To create American jobs and reduce the deficit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2011

Mr. Grijalva (for himself and Mr. Ellison) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Natural Resources, Agriculture, the Judiciary, Science, Space, and Technology, Energy and Commerce, Oversight and Government Reform, Small Business, Transportation and Infrastructure, Financial Services, Veterans’ Affairs, the Budget, Armed Services, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To create American jobs and reduce the deficit, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Restore the American Dream for the 99% Act” or the “Act for the 99%”.

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

Sec. 1. Short title; Table of contents.

TITLE I—EMERGENCY JOB CREATION TO REBUILD AMERICA

Subtitle A—Emergency Jobs to Restore the American Dream Act

Sec. 1001. Short title.

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Sec. 1022. Allocation of funds.
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PART 2—STUDENT JOBS CORPS

Sec. 1061. Student Jobs Corps.

PART 3—PUBLIC LANDS CORPS AND CIVILIAN CONSERVATION CORPS

Sec. 1071. Appropriation of additional funds for existing Public Lands Corps.
Sec. 1072. Establishment and operation of new Civilian Conservation Corps.

PART 4—NEIGHBORHOOD HEROES CORPS

Sec. 1081. Teacher Corps.
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Sec. 1122. Child Development Corps.

PART 8—ON-THE-JOB TRAINING

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PART 9—GENERAL PROVISIONS

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Sec. 1142. Reporting.
Sec. 1143. Hiring and preferences.
Sec. 1144. Flexibility on hiring.
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Sec. 1146. Employment status and compensation in new programs.
Sec. 1147. Dispute resolutions, whistleblower hotline, and enforcement by the Secretary.
Sec. 1148. Termination.

Subtitle B—Buy American Enhancement Act of 2011

Sec. 1201. Short title.
Sec. 1202. Domestic content requirement for the Buy American Act.
Sec. 1203. Requirement for indirect contracts to comply with the Buy American Act.
Sec. 1204. Buy American waiver reporting requirement.
Sec. 1205. Implementation through the Federal Acquisition Regulation.
Sec. 1206. Definitions.

Subtitle C—Fairness and Transparency in Contracting Act of 2011
Sec. 1301. Short title.
Sec. 1302. Definitions.
Sec. 1303. Purpose.
Sec. 1304. Definition of small business concern and status review.
Sec. 1305. Notification.
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Subtitle D—National Infrastructure Development Bank Act of 2011
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Sec. 1404. Establishment of national infrastructure development bank.
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Sec. 1406. Executive committee.
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Sec. 1409. Personnel.
Sec. 1410. Eligibility criteria for assistance from Bank.
Sec. 1411. Exemption from local taxation.
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Sec. 1414. Applicability of certain State laws.
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Sec. 1416. Capitalization of bank.
Sec. 1417. Sunset.

Subtitle E—Wounded Veteran Job Security Act
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Sec. 1504. Notification of employer of intent to return to a position of employment.
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Subtitle F—Emergency Unemployment Compensation Extension Act of 2011
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Sec. 1602. Extension of emergency unemployment compensation program.
Sec. 1603. Temporary extension of extended benefit provisions.

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Sec. 1702. Additional first-tier emergency unemployment compensation.
Sec. 1703. Regulations.
Sec. 1704. Effective date.

Subtitle H—Currency Reform for Fair Trade Act
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Subtitle I—Prioritize Emergency Job Creation Act

Sec. 1851. Short title.
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Sec. 1961. Transportation infrastructure investment.

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Sec. 2103. Reduction and freeze in budget of Department of Defense.

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Sec. 2201. Reduction in end strength level of members of the United States Armed Forces assigned to permanent duty in Europe and corresponding general end strength reductions.
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Subtitle D—V–22 Osprey Aircraft Program

Sec. 2401. Termination of V–22 Osprey aircraft program.

Subtitle E—Fairness in Taxation

Sec. 2501. Increased tax rates for taxpayers with more than $1,000,000 taxable income.
Sec. 2502. Recapture of lower capital gains rates for individuals subject to added rate brackets.

Subtitle F—End Big Oil Tax Subsidies Act of 2011

Sec. 2601. Short title.
Sec. 2602. Amortization of geological and geophysical expenditures.
Sec. 2603. Producing oil and gas from marginal wells.
Sec. 2604. Enhanced oil recovery credit.
Sec. 2605. Intangible drilling and development costs in the case of oil and gas wells.
Sec. 2606. Percentage depletion.
Sec. 2607. Tertiary injectants.
Sec. 2608. Passive activity losses and credits limited.
Sec. 2609. Income attributable to domestic production activities.
Sec. 2610. Prohibition on using last-in, first-out accounting for major integrated oil companies.
Sec. 2611. Modifications of foreign tax credit rules applicable to dual capacity taxpayers.

Subtitle G—Superfund Reinvestment Act

Sec. 2701. Short title.
Sec. 2702. Use of Hazardous Substance Superfund for cleanup.
Sec. 2703. Budgetary treatment of Hazardous Substance Superfund.
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Sec. 2952. Classification of employees and non-employees.
Sec. 2953. Misclassification of employees for unemployment compensation purposes.
Sec. 2954. Department of Labor coordination, referral, and regulations.
Sec. 2955. Targeted audits.

Subtitle K—Corporate Assets Should Be Used to Hire Act

Sec. 2961. Short title.
Sec. 2962. Temporary surtax on increases in retained earnings of domestic corporations.

TITLE III—PROTECT AND STRENGTHEN SOCIAL SECURITY, MEDICARE, AND MEDICAID

Subtitle A—Public Option Deficit Reduction Act

Sec. 3001. Short title.
Sec. 3002. Public health insurance option.

Subtitle B—Medicare Prescription Drug Price Negotiation Act of 2011

Sec. 3101. Short title.
Sec. 3102. Negotiation of lower covered part d drug prices on behalf of medicare beneficiaries.

Subtitle C—Medicaid Enhancement and Emergency Job Creation Act of 2011

Sec. 3201. Short title.
Sec. 3202. Extension of ARRA increase in FMAP through fiscal year 2012.

Subtitle D—Keeping Our Social Security Promises Act

Sec. 3301. Short title.
Sec. 3302. Payroll tax on remuneration up to contribution and benefit base and more than $250,000.
Sec. 3303. Tax on net earnings from self-employment up to contribution and benefit base and more than $250,000.

TITLE I—EMERGENCY JOB CREATION TO REBUILD AMERICA

Subtitle A—Emergency Jobs to Restore the American Dream Act

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the “Emergency Jobs to Restore the American Dream Act”.

PART 1—SCHOOL IMPROVEMENT CORPS

SEC. 1011. PURPOSE.

It is the purpose of this part to provide for the creation of 400,000 construction jobs for the purpose of modernizing, renovating, or repairing public school facilities;
and 250,000 maintenance jobs for the purpose of maintaining and improving public school facilities.

SEC. 1012. DEFINITIONS.

In this part:

(1) The term “Bureau-funded school” has the meaning given such term in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021).

(2) The term “charter school” has the meaning given such term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(3) The term “CHPS Criteria” means the green building rating program developed by the Collaborative for High Performance Schools.


(5) The term “Green Globes” means the Green Building Initiative environmental design and rating system referred to as Green Globes.

Design green building rating standard referred to as LEED Green Building Rating System.

(7) The term “local educational agency”—

(A) has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801);

(B) includes any public charter school that constitutes a local educational agency under State law; and

(C) includes the Recovery School District of Louisiana.

(8) The term “outlying area”—

(A) means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) includes the Republic of Palau.

(9) The term “public school facilities” means existing public elementary or secondary school facilities, including public charter school facilities and other existing facilities planned for adaptive reuse as public charter school facilities.

(10) The term “Secretary” means the Secretary of Education.
(11) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Subpart A—Grants for Modernization, Renovation, or Repair of Public School Facilities

SEC. 1021. PURPOSE.

Grants under this subpart shall be for the purpose of modernizing, renovating, or repairing public school facilities (including early learning facilities, as appropriate), based on the need of the facilities for such improvements, to ensure that public school facilities are safe, healthy, high-performing, and technologically up-to-date.

SEC. 1022. ALLOCATION OF FUNDS.

(a) Reservation.—

(1) In general.—From the amount appropriated to carry out this subpart for each fiscal year pursuant to section 1052(a)(1), the Secretary shall reserve 2 percent of such amount, consistent with the purpose described in section 1052(a)(1)—

(A) to provide assistance to the outlying areas; and

(B) for payments to the Secretary of the Interior to provide assistance to Bureau-funded schools.
(2) Use of reserved funds.—In each fiscal year, the amount reserved under paragraph (1) shall be divided between the uses described in subparagraphs (A) and (B) of such paragraph in the same proportion as the amount reserved under section 1121(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(a)) is divided between the uses described in paragraphs (1) and (2) of such section 1121(a) in such fiscal year.

(3) Distressed areas and natural disasters.—From the amount appropriated to carry out this subpart for each fiscal year pursuant to section 1052(a), the Secretary shall reserve 5 percent of such amount for grants to—

(A) local educational agencies serving geographic areas with significant economic distress, to be used consistent with the purpose described in section 1021 and the allowable uses of funds described in section 1023;

(B) local educational agencies serving geographic areas recovering from a natural disaster; and

(C) local educational agencies serving geographic areas that contain a military installation selected for closure under the base closure

(b) Allocation to States.—

(1) **State-by-state allocation.**—Of the amount appropriated to carry out this subpart for each fiscal year pursuant to section 1052(a)(1), and not reserved under subsection (a), each State shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total amount received by all local educational agencies in every State under such part for such fiscal year.

