

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to amounts that, if such amounts were an amount of tax paid or accrued, would be considered paid or accrued in taxable years beginning after December 31, 2012.

SEC. 442. SEPARATE BASKET TREATMENT TAXES PAID ON FOREIGN OIL AND GAS INCOME.

(a) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) combined foreign oil and gas income (as defined in section 907(b)(1)).''

(b) COORDINATION.—Section 904(d)(2)of such Code is amended by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L) and by inserting after subparagraph (I) the following:

''(J) COORDINATION WITH COMBINED FOREIGN OIL AND GAS INCOME.—For purposes of this section, passive category income and general category income shall not include combined foreign oil and gas income (as defined in section 907(b)(1)).''

(c) CONFORMING AMENDMENTS.—

(1) Section 907(a) is hereby repealed.

(2) Section 907(c)(4) is hereby repealed.

(3) Section 907(f) is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2012.

(2) TRANSITIONAL RULES.—

(A) CARRYOVERS.—Any unused foreign oil and gas taxes which under section 907(f) of such Code (as in effect before the amendment made by subsection (c)(3)) would have been allowable as a carryover to the taxpayer's first taxable year beginning after December 31, 2012 (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(B) LOSSES.—The amendment made by subsection (c)(2) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

SUBTITLE F – INCREASED TARGET AND TRIGGER FOR JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

SEC. 451. INCREASED TARGET AND TRIGGER FOR JOINT SELECT COMMITTEE ON DEFICIT REDUCTION.

(a) INCREASED TARGET FOR JOINT SELECT COMMITTEE.— Section 401(b)(2) of the Budget Control Act of 2011 is amended by striking "$1,500,000,000,000" and inserting "$1,950,000,000,000".

(b) TRIGGER FOR JOINT SELECT COMMITTEE . – Section 302 of the Budget Control Act of 2011 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TRIGGER.— If a joint committee bill achieving an amount greater than "$1,650,000,000,000" in deficit reduction as provided in section 401(b)(3)(B)(i)(II) of this Act is enacted by January 15, 2012, then the amendments to the Internal Revenue Code of 1986 made by subtitles A through E of title IV of the American Jobs Act of 2011, shall not be in effect for any taxable year.".