(2) **State administration.**—A State may reserve up to 1 percent of its allocation under paragraph (1) to carry out its responsibilities under this subpart, which include—

(A) providing technical assistance to local educational agencies;

(B) developing an online, publicly searchable database that includes an inventory of public school facilities in the State, including for
each such facility, its design, condition, modernization, renovation and repair needs, utilization, energy use, and carbon footprint; and

(C) creating voluntary guidelines for high-performing school buildings, including guidelines concerning the following:

(i) Site location, storm water management, outdoor surfaces, outdoor lighting, and transportation, including public transit and pedestrian and bicycle accessibility.

(ii) Outdoor water systems, landscaping to minimize water use, including elimination of irrigation systems for landscaping, and indoor water use reduction.

(iii) Energy efficiency (including minimum and superior standards, such as for heating, ventilation, and air conditioning systems), use of alternative energy sources, commissioning, and training.

(iv) Use of durable, sustainable materials, including life-cycle cost effectiveness, and waste reduction.

(v) Indoor environmental quality, such as day lighting in classrooms, lighting quality, indoor air quality (including with
reference to reducing the incidence and effects of asthma and other respiratory illnesses), acoustics, and thermal comfort.

(vi) Operations and management, such as use of energy-efficient equipment, indoor environmental management plan, maintenance plan, and pest management.

(3) Grants to Local Educational Agencies.—From the amount allocated to a State under paragraph (1), each eligible local educational agency in the State shall receive an amount in proportion to the amount received by such local educational agency under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total amount received by all local educational agencies in the State under such part for such fiscal year, except that no local educational agency that received funds under such part for such fiscal year shall receive a grant of less than $5,000 in any fiscal year under this subpart.

(4) Special Rule.—Section 1122(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6332(c)(3)) shall not apply to paragraph (1) or (3).
(c) Special Rules.—

(1) Distributions by Secretary.—The Secretary shall make and distribute the reservations and allocations described in subsections (a) and (b) not later than 90 days after an appropriation of funds for this subpart is made.

(2) Distributions by States.—A State shall make and distribute the allocations described in subsection (b)(3) within 60 days of receiving such funds from the Secretary.

SEC. 1023. ALLOWABLE USES OF FUNDS.

(a) In General.—A local educational agency receiving a grant under this subpart shall use the grant for modernization, renovation, or repair of public school facilities (including early learning facilities and charter schools, as appropriate), including—

(1) repair, replacement, or installation of roofs, including extensive, intensive or semi-intensive green roofs, electrical wiring, water supply and plumbing systems, sewage systems, storm water runoff systems, lighting systems, building envelope, windows, ceilings, flooring, or doors, including security doors;

(2) repair, replacement, or installation of heating, ventilation, or air conditioning systems, includ-
ing insulation, and conducting indoor air quality as-

sessment;

(3) compliance with fire, health, seismic, and

safety codes, including professional installation of

fire and life safety alarms, and modernizations, ren-

ovations, and repairs that ensure that schools are

prepared for emergencies, such as improving build-

ing infrastructure to accommodate security measures

and installing or upgrading technology to ensure

that schools are able to respond to emergencies such

as acts of terrorism, campus violence, and natural

disasters;

(4) retrofitting necessary to increase the energy

efficiency and water efficiency of public school facili-

ties;

(5) modifications necessary to make 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);

(6) abatement, removal, or interim controls of

asbestos, polychlorinated biphenyls, mold, mildew,

lead-based hazards, including lead-based paint haz-

ards, or a proven carcinogen;
(7) measures designed to reduce or eliminate human exposure to classroom noise and environmental noise pollution;

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

(9) installation or upgrading of educational technology infrastructure;

(10) modernization, renovation, or repair of science and engineering laboratories, libraries, and career and technical education facilities, and improvements to building infrastructure to accommodate bicycle and pedestrian access;

(11) installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet and woody biomass), waste-to-energy, and solar-thermal and geothermal systems, and for energy audits;

(12) measures designed to reduce or eliminate human exposure to airborne particles such as dust, sand, and pollens;

(13) creating greenhouses, gardens (including trees), and other facilities for environmental, sci-
entific, or other educational purposes, or to produce energy savings;

(14) modernizing, renovating, or repairing physical education facilities for students, including upgrading or installing recreational structures made from post-consumer recovered materials in accordance with the comprehensive procurement guidelines prepared by the Administrator of the Environmental Protection Agency under section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6962(e));

(15) other modernization, renovation, or repair of public school facilities to—

(A) improve teachers’ ability to teach and students’ ability to learn;

(B) ensure the health and safety of students and staff;

(C) make them more energy efficient; or

(D) reduce class size; and

(16) required environmental remediation related to modernization, renovation, or repair described in paragraphs (1) through (15).

(b) ADMINISTRATIVE COSTS.—A local educational agency receiving a grant under this part may not use more than 1 percent of such grant funds for administrative costs.
SEC. 1024. PRIORITY PROJECTS.

In selecting a project under section 113, a local educational agency may give priority to projects involving the abatement, removal, or interim controls of asbestos, polychlorinated biphenyls, mold, mildew, lead-based hazards, including lead-based paint hazards, or a proven carcinogen.

Subpart B—Grants for Maintenance Costs

SEC. 1031. ALLOCATION TO STATES.

(a) State-by-State Allocation.—Of the amount appropriated to carry out this subpart for each fiscal year pursuant to section 1052(a)(2), each State shall be allocated an amount in proportion to the amount received by all local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal year relative to the total amount received by all local educational agencies in every State under such part for such fiscal year.

(b) Grants to Local Educational Agencies.—From the amount allocated to a State under subsection (a), each eligible local educational agency in the State shall receive an amount in proportion to the amount received by such local educational agency under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the previous fiscal...
year relative to the total amount received by all local educational agencies in the State under such part for such fiscal year.

SEC. 1032. ALLOWABLE USES OF FUNDS.

(a) Required Use of Funds.—A local educational agency receiving a grant under this subpart shall use the grant for payment of maintenance costs, including routine repairs classified as current expenditures under State or local law.

(b) Administrative Costs.—A local educational agency receiving a grant under this subpart may not use more than 1 percent of such grant funds for administrative costs.

Subpart C—General Provisions

SEC. 1041. SUPPLEMENT, NOT SUPPLANT.

A local educational agency receiving a grant under this part shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available for modernization, renovation, repair, maintenance, and construction of public school facilities.

SEC. 1042. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this part in determining the eligibility of any local educational agency in that State for State aid, or the
amount of State aid, with respect to free public education of children.

SEC. 1043. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—A local educational agency may receive a grant under this part for any fiscal year only if either the combined fiscal effort per student or the aggregate expenditures of the agency and the State involved with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(b) WAIVER.—The Secretary shall 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 local educational agency.

SEC. 1044. SPECIAL RULES ON CONTRACTING.

(a) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

(1) IN GENERAL.—Each local educational agency receiving a grant under this part shall ensure that, if the agency carries out modernization, renovation, repair, maintenance, or construction
through a contract, the process for any such con-
tract ensures the maximum number of qualified bid-
ders, including local, small, minority, and women-
and veteran-owned businesses, through full and open
competition.

(2) REVIEW OF APPLICATIONS.—In reviewing
awarding contracts under paragraph (1), a local
educational agency shall give preference to busi-
nesses that demonstrate—

(A) current and past compliance with Fed-
eral and State labor laws, including laws con-
cerning wage and hour, labor relations, family
and medical leave, occupational safety and
health, and living wage standards; and

(B) terms and conditions of employment
including payment of living wage; availability of
sick, vacation and retirement benefits; and ex-
istence of grievance procedures and labor-man-
agement committees.

(b) CERTIFICATION BY BUSINESSES.—Any business
competing for a contract with a local educational agency
receiving funds under this part shall certify to the local
educational agency that the business has a record of com-
pliance and is currently in compliance with Federal, State,
and local labor and workplace laws, including statutes con-
cerning wage and hour, labor relations, family and medical
leave, occupational safety and health, and living wage
standards.

SEC. 1045. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.

(a) IN GENERAL.—None of the funds appropriated
or otherwise made available by this part may be used for
a project for the modernization, renovation, repair, main-
tenance, or construction of a public school facility unless
all of the iron, steel, and manufactured goods used in the
project are produced in the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply in
any case or category of cases in which the Secretary finds
that—

(1) applying subsection (a) would be incon-
sistent with the public interest;

(2) iron, steel, and the relevant manufactured
goods are not produced in the United States in suffi-
cient 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 per-
cent.
(c) Publication of Justification.—If the Secretary determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the Secretary shall publish in the Federal Register a detailed written justification of the determination.

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

SEC. 1046. LABOR STANDARDS; COMPLIANCE WITH EXISTING STATUTES.

(a) In General.—The grant programs under this subpart are applicable programs (as that term is defined in section 400 of the General Education Provisions Act (20 U.S.C. 1221)) subject to section 439 of such Act (20 U.S.C. 1232b).

(b) Compliance With Existing Statutes.—Each local educational agency receiving a grant under this part shall comply with all applicable Federal, State, and local health, safety, labor, and civil rights laws.

SEC. 1047. CHARTER SCHOOLS.

A local educational agency receiving a grant under this part may reserve an amount of that grant for charter schools within its jurisdiction for modernization, renovation, repair, and construction, or maintenance of charter
school facilities (including early learning facilities, as ap-
propriate).

**SEC. 1048. GREEN SCHOOLS.**

(a) IN GENERAL.—A local educational agency receiv-
ing a grant under this part shall, to the maximum extent
practicable, use such funds for public school moderniza-
tion, renovation, repair, or construction or maintenance
that are certified, verified, or consistent with any applica-
able provisions of—

(1) the LEED Green Building Rating System;

(2) Energy Star;

(3) the CHPS Criteria;

(4) Green Globes; or

(5) an equivalent program adopted by the
State, or another jurisdiction with authority over the
local educational agency, that includes a verifiable
method to demonstrate compliance with such pro-
gram.

(b) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall be construed to prohibit a local educational
agency from using sustainable, domestic hardwood lumber
as ascertained through the forest inventory and analysis
program of the Forest Service of the Department of Agri-
culture under the Forest and Rangeland Renewable Re-
for public school modernization, renovation, repairs, or construction.

(c) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall provide outreach and technical assistance to States and local educational agencies concerning the best practices in school modernization, renovation, repair, and construction, including those related to student academic achievement, student and staff health, energy efficiency, and environmental protection.

SEC. 1049. REPORTING.

(a) REPORTS BY LOCAL EDUCATIONAL AGENCIES.—Local educational agencies receiving a grant under this part shall annually compile a report describing the projects for which such funds were used, including—

(1) the number and identity of public schools in the agency, including the number of charter schools, and for each school, the total number of students, and the number of students counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5));

(2) the total amount of funds received by the local educational agency under this part, and for each public school in the agency, including each
charter school, the amount of such funds expended, and the types of modernization, renovation, repair, or construction projects for which such funds were used;

(3) the number of students impacted by such projects, including the number of students so impacted who are counted under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5));

(4) the number of public schools in the agency with a metro-centric locale code of 41, 42, or 43 as determined by the National Center for Education Statistics and the percentage of funds received by the agency under subpart A or subpart B of this part that were used for projects at such schools;

(5) the number of public schools in the agency that are eligible for schoolwide programs under section 1114 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314) and the percentage of funds received by the agency under subpart A or subpart B of this part that were used for projects at such schools;

(6) for each project—

(A) the cost;
(B) the standard described in section 128(a) with which the use of the funds complied or, if the use of funds did not comply with a standard described in section 128(a), the reason such funds were not able to be used in compliance with such standards and the agency’s efforts to use such funds in an environmentally sound manner; and

(C) any demonstrable or expected benefits as a result of the project (such as energy savings, improved indoor environmental quality, student and staff health, including the reduction of the incidence and effects of asthma and other respiratory illnesses, and improved climate for teaching and learning);

(7) the total number and amount of contracts awarded, and the number and amount of contracts awarded to local, small, minority, women, and veteran-owned businesses; and

(8) the total number of jobs created by funding under this part by—

(A) the local educational agency; and

(B) contractors who performed work for the local educational agency under this part.
(b) AVAILABILITY OF REPORTS.—A local educational agency shall—

(1) submit the report described in subsection (a) to the State educational agency, which shall compile such information and report it annually to the Secretary; and

(2) make the report described in subsection (a) publicly available, including on the agency’s Web site.

(c) REPORTS BY SECRETARY.—Not later than March 31 of each fiscal year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, and make available on the Department of Education’s Web site, a report on grants made under this subpart, including the information from the reports described in subsection (b)(1).

SEC. 1050. SPECIAL RULES.

Notwithstanding any other provision of this subpart, none of the funds authorized by this part may be—

(1) used to employ workers in violation of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a); or
(2) distributed to a local educational agency that does not have a policy that requires a criminal background check on all employees of the agency.

SEC. 1051. PROMOTION OF EMPLOYMENT EXPERIENCES.

The Secretary of Education, in consultation with the Secretary of Labor, shall work with recipients of funds under this subpart to promote appropriate opportunities to gain employment experience working on modernization, renovation, repair, maintenance, and construction projects funded under this subpart for—

(1) participants in a YouthBuild program (as defined in section 173A of the Workforce Investment Act of 1998 (29 U.S.C. 2918a));

(2) individuals enrolled in the Job Corps program carried out under subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.);

(3) individuals enrolled in a junior or community college (as defined in section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1088(f))) certificate or degree program relating to projects described in section 128(a); and

(4) participants in preapprenticeship programs that have direct linkages with apprenticeship programs that are registered with the Department of
Labor or a State Apprenticeship Agency under the National Apprenticeship Act of 1937 (29 U.S.C. 50 et seq.).

SEC. 1052. AVAILABILITY OF FUNDS.

(a) Authorization and Appropriation.—There are authorized to be appropriated, and there are appropriated, for each of fiscal years 2012 and 2013—

(1) to carry out subpart A (in addition to any other amounts appropriated to carry out such title and out of any money in the Treasury not otherwise appropriated), $40,000,000,000; and

(2) to carry out subpart B (in addition to any other amounts appropriated to carry out such title and out of any money in the Treasury not otherwise appropriated), $10,000,000,000.

(b) Prohibition on Earmarks.—None of the funds appropriated under this section may be used for a Congressional earmark as defined in clause 9(d) of rule XXI of the Rules of the House of Representatives for the 112th Congress.

(c) Sunset.—The authority to award grants under this part shall expire at the end of fiscal year 2013.

SEC. 1053. ALTERNATE DISTRIBUTION OF FUNDS.

If, within 30 days after the date of the enactment of this Act, a local educational agency has submitted to
the Secretary a certification that they are refusing funds
they are eligible to receive under this part, the Secretary
shall provide for funds allocated to that local educational
agency to be distributed to another entity or other entities
in the State, under such terms and conditions as the Sec-
retary may establish, provided that all terms and condi-
tions that apply to funds appropriated under this section
shall apply to such funds distributed to such entity or enti-
ties.

PART 2—STUDENT JOBS CORPS

SEC. 1061. STUDENT JOBS CORPS.

(a) Purpose.—It is the purpose of this section to
provide for an additional 250,000 part-time work-study
jobs through the Federal Work-Study Program under part
C of title IV of the Higher Education Act of 1965 (20
U.S.C. 2751 et seq.).

(b) Appropriation of Additional Amounts.—
There are authorized to be appropriated, and there are
hereby appropriated, out of amounts in the Treasury not
otherwise appropriated, to the Secretary of Education
$425,000,000 for each of the fiscal years 2012 and 2013
for grants to institutions of higher education under part
C of title IV of the Higher Education Act of 1965 (20
U.S.C. 2751 et seq.) for payments to students partici-
part.

(c) Relation to Other Funds.—Amounts appropriated by subsection (b) are in addition to amounts appropriated pursuant to the authorization of appropriations in section 441(b) of the Higher Education Act of 1965 (20 U.S.C. 2751(b)) and amounts otherwise made available by any other Act for the Federal Work-Study program under part C of such Act of 1965.

(d) Matching Funds Not Required.—Notwithstanding section 443(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 2753(b)(5)) or an agreement made pursuant to such section 443, an institution of higher education shall not be required to provide matching funds for any funds made available to the institution by this section.

PART 3—PUBLIC LANDS CORPS AND CIVILIAN CONSERVATION CORPS

SEC. 1071. APPROPRIATION OF ADDITIONAL FUNDS FOR EXISTING PUBLIC LANDS CORPS.

(a) Purpose.—It is the purpose of this section to provide for the creation of an additional 100,000 positions in the Public Lands Corps established under section 204 of the Public Lands Corps Act of 1993 (16 U.S.C. 1723).

(b) Authorization and Appropriation of Additional Funds.—
(1) Forest Service.—There are authorized to be appropriated, and there are hereby appropriated, out of amounts in the Treasury not otherwise appropriated, to the Secretary of Agriculture $125,000,000 for each of fiscal years 2012 and 2013—

(A) to carry out the Public Lands Corps established in the Department of Agriculture under section 204 of the Public Lands Corps Act of 1993 (16 U.S.C. 1723);

(B) to support qualified youth or conservation corps to perform conservation projects referred to in subsection (d) of such section; and

(C) to support resource assistants selected under section 206 of such Act (16 U.S.C. 1725).

(2) Department of the Interior.—There are authorized to be appropriated, and there are hereby appropriated, out of amounts in the Treasury not otherwise appropriated, to the Secretary of the Interior $125,000,000 for each of fiscal years 2012 and 2013—

(A) to carry out the Public Lands Corps established in the Department of the Interior
under section 204 of the Public Lands Corps Act of 1993 (16 U.S.C. 1723);

(B) to support qualified youth or conservation corps to perform conservation projects referred to in subsection (d) of such section; and

(C) to support resource assistants selected under section 206 of such Act (16 U.S.C. 1725).

(e) Relation to Other Funds for Public Lands Corps.—Amounts appropriated by subsection (b) are in addition to amounts appropriated pursuant to the authorization of appropriations in section 211 of the Public Lands Corps Act of 1993 (16 U.S.C. 1730) and amounts allocated to the Public Lands Corps through other Federal programs or projects.

(d) Expedited Obligation of Funds.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall commence obligation of the funds appropriated by subsection (b) for fiscal year 2012 by utilizing the pool of remaining applications for fiscal year 2011 assistance under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.). If the number of fiscal year 2011 applications is insufficient to use the entire amount of the additional funds appropriated for fiscal year 2012, the Secre-
tories shall announce an open solicitation process for new
applications for assistance.

(e) WAIVER OF COST-SHARING REQUIREMENTS.—
The cost-sharing requirements of sections 206(b) and 210
of the Public Lands Corps Act of 1993 (16 U.S.C. 1725,
1730) shall not apply with respect to the expenditure of
amounts appropriated by subsection (b).

SEC. 1072. ESTABLISHMENT AND OPERATION OF NEW CI-
VILIAN CONSERVATION CORPS.

(a) ESTABLISHMENT AND PURPOSE.—The President
may establish and operate a Civilian Conservation Corps
to employ citizens of the United States in the construction,
maintenance, and carrying on of additional works of a
public nature in connection with—

(1) the forestation of lands belonging to the
United States or a State;

(2) the prevention of forest fires, floods, and
soil erosion;

(3) plant pest and disease control;

(4) the construction, maintenance, or repair of
paths, trails, and fire-lanes in units of the National
Park System, public lands, and other lands under
the jurisdiction of the Secretary of the Interior and
units of the National Forest System; and
(5) such other work on Federal or State land incidental to or necessary in connection with any projects of the character enumerated in paragraphs (1) through (4) that the President determines to be desirable.

(b) Role of Federal Agencies.—To operate the Civilian Conservation Corps, the President may utilize existing Federal departments and agencies, including the Department of Labor, the Department of Defense, the National Guard Bureau, the Department of Interior, the Department of Agriculture, the Army Corps of Engineers, the Department of Transportation, the Department of Energy, the Environmental Protection Agency, and Federal governmental corporations.

(c) Contract Authority.—For the purpose of carrying out the Civilian Conservation Corps, the President may enter into such contracts or agreements with States as may be necessary, including provisions for utilization of existing State administrative agencies.

(d) Acquisition of Real Property.—The President, or the head of any department or agency authorized by the President to construct any project or to carry on any public works through the Civilian Conservation Corps, may acquire real property for such project or public work by purchase, donation, condemnation, or otherwise.
(c) Employment Preference.—If amounts appropriated to carry out a Civilian Conservation Corps for a fiscal year will be insufficient to employ all of the citizens of the United States who are seeking or likely to seek employment in the Civilian Conservation Corps, while also continuing the employment of current employees who desire to remain in the Civilian Conservation Corps, the President shall employ additional persons in the Civilian Conservation Corps in the following order of preference:

(1) Unemployed veterans of the Armed Forces and unemployed members of the reserve components of the Armed Forces.

(2) Unemployed citizens who have exhausted their entitlement to unemployment compensation.

(3) Unemployed citizens, who immediately before employment in the Civilian Conservation Corps, are eligible for unemployment compensation payable under any State law or Federal unemployment compensation law, including any additional compensation or extended compensation under such laws.

(4) Other interested citizens.

(f) Authorization of Appropriations.—

(1) Authorization of Appropriations.—

There are authorized to be appropriated to the President $16,000,000,000 for each of fiscal years
2012 through 2015 to establish and operate a Civilian Conservation Corps.

(2) USE OF UNOBLIGATED FUNDS APPROPRIATED FOR PUBLIC WORKS.—

(A) USE OF EXISTING FUNDS.—The President may use any moneys previously appropriated for public works and unobligated as of the date of the enactment of this Act to establish and operate a Civilian Conservation Corps.

(B) USE TO RELIEVE UNEMPLOYMENT.—Not less than 80 percent of the funds utilized pursuant to subparagraph (A) must be used to provide for the employment of individuals in the Civilian Conservation Corps.

(C) EXCEPTIONS.—Subparagraph (A) does not apply to—

(i) unobligated moneys appropriated for public works on which actual construction has been commenced as of the date of the enactment of this Act or may be commenced within 90 days after that date; and

(ii) maintenance funds for river and harbor improvements already allocated as of the date of the enactment of this Act.
(3) Duration of Availability.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) or made available under paragraph (2) shall remain available until expended.

PART 4—NEIGHBORHOOD HEROES CORPS

SEC. 1081. TEACHER CORPS.

(a) Purpose.—It is the purpose of this section to provide for the retention, rehiring, and hiring of 300,000 education jobs.

(b) Authorization and Appropriation.—There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses for a Teacher Corps, $20,000,000,000 for each of fiscal years 2012 and 2013: Provided, That the amount under this section shall be administered under the terms and conditions of sections 14001 through 14013 and title XV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) except as follows:

(1) Allocation of Funds.—

(A) Funds appropriated under this section shall be available only for allocation by the Secretary of Education (in this section referred to as the Secretary) in accordance with subsections (a), (b), (d), (e), and (f) of section
14001 of division A of Public Law 111–5 and
subparagraph (B) of this paragraph, except
that the amount reserved under such subsection
(b) shall not exceed $4,000,000 and such sub-
section (f) shall be applied by substituting one
year for two years.

(B) Prior to allocating funds to States
under section 14001(d) of division A of Public
Law 111–5, the Secretary shall allocate 0.5
percent to the Secretary of the Interior for
schools operated or funded by the Bureau of In-
dian Affairs on the basis of the schools’ respec-
tive needs for activities consistent with this sec-
tion under such terms and conditions as the
Secretary of the Interior may determine.

(2) Reservation.—A State that receives an
allocation of funds appropriated under this section
may reserve not more than 1 percent for the admin-
istrative costs of carrying out its responsibilities with
respect to those funds.

(3) Awards to Local Educational Agen-
cies.—

(A) Except as specified in paragraph (2),
an allocation of funds to a State shall be used
only for awards to local educational agencies for
the support of elementary and secondary edu-
cation in accordance with paragraph (5) for the

(B) Funds used to support elementary and
secondary education shall be distributed
through a State’s primary elementary and sec-
ondary funding formulae or based on local edu-
cational agencies’ relative shares of funds under
part A of title I of the Elementary and Sec-
ondary Education Act of 1965 (20 U.S.C. 6311
et seq.) for the most recent fiscal year for which
data are available.

(C) Subsections (a) and (b) of section
14002 of division A of Public Law 111–5 shall
not apply to funds appropriated under this sec-
tion.

(4) Compliance with education reform as-
surances.—For purposes of awarding funds appro-
priated under this section, any State that has an ap-
proved application for Phase II of the State Fiscal
Stabilization Fund that was submitted in accordance
with the application notice published in the Federal
Register on November 17, 2009 (74 Fed. Reg.
59142) shall be deemed to be in compliance with
subsection (b) and paragraphs (2) through (5) of
subsection (d) of section 14005 of division A of Public Law 111–5.

(5) REQUIREMENT TO USE FUNDS TO RETAIN OR CREATE EDUCATION JOBS.—Notwithstanding section 14003(a) of division A of Public Law 111–5, funds awarded to local educational agencies under paragraph (3)—

(A) may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services; and

(B) may not use more than 1 percent of such grant funds for administrative costs.

(6) PROHIBITION ON USE OF FUNDS FOR RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State that receives an allocation may not use such funds, directly or indirectly, to—

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

(B) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund;
(C) reduce or retire debt obligations incurred by the State; or

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

(7) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, the amount of funds that would, in the absence of the Federal funds made available under this section, be made available from local, State, and Federal sources to provide compensation and other expenses such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services.

(8) DEADLINE FOR AWARD.—The Secretary shall award funds appropriated under this section not later than 45 days after the date of the enactment of this Act to States that have submitted applications meeting the requirements applicable to funds under this section. The Secretary shall not require information in applications beyond what is necessary to determine compliance with applicable provisions of law.
(9) ALTERNATE DISTRIBUTION OF FUNDS.—If, within 30 days after the date of the enactment of this Act, a Governor has not submitted an approvable application, the Secretary shall provide for funds allocated to that State to be distributed to another entity or other entities in the State (notwithstanding section 14001(e) of division A of Public Law 111–5) for support of elementary and secondary education, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to funds appropriated under this section shall apply to such funds distributed to such entity or entities. No distribution shall be made to a State under this paragraph, however, unless the Secretary has determined (on the basis of such information as may be available) that the requirements of paragraph (11) are likely to be met, notwithstanding the lack of an application from the Governor of that State.

(10) LOCAL EDUCATIONAL AGENCY APPLICATION.—Section 442 of the General Education Provisions Act shall not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of Public Law 111–5. The assurances provided under that ap-
plication shall continue to apply to funds awarded under this section.

(11) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—Subject to subparagraph (B), a local educational agency may receive a grant under this part for any fiscal year only if either the combined fiscal effort per student or the aggregate expenditures of the agency and the State involved with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

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

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

(ii) a precipitous decline in the financial resources of the local educational agency.

(C) ARRA PROVISION NOT APPLICABLE.—

Section 14005(d)(1) and subsections (a)
through (e) of section 14012 of division A of Public Law 111–5 shall not apply to funds appropriated under this section.

SEC. 1082. APPROPRIATION OF ADDITIONAL FUNDS FOR COMMUNITY ORIENTED POLICING SERVICES.

(a) PURPOSE.—It is the purpose of this section to provide for the hiring and rehiring of an additional 40,000 State, local, and tribal career law enforcement officers through the Community Oriented Policing Services program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(b) AUTHORIZATION AND APPROPRIATION OF ADDITIONAL AMOUNTS.—There are authorized to be appropriated, and there are hereby appropriated, out of amounts in the Treasury not otherwise appropriated, to the Attorney General $5,000,000,000 for each of the fiscal years 2012 and 2013 for grants under section 1701(b)(1) and (2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)(1) and (2)) for hiring and rehiring of additional career law enforcement officers under part Q of such title, notwithstanding subsection (i) of such section.

(e) RELATION TO OTHER FUNDS FOR COPS.—Amounts appropriated by subsection (b) are in addition to amounts appropriated pursuant to the authorization of

(d) Expedited Obligation of Funds.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall commence obligation of the funds appropriated by subsection (b) for fiscal year 2012 by utilizing the pool of applicants who submitted applications for fiscal year 2011 grants under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) but did not receive funding under such part for such fiscal year for hiring and rehiring of additional career law enforcement officers. If the number of such fiscal year 2011 applicants is insufficient to use the entire amount of the additional funds appropriated for fiscal year 2012, the Attorney General shall announce an open solicitation process for new applications for grants, to be submitted in accordance with the requirements of section 1702 of such Act (42 U.S.C. 3796dd–1).

(e) Waiver of Certain Requirements.—Notwithstanding any other provision of law, subsection (g) of section 1701 of the Omnibus Crime Control and Safe Streets
Act of 1968 (42 U.S.C. 3796dd(g)) and subsection (c) of section 1704 of such Act (42 U.S.C. 3796dd–3(c)) shall not apply with respect to grants awarded using any funds made available under this section.

SEC. 1083. FIREFIGHTERS CORPS.

(a) PURPOSE.—It is the purpose of this section to provide for the hiring and rehiring of an additional 12,000 firefighters through section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a).

(b) AMENDMENT AUTHORIZING FUNDS.—Section 34(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(i)) is amended—

(1) in paragraph (6) by striking “and”;

(2) in paragraph (7) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(8) $1,200,000,000 for fiscal year 2012; and

“(9) $1,200,000,000 for fiscal year 2013.”.

(c) APPROPRIATION.—

(1) IN GENERAL.—There is hereby appropriated out of any money in the Treasury not otherwise appropriated $1,200,000,000 for each of the fiscal years 2012 and 2013 to carry out section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a).
(2) LIMITATION.—None of the funds made available under paragraph (1) of this subsection may be used to enforce the requirements of subparagraphs (A), (B), or (E) of subsection (a)(1) or paragraphs (1), (2), or (4)(A) of subsection (c) of such section 34.

(d) EXPEDITED OBLIGATION OF FUNDS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall commence obligation of the funds appropriated by subsection (c) for fiscal year 2012 by utilizing the pool of applicants who submitted applications for fiscal year 2011 grants under section 34 of the Federal Fire Prevention and Control Act of 1974 but did not receive funding under such section for such fiscal year for hiring and rehiring of additional firefighters. If the number of such fiscal year 2011 applicants is insufficient to use the entire amount of the additional funds appropriated for fiscal year 2012, the Secretary of Homeland Security shall announce an open solicitation process for new applications for grants, to be submitted in accordance with the requirements of such section 34.
PART 5—HEALTH CARE CORPS

SEC. 1091. PURPOSE.

It is the purpose of this part to provide for the creation of a grant to hire at least 40,000 health care and long-term care professionals to expand access to care.

SEC. 1092. HEALTH CARE AND LONG-TERM CARE PROVIDERS.

Part D of title III of the Public Health Service Act is amended by inserting after subpart III (42 U.S.C. 254l et seq.) the following:

“Subpart IV—Hiring and Retaining Additional Health Care and Long-Term Care Professionals

“SEC. 338N. HIRING AND RETAINING ADDITIONAL HEALTH CARE AND LONG-TERM CARE PROFESSIONALS.

“(a) IN GENERAL.—The Secretary may provide financial assistance to health care or long-term care providers to pay all or part of the costs of hiring and retaining health care or long-term care professionals in addition to the professionals who, but for such assistance, would be hired and retained.

“(b) ELIGIBLE ASSISTANCE RECIPIENTS.—Health care and long-term care providers eligible for assistance under subsection (a) include the following:
“(1) A health care or long-term care provider serving a health professional shortage area designated under section 332.

“(2) A Federally qualified health center (as defined in section 1861(aa) of the Social Security Act).

“(3) A rural health clinic.

“(4) A health care or long-term care provider that receives payment under title XVIII of the Social Security Act or under a State plan or State child health plan under title XIX or XXI, respectively, of such Act.

“(5) A public hospital.

“(6) A public health agency.

“(7) A nursing home or long-term care facility.

“(8) An intermediate care or developmentally disabled facility.

“(9) A critical access hospital.

“(10) A school-based health center.

“(11) A university or college mental health facility.

“(12) An Indian health program or facility operated by an Indian tribe or tribal organization.

“(13) A correctional facility.

“(c) ELIGIBLE HEALTH PROFESSIONALS.—Health care and long-term care professionals who may be hired
or retained using assistance provided under this section include the following:

“(1) Dentists.
“(2) Certified nurse midwives.
“(3) Psychologists.
“(4) Licensed clinical social workers.
“(5) Licensed professional counselors.
“(6) Marriage and family therapists.
“(7) Nurse practitioners, including those specializing in psychiatry.
“(8) Nurses, including advanced practice nurses.
“(9) Physicians, including osteopathic physicians.
“(10) Physician assistants, including those specializing in psychiatry.
“(11) Psychiatric nurse specialists.
“(12) Registered dental hygienists.
“(13) Community health workers.
“(14) Occupational and physical therapists.
“(15) Optometrists.
“(16) Certified nursing assistants.
“(17) Direct care workers.
“(d) **APPLICATION PROCESS.**—
“(1) **IN GENERAL.**—The Secretary shall—
“(A) not later than 60 days after the date of the enactment of this section, solicit applications for financial assistance under this section;

“(B) require that any such application be submitted—

“(i) not later than 90 days after the date of the enactment of this section; and

“(ii) in such manner and containing such information as the Secretary may require; and

“(C) not later than 120 days after the date of the enactment of this section, determine which such applications will be approved and provide notice of such determination to the applicants.

“(2) COMPLIANCE WITH LABOR AND WORKPLACE LAWS.—As a condition on eligibility for financial assistance under this section, an application under paragraph (1) shall demonstrate to the Secretary’s satisfaction that the applicant has a record of compliance, and is currently in compliance, with Federal, State, and local labor and workplace laws, including Federal, State, and local laws—
“(A) relevant to hiring and retaining health care or long-term care professionals, such as laws—

“(i) requiring background checks in connection with hiring;

“(ii) requiring such professionals to be licensed or certified; or

“(iii) limiting the scope of practice;

“(B) concerning wage and hour, labor relations, family and medical leave, occupational safety and health, or living wage standards; or

“(C) concerning other terms and conditions of employment such as the availability of sick, vacation, and retirement benefits and the existence of grievance procedures and labor-management committees.

“(e) Authorization and Appropriation of Additional Amounts.—To carry out this section, there are authorized to be appropriated, and there are hereby appropriated to the Department of Health and Human Services, out of amounts in the Treasury not otherwise appropriated, $4,000,000,000 for each of fiscal years 2012 and 2013.”.
SEC. 1093. SUPPLEMENT, NOT SUPPLANT.

A health care or long-term care provider receiving a grant under this part shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available for hiring and retaining health care or long-term care professionals.

PART 6—COMMUNITY CORPS

SEC. 1101. PURPOSE.

It is the purpose of this part to provide for the creation of an additional 750,000 jobs through funding to States and units of general local government to establish and administer a Community Corps.

SEC. 1102. COMMUNITY CORPS.

(a) FUNDING.—There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses to the Secretary of Labor, in consultation with the Secretary of Housing and Urban Development, to provide to States and units of general local government to establish and administer a Community Corps, $30,000,000,000 for each of fiscal years 2012 and 2013.

(b) ALLOTMENT FORMULA.—

(1) RESERVATIONS BY THE SECRETARY.—Of the amount appropriated under subsection (a) for each fiscal year, the Secretary may reserve—
(A) not more than 1 percent to administer this part;

(B) not more than 0.5 percent to award grants, on a competitive basis, to Indian tribes for purposes of this part.

(2) MAKING FUNDS AVAILABLE FOR ALLOTMENT BY THE SECRETARY.—Of the amounts appropriated under subsection (a) and not reserved under paragraph (1) of this subsection, the Secretary shall allot the amounts for each fiscal year as follows:

(A) Seventy percent to entitlement communities, of which the Secretary shall allot—

(i) 25 percent by allotting to each entitlement community an amount which bears the same ratio to the total amount to be allotted under this clause as the population of the entitlement community bears to the total population of all entitlement communities;

(ii) 25 percent by allotting each entitlement community an amount which bears the same ratio to the total amount to be allotted under this clause as the extent of poverty in the entitlement community
bears to the extent of poverty in all entitlement communities; and

(iii) 50 percent by allotting to each entitlement community in an amount which bears the same ratio to the total to be allotted under this clause as the number of unemployed individuals in the entitlement community bears to the total number of unemployed individuals in all entitlement communities.

(B) Thirty percent to States, of which the Secretary shall allot—

(i) 25 percent by allotting to each State an amount which bears the same ratio to the total amount to be allotted under this clause as the population of the State bears to the total population of all States;

(ii) 25 percent by allotting to each State an amount which bears the same ratio to the total amount to be allotted under this clause as the extent of poverty in the State bears to the extent of poverty in all States; and
(iii) 50 percent by allotting to each
State an amount which bears the same
ratio to the total amount to be allotted
under this clause as the number of unem-
ployed individuals in the State bears to the
total number of unemployed individuals in
all States.

(3) Reservation and allotments by
states.—

(A) Reservation.—Of the amount of
funds allotted to a State under paragraph
(2)(B) for each fiscal year, a State may reserve
not more than 50 percent to carry out a State-
wide Community Corps.

(B) Allotments by states.—A State
shall provide all of the funds allotted to the
State under paragraph (2)(B) that are not re-
erved under subparagraph (A) to units of gen-
eral local government located in nonentitlement
areas of the State to employ individuals under
the Community Corps program, of which the
State shall allot—

(i) 25 percent to each such unit in an
amount which bears the same ratio to the
total amount made available under this
clause as the population of the unit bears
to the total population of all such units;

(ii) 25 percent to each such unit in an
amount which bears the same ratio to the
total amount made available under this
clause as the extent of poverty in the unit
bears to the extent of poverty in such
units; and

(iii) 50 percent to each such unit in
an amount which bears the same ratio to
the total amount made available under this
clause as the number of unemployed indi-
viduals in the unit bears to the total num-
ber of unemployed individuals in all such
units.

(4) Reallocation.—If a State or entitlement
community does not apply for an allotment under
this section for any fiscal year, or if a State’s or en-
titlement community’s application is not approved,
the Secretary shall reallocate such amount to the re-
maining States or entitlement in accordance with
paragraph (2).

SEC. 1103. APPLICATION.

(a) In General.—Each State or entitlement com-
unity desiring to establish a Community Corps under
this part shall submit an application to the Secretary at
such time, in such manner, and containing such informa-
tion as the Secretary may require.

(b) Fiscal Year 2012 Requirements.—For fiscal
year 2012—

(1) application requirements shall be released
by Secretary within 30 days of enactment of this
Act;

(2) States and entitlement communities desiring
to receive funds under this part for such fiscal year
shall submit to the Secretary an application within
60 days of the date of enactment of this Act; and

(3) the first allotments under this part shall be
awarded by the Secretary not later than 90 days
after the date of enactment of this Act.

SEC. 1104. ACTIVITIES OF THE COMMUNITY CORPS.

(a) Consultation.—A chief executive officer of a
unit of general local government shall consult with the
local community and labor organizations representing em-
ployees of such unit in determining the Community Corps
positions that should be funded under this part for such
unit for each fiscal year.

(b) Activities.—Each Community Corps funded
under this part shall employee individuals to carry out 1
or more of the following activities.
(1) ENERGY AUDITS AND CONSERVATION UPGRADES.—Perform energy audits of private homes and offer to weatherize them and install attic and crawl-space insulation, low-flow plumbing fixtures, and low-energy lighting fixtures. Provide homeowners with objective information concerning the cost and benefits of more complicated conservation upgrades the homeowners could contract with private firms to install.

(2) RECYCLING AND DEMANUFACTURING.—Collect categories of recyclables that currently are under-collected (such as electronic components and household paints and chemicals) and perform initial demanufacturing work to reclaim reusable materials.

(3) URBAN LAND RECLAMATION AND ADDRESSING BLIGHT.—Address the needs of distressed, foreclosure-affected, and natural-disaster affected areas. For vacant or foreclosed buildings, conduct maintenance, board up, or tear down, where appropriate. Salvage materials for recycling. Reclaim vacant land in urban areas for use as neighborhood parks and gardens. Test for the presence of hazardous materials, undertake necessary clean-up work, construct park and/or garden facilities, and establish maintenance programs involving the local community. For
community gardens, operate model plantings to promote the project, involve local residents in the work, and provide instruction in urban gardening and farming.

(4) **RURAL CONSERVATION WORK.**—In collaboration with activities under the Park Improvement Corps under title III, perform conservation work. Repair and upgrade trail systems in parklands. Construct shelters, bathrooms and recreational facilities. Undertake watercourse cleaning and reclamation projects. With proper training, conduct emergency work in cases of floods or wildfires, or other natural disasters.

(5) **PUBLIC PROPERTY MAINTENANCE AND BEAUTIFICATION.**—Under the direction of public entities that own public property (including building interiors and exteriors and landscapes, and including community centers, playgrounds, and libraries), conduct maintenance, beautification, and other improvement projects. Where appropriate, collaborate with projects funded under part 1 of this subtitle (School Improvement Corps).

(6) **HOUSING REHABILITATION.**—

(A) **IN GENERAL.**—Make improvements in privately owned rental housing units necessary
to improve such units so that they comply with
the housing quality standards applicable to
units assisted under section 8(o) of the United
States Housing Act of 1937 (42 U.S.C.
1437f(o)), but only if the owner of the unit en-
ters into an agreement sufficient to ensure that
the owner—

(i) pays the cost of materials used in
the renovation work; and

(ii) charges rent for the unit, during
the 5-year period beginning upon comple-
tion of the rehabilitation pursuant to this
paragraph, in an amount not exceeding the
fair market rental established under sec-
tion 8(c) of such Act for a dwelling unit of
the same size located in the same market
area.

(B) FREE OF CHARGE.—The Community
Corps shall provide all labor required for any
rehabilitation pursuant to this paragraph free
of charge, except in the case of any major re-
pairs that the Corps lacks the capacity to per-
form.

(7) NEW HOUSING CONSTRUCTION.—Construct
new homes on abandoned land in poorer commu-
nities or the rehabilitate abandoned properties for use as residences, using the self-help homeowner participation model employed by Habitat for Humanity International under which prospective homeowners contribute a significant amount of sweat equity in the construction or rehabilitation of the home. Participating homeowners shall be selected on the basis of inability to otherwise purchase a home in the regular housing market and willingness and capability to assume the responsibilities of homeownership. Construction materials shall be included in the cost of homeownership, but all construction labor shall be furnished free of charge by the Community Corps.

(8) OTHER COMMUNITY IMPROVEMENT ACTIVITIES.—Other community improvement activities as authorized by the Secretary.

SEC. 1105. HIRING AND PREFERENCES.

(a) IN GENERAL.—In hiring individuals for a Community Corps position under this part, a State or unit of general local may only employ unemployed individuals, except in a case of a position (including a managerial position) for which no qualified unemployed individual has applied.
(b) Priorities in Recruitment and Hiring.—In recruiting and hiring unemployed individuals for positions funded under this part, States and units of general local government shall target recruitment efforts and prioritize hiring with respect to individuals who are—

(1) unemployed individuals who have exhausted their entitlement to unemployment compensation;

(2) unemployed veterans of the Armed Forces and unemployed members of the reserve components of the Armed Forces;

(3) unemployed individuals, who immediately before employment in the Community Corps, are eligible for unemployment compensation payable under any State law or Federal unemployment compensation law, including any additional compensation or extended compensation under such laws;

(4) unemployed individuals who are not eligible to receive unemployment compensation because they do not have sufficient wages to meet the minimum qualifications for such compensation; or

(5) unemployed young people, including those who have not previously been employed.

(e) State Employment Agencies.—In hiring for Community Corps positions under this part, a State or unit of general local government shall utilize, among other
methods, a State or local employment agencies, such as a one-stop career center or one-stop partner.

(d) NOTICE.—Each listing for a position for a Community Corps shall be posted on a State or local employment web site.

SEC. 1106. ADDITIONAL REQUIREMENTS FOR STATES AND UNITS OF GENERAL LOCAL GOVERNMENT.

(a) ADMINISTRATIVE EXPENSES.—Each State or unit of general local government receiving an allotment under section 1102 may not use more than 5 percent of the allotment for administrative purposes.

(b) COMPLIANCE WITH LOCAL LAWS AND CONTRACTS.—In hiring individuals for positions funded under this part, or using administrative funds under this part to continue to provide employee compensation for existing employees, a State or unit of general local government shall comply with all applicable Federal, State, and local laws, personnel policies and regulations, and collective bargaining agreements, as if such individual were hired, or such employee compensation was provided, without assistance under this part.

(c) COORDINATION.—To the maximum extent practicable, each State or unit of general local government receiving an allotment under section 1102, shall—
(1) integrate education and job skills training, including basic skills instruction and secondary education services;

(2) coordinate to the maximum extent feasible with pre-apprenticeship and apprenticeship programs; and

(3) provide jobs in sectors where job growth is most likely, as determined by the Secretary, and in which career advancement opportunities exist to maximize long-term, sustainable employment for individuals after employment funded under this subtitle ends.

(d) SUPPLEMENT, NOT SUPPLANT.—A State or unit of general local government receiving funding under this part shall use such Federal funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available to pay the cost of employing individuals to perform the types of work authorized under this part.

SEC. 1107. EMPLOYMENT STATUS AND COMPENSATION.

(a) EMPLOYEE STATUS.—

(1) IN GENERAL.—An individual hired for a position funded under this part shall—
(A) be considered an employee of the State or unit of general local government by which such individual was hired;

(B) receive the same employee compensation, have the same rights (including health insurance benefits and paid holidays and vacations) and responsibilities and job classifications, and be subject to the same job standards, employer policies, and collective bargaining agreements as if such individual was hired without assistance under this part; and

(C) fill a position that offers full-time, full-year employment.

(2) Definitions.—For purposes of this subsection—

(A) the term “full-time” when used in relation to employment has the meaning already established or, if the meaning has not been established, determined to be appropriate for purposes of this part, by the State or unit of general local government hiring an individual under this part; and

(B) the term “full-year” when used in relation to employment means a position that provides employment for a 12-month period, except
that in the case of a position that provides a service required by a State or unit of general local government for only the duration of a school year, the term means a position that provides employment for such duration.

(b) LIMIT ON NUMBER OF EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL POSITIONS.—

(1) UNITS.—Of the total number of positions funded under this part for a fiscal year for each State or unit of general local government—

(A) not more than 20 percent shall be in a bona fide executive, administrative, or professional capacity; and

(B) at least 80 percent shall not be in a bona fide executive, administrative, or professional capacity.

(2) DEFINITIONS.—For purposes of this subsection, the terms “bona fide executive”, “bona fide administrative”, and “bona fide professional” when used in relation to capacity shall have the meanings given such terms under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)).

(c) TOTAL AMOUNT OF COMPENSATION.—For each fiscal year for which funds are appropriated to carry out
this part, each State or unit of general local government that receives funds under this part for any such fiscal year shall use such funds to provide an amount equal to the total amount of employee compensation for individuals hired under this part.

(d) LIMIT ON PERIOD OF EMPLOYMENT.—Notwithstanding any agreement or other provision of law (other than those provisions of law pertaining to civil rights in employment), a State or unit of general local government shall not be obligated to employ the individuals hired under this part or retain the positions filled by such individuals beyond the period for which the State or unit receives funding under this part.

SEC. 1108. NONDISPLACEMENT OF EXISTING EMPLOYEES.

(a) IN GENERAL.—A State or unit of general local government may not employ an individual for a position funded under this part, if—

(1) employing such individual will result in the layoff or partial displacement (such as a reduction in hours, wages, or employee benefits) of an existing employee of the unit; or

(2) such individual will perform the same or substantially similar work that had previously been performed by an employee of the unit who—
(A) has been laid off or partially displaced
(as such term is described in paragraph (1));
and
(B) has not been offered by the unit, to be
restored to the position the employee had imme-
diately prior to being laid off or partially dis-
placed.

(b) Elimination of Position.—For the purposes
of this subsection, a position shall be considered to have
been eliminated by a State or unit of general local govern-
ment if the position has remained unfilled and the unit
has not sought to fill such position for at least a period
of one month.

(c) Promotional Opportunities.—An individual
may not be hired for a position funded under this part
in a manner that infringes upon the promotional opportu-
nities of an existing employee (as of the date of such hir-
ing) of a unit receiving funding under this part.

sec. 1109. Dispute Resolutions, Whistleblower Hot-
line, and Enforcement by the Sec-
retary.

(a) Establishment of Arbitration Proce-
dure.—

(1) In general.—Each unit of general local
government that is an entitlement community and
each State that receives funding under this part shall agree to the arbitration procedure described in this subsection to resolve disputes described in subsections (b) and (c).

(2) Written grievances.—

(A) In general.—If an employee (or an employee representative) wishes to use the arbitration procedure described in this subsection, such party shall file a written grievance within the time period required under subsection (b) or (c), as applicable, simultaneously with the chief executive officer of a unit or State involved in the dispute and the Secretary.

(B) In-person meeting.—Not later than 10 days after the date of the filing of the grievance, the chief executive officer (or the designee of the chief executive officer) shall have an in-person meeting with the party to resolve the grievance.

(3) Arbitration.—

(A) Submission.—If the grievance is not resolved within the time period described in paragraph (2)(B), a party, by written notice to the other party involved, may submit such grievance to binding arbitration before a quali-
fied arbitrator who is jointly selected and independent of the parties.

(B) APPOINTMENT BY SECRETARY.—If the parties cannot agree on an arbitrator within 5 days of submitting the grievance to binding arbitration under subparagraph (A), one of the parties may submit a request to the Secretary to appoint a qualified and independent arbitrator. The Secretary shall appoint a qualified and independent arbitrator within 15 days after receiving the request.

(C) HEARING.—Unless the parties mutually agree otherwise, the arbitrator shall conduct a hearing on the grievance and issue a decision not later than 30 days after the date such arbitrator is selected or appointed.

(D) COSTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) EXCEPTION.—If a grievant prevails under an arbitration proceeding, the unit of general local government or State involved in the dispute shall pay the cost
of such proceeding, including attorneys’ fees.

(b) Disputes Concerning the Allotment of Funds.—In the case where a dispute arises as to whether a unit of general local government that is an entitlement community or State has improperly requested funds for services, an employee or employee representative of the unit or State may file a grievance under subsection (a) not later than 15 days after public notice of an intent to submit an application under section 1103 is published in accordance with paragraph (1)(C) of such section. Upon receiving a copy of the grievance, the Secretary shall withhold the funds subject to such grievance, unless and until the grievance is resolved under subsection (a), by the parties or an arbitrator in favor of providing such funding.

(e) All Other Disputes.—

(1) In general.—In the case of a dispute not covered under subsection (b) concerning compliance with the requirements of this part by a unit of general local government that is an entitlement community or State receiving funds under this part, an employee or employee representative of the unit or State may file a grievance under subsection (a) not later than 90 days after the dispute arises. In such cases, an arbitrator may award such remedies as are
necessary to make the grievant whole, including the reinstatement of a displaced employee or the payment of back wages, and may submit recommendations to the Secretary to ensure further compliance with the requirements of this part, including recommendations to suspend or terminate funding, or to require the repayment of funds received under this part during any period of noncompliance.

(2) Existing grievance procedures.—A party to a dispute described in paragraph (1) may use the existing grievance procedure of a unit or State involved in such dispute, or the arbitration procedure described in this subsection, to resolve such dispute.

(d) Party defined.—For purposes of subsections (a), (b), and (e), the term “party” means an employee, employee representative, unit of general local government, or State, involved in a dispute described in subsection (b) or (e).

(e) Whistleblower hotline; enforcement by the Secretary.—

(1) Whistleblower hotline.—The Secretary shall post on a publicly accessible Internet Web site of the Department of Labor the contact information for reporting noncompliance with this part
by a State or unit of general local government or individual receiving funding under this part.

(2) Enforcement by the Secretary.—

(A) In general.—If the Secretary receives a complaint alleging noncompliance with this part, the Secretary may conduct an investigation and after notice and an opportunity for a hearing, may order such remedies as the Secretary determines appropriate, including—

(i) withholding further funds under this part to a noncompliant entity;

(ii) requiring the entity to make an injured party whole; or

(iii) requiring the entity to repay to the Secretary any funds received under this part during any period of noncompliance.

(B) Definition.—For purposes of this paragraph, the term “entity” means State, unit of general local government, or individual.

(C) Recommendation by an arbitrator.—A remedy described in subparagraph (A) may also be ordered by the Secretary upon recommendation by an arbitrator appointed or selected under this section.
SEC. 1110. DEFINITIONS.

In this part:

(1) IN GENERAL.—The terms “city”; “extent of poverty”; “metropolitan city”; “urban county”; “nonentitlement area”; “population”; and “State” have the meanings given the terms in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

(2) BENEFITS.—The term “benefits” has the meaning given the term “employment benefits” in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(3) EMPLOYEE COMPENSATION.—The term “employee compensation” includes wages and benefits.

(4) ENTITLEMENT COMMUNITIES.—The term “entitlement communities” includes metropolitan cities and urban counties.

(5) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(6) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(7) UNEMPLOYED INDIVIDUAL.—The term “unemployed individual” has the meaning given such

(8) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia.

(9) VETERAN.—The term “veteran” has the meaning given such term in section 101 of the Workforce Investment Act (29 U.S.C. 2801).

(10) WAGE.—The term “wage” has the meaning given such term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

PART 7—CHILD DEVELOPMENT CORPS

SEC. 1121. PURPOSE.

It is the purpose of this part to provide for the creation of an additional 100,000 jobs through the Head Start Act.

SEC. 1122. CHILD DEVELOPMENT CORPS.

(a) AMENDMENTS TO THE HEAD START ACT.—The Head Start Act (42 U.S.C. 9831 et seq.) is amended—
(1) by inserting after section 639 the following:

“SEC. 639A. AUTHORIZATION OF APPROPRIATIONS FOR EMPLOYING EARLY HEAD START PROFESSIONAL EMPLOYEES.

“There is authorized to be appropriated $3,000,000,000 for each of the fiscal years 2012 and 2013 to carry out section 640A.”; and

(2) by inserting after section 640 the following:

“SEC. 640A. EMPLOYMENT OF ADDITIONAL INFANT AND TODDLER SPECIALISTS.

“(a) EMPLOYMENT OF ADDITIONAL FULL-TIME INFANT AND TODDLER SPECIALISTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall provide funds appropriated under section 639A to Early Head Start programs to pay the cost of employing additional full-time infant and toddler specialists.

“(b) FUNDS TO SUPPLEMENT NOT SUPPLANT.—An Early Head Start program that receives funds under subsection (a) shall use such funds only to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be available to pay the cost of employing additional full-time infant and toddler specialists.”.
(b) APPROPRIATION.—There is hereby appropriated out of any money in the Treasury not otherwise appropriated $3,000,000,000 for each of the fiscal years 2012 and 2013 to carry out section 640A of the Head Start Act.

PART 8—ON-THE-JOB TRAINING

SEC. 1131. APPROPRIATION. The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and for the following purposes, namely:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for “Training and Employment Services” for activities under the Workforce Investment Act of 1998 (“WIA”), $500,000,000 which shall be available for obligation on the date of enactment of this Act, Provided, That such funds shall be used solely for on-the-job training (as such term is defined in section 101(31) of the WIA): Provided further, That $250,000,000 of such amount shall be for such on-the-job training for individuals who reside in local areas that—
(1) have a poverty rate of 12 percent or more for each Public Use Microdata Area (PUMA) in such local area; or

(2) have an unemployment rate that is 2 percent higher than the national unemployment rate.

PART 9—GENERAL PROVISIONS

SEC. 1141. GENERAL REQUIREMENTS FOR ENTITIES RECEIVING FUNDING UNDER THIS SUBTITLE.

(a) Compliance with Existing Laws and Contracts.—In hiring individuals for positions funded under this subtitle, or using funds under this subtitle to continue to provide employee compensation for existing employees, a State, unit of general local government, community-based organization, or business shall comply with all applicable Federal, State, and local laws relating to health, safety, civil rights, personnel policies and regulations, labor, and collective bargaining agreements, as if such individual were hired, or such employee compensation was provided, without assistance under this subtitle.

(b) Compliance with Federal Civil Rights Laws.—Federal civil rights laws described in subsection (a) shall include the following:

(1) Title VI of the Civil Rights Act of 1964.

(2) Title IX of the Education Amendments of 1972.


SEC. 1142. REPORTING.

(a) REPORTS TO SECRETARIES.—At the end of fiscal year 2012 and 2013, each State, unit of general local government, community-based organization, or business, or other entity that receives assistance under this subtitle shall submit to the Secretary that provided such assistance a report on the number of jobs created and, if applicable, the projects completed with funding under this subtitle.

(b) REPORTS TO CONGRESS.—Each Secretary that receives a report under subsection (a) shall provide such reports to Congress not later than July 1, 2014.

SEC. 1143. HIRING AND PREFERENCES.

(a) IN GENERAL.—In hiring individuals for positions funded under part 1, part 5, and part 7, an entity described in section 1142 receiving funding under this subtitle may only employ unemployed individuals, except in a case of a position (including a managerial position) for which no qualified unemployed individual has applied.

(b) PRIORITIES IN RECRUITMENT AND HIRING.—In recruiting and hiring unemployed individuals for positions described in subsection, the entity shall target recruitment
efforts and prioritize hiring with respect to individuals who
are—

(1) unemployed individuals who have exhausted
their entitlement to unemployment compensation;

(2) unemployed veterans of the Armed Forces
and unemployed members of the reserve components
of the Armed Forces;

(3) unemployed individuals, who immediately
before employment in the programs described in sub-
paragraph (a), are eligible for unemployment com-
pensation payable under any State law or Federal
unemployment compensation law, including any ad-
ditional compensation or extended compensation
under such laws;

(4) unemployed individuals who are not eligible
to receive unemployment compensation because they
do not have sufficient wages to meet the minimum
qualifications for such compensation; or

(5) in the case of employment under subpart B
of part 1, unemployed young people, including those
who have not previously been employed.

(c) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall supersede the qualification requirements under
titles I through VII or existing law, such as medical licen-
sure where applicable for health corps or certification for early childhood development workers.

SEC. 1144. FLEXIBILITY ON HIRING.

Funding under this subtitle shall be tied to the job created with the funding rather than to the individual awarded the job, and entities receiving funding under this subtitle are authorized to hire new employees to replace an individual that was hired with such funds, but who has left the position.

SEC. 1145. NONDISPLACEMENT.

(a) NONDISPLACEMENT OF EXISTING EMPLOYEES.—

(1) IN GENERAL.—An entity described in section 1142 that receives funding under this subtitle may not employ an individual for a position funded under this subtitle, if—

(A) employing such individual will result in the layoff or partial displacement (such as a reduction in hours, wages, or employee benefits) of an existing employee of the unit or organization; or

(B) such individual will perform the same or substantially similar work that had previously been performed by an employee of the unit or organization who—
(i) has been laid off or partially displaced (as such term is described in subparagraph (A)); and

(ii) has not been offered by the unit or organization, to be restored to the position the employee had immediately prior to being laid off or partially displaced.

(2) **Elimination of Position.**—For the purposes of this subsection, a position shall be considered to have been eliminated by an entity receiving funding under this subtitle if the position has remained unfilled and the unit or organization has not sought to fill such position for at least a period of one month.

(3) **Promotional Opportunities.**—An individual may not be hired for a position funded under this part in a manner that infringes upon the promotional opportunities of an existing employee (as of the date of such hiring) of an entity receiving funding under this subtitle.

(b) **Nondisplacement of Local Government Services.**—A business or community-based organization receiving funds under this part may not use such funds to provide services or functions that are customarily pro-
vided by a unit of general local government where such
services or functions are provided by the organization.

(c) **NONDISPLACEMENT OF LOCAL BUSINESS.**—

Where appropriate, any unit of government or community-
based organizations receiving funds under this subtitle
cannot use those funds to provide services or functions
that are currently provided by a local business.

**SEC. 1146. EMPLOYMENT STATUS AND COMPENSATION IN**

**NEW PROGRAMS.**

(a) **EMPLOYEE STATUS.**—An individual hired for a
position funded under part 1, part 5, or part 6, or section
1081 of part 4 shall—

(1) be considered an employee of the unit of
general local government, business, or community-
based organization, by which such individual was
hired; and

(2) receive the same employee compensation,
have the same rights and responsibilities and job
classifications, and be subject to the same job stand-
ards, employer policies, and collective bargaining
agreements as if such individual was hired without
assistance under this subtitle.

(b) **TOTAL AMOUNT OF COMPENSATION.**—For each
fiscal year for which funds are appropriated to carry out
this subtitle, each unit of general local government, each
business, and each community-based organization that receives funds under the provisions described in subsection (a) for any such fiscal year shall use such funds to provide an amount equal to the total amount of employee compensation for the individuals such the entity hired under this subtitle.

(e) Limit on Period of Employment.—Notwithstanding any agreement or other provision of law (other than those provisions of law pertaining to civil rights in employment), a unit of general local government, business, or community-based organization shall not be obligated to employ the individuals hired under this subtitle or retain the positions filled by such individuals beyond the period for which the unit or organization receives funding under the provisions described in subsection (a).

SEC. 1147. DISPUTE RESOLUTIONS, WHISTLEBLOWER HOT-LINE, AND ENFORCEMENT BY THE SECRETARY.

(a) Establishment of Arbitration Procedure.—

(1) In general.—Each entity that receives funding under this subtitle shall agree to the arbitration procedure described in this subsection to resolve disputes described in subsections (b) and (c).

(2) Written grievances.—
(A) IN GENERAL.—If an employee (or an employee representative) wishes to use the arbitration procedure described in this subsection, such party shall file a written grievance within the time period required under subsection (b) or (c), as applicable, simultaneously with the chief executive officer of an entity involved in the dispute and the Secretary of Labor.

(B) IN-PERSON MEETING.—Not later than 10 days after the date of the filing of the grievance, the chief executive officer (or the designee of the chief executive officer) shall have an in-person meeting with the party to resolve the grievance.

(3) ARBITRATION.—

(A) SUBMISSION.—If the grievance is not resolved within the time period described in paragraph (2)(B), a party, by written notice to the other party involved, may submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the parties.

(B) APPOINTMENT BY SECRETARY.—If the parties cannot agree on an arbitrator within 5 days of submitting the grievance to binding ar-
bitration under subparagraph (A), one of the parties may submit a request to the Secretary of Labor to appoint a qualified and independent arbitrator. The Secretary of Labor shall appoint a qualified and independent arbitrator within 15 days after receiving the request.

(C) HEARING.—Unless the parties mutually agree otherwise, the arbitrator shall conduct a hearing on the grievance and issue a decision not later than 30 days after the date such arbitrator is selected or appointed.

(D) COSTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) EXCEPTION.—If a grievant prevails under an arbitration proceeding, the entity involved in the dispute shall pay the cost of such proceeding, including attorneys’ fees.

(b) DISPUTES CONCERNING THE ALLOTMENT OF FUNDS.—In the case where a dispute arises as to whether an entity has improperly requested funds for services, an employee or employee representative of entity may file a
grievance under subsection (a) not later than 15 days after public notice of an intent to request funds for services. Upon receiving a copy of the grievance, the Secretary of Labor shall withhold the funds subject to such grievance, unless and until the grievance is resolved under subsection (a), by the parties or an arbitrator in favor of providing such funding.

(c) All Other Disputes.—

(1) In general.—In the case of a dispute not covered under subsection (b) concerning compliance with the requirements of this subtitle by an entity receiving funds under this part, an employee or employee representative of an entity may file a grievance under subsection (a) not later than 90 days after the dispute arises. In such cases, an arbitrator may award such remedies as are necessary to make the grievant whole, including the reinstatement of a displaced employee or the payment of back wages, and may submit recommendations to the Secretary of Labor to ensure further compliance with the requirements of this subtitle, including recommendations to suspend or terminate funding, or to require the repayment of funds received under this part during any period of noncompliance.
(2) Existing grievance procedures.—A party to a dispute described in paragraph (1) may use the existing grievance procedure of an entity involved in such dispute, or the arbitration procedure described in this subsection, to resolve such dispute.

(d) Party Defined.—For purposes of subsections (a), (b), and (e), the term “party” means an employee, employee representative, or entity involved in a dispute described in subsection (b) or (e).

(e) Whistleblower Hotline; Enforcement by the Secretary.—

(1) Whistleblower hotline.—The Secretary of Labor shall post on a publicly accessible Internet Web site of the Department of Labor the contact information for reporting noncompliance with this part by a State, unit of general local government, community-based organization, business, or individual receiving funding under this part.

(2) Enforcement by the Secretary.—

(A) In general.—If the Secretary of Labor receives a complaint alleging noncompliance with this subtitle, the Secretary may conduct an investigation and after notice and an opportunity for a hearing, may order such rem-
edies as the Secretary of Labor determines ap-
propriate, including—

(i) withholding further funds under
this part to a noncompliant entity;

(ii) requiring the entity to make an
injured party whole; or

(iii) requiring the entity to repay to
the Secretary of Labor any funds received
under this part during any period of non-
compliance.

(B) RECOMMENDATION BY AN ARBITRATOR.—A remedy described in subparagraph
(A) may also be ordered by the Secretary of
Labor upon recommendation by an arbitrator
appointed or selected under this section.

SEC. 1148. TERMINATION.

Programs and funding authorized under this subtitle
shall be phased-out over a 90-day period if national unem-
ployment, as measured by the Bureau of Labor Statistics,
falls under 5 percent. Such phase-out shall ensure that—

(1) an individual hired under this subtitle shall
not be fired prematurely;

(2) projects funded under this subtitle shall be
continued until completion; and
(3) an individual hired under this subtitle may be replaced when such individual leaves the position for which the individual was hired.

Subtitle B—Buy American Enhancement Act of 2011

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the “The Buy American Enhancement Act of 2011”.

SEC. 1202. DOMESTIC CONTENT REQUIREMENT FOR THE BUY AMERICAN ACT.

(a) Substantially All Defined.—Section 8301 of title 41, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) Substantially All.—Articles, materials, or supplies shall be treated as made substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States if the cost of the domestic components of such articles, materials, or supplies exceeds 75 percent of the total cost of all components of such articles, materials, or supplies.”.
(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect not later than 180 days after the date of the enactment of this subtitle.

SEC. 1203. REQUIREMENT FOR INDIRECT CONTRACTS TO COMPLY WITH THE BUY AMERICAN ACT.

(a) CONTRACT REQUIREMENT.—The head of each Federal agency shall ensure that each contract described in subsection (b) awarded by such Federal agency includes a provision requiring any articles, materials, and supplies provided under the contract to comply with chapter 83 of title 41, United States Code (popularly referred to as the “Buy American Act”), subject to the exceptions to that chapter provided in the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) or otherwise provided by law.

(b) CONTRACTS DESCRIBED.—The contracts described in this subsection include each of the following:

(1) Housing leases, including military housing provided by a private entity.

(2) Power purchase agreements.

(3) Enhanced-use leases.

(4) Energy savings performance contracts.

(5) Utility energy service contracts.
SEC. 1204. BUY AMERICAN WAIVER REPORTING REQUIRE-
MENT.

(a) WAIVER DEFINED.—Section 8301 of title 41, United States Code, as amended by section 1202, is fur-
ther amended by adding at the end the following new para-
graph:

“(4) WAIVER.—The term ‘waiver’ means, with respect to the acquisition of an article, material, or supply for public use, the inapplicability of this chapter to the acquisition by reason of any of the following:

“(A) A determination by the head of the Federal agency concerned that the acquisition is inconsistent with the public interest.

“(B) A determination by the head of the Federal agency concerned that the cost of the acquisition is unreasonable.

“(C) Use outside of the United States.

“(D) A determination by the head of the Federal agency concerned that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

“(E) Procured under a contract with an award value that is not more than the micro-
purchase threshold under section 1902 of this

title.

“(F) An exception under the Trade Agree-
ments Act of 1979 (19 U.S.C. 2501 et seq.).

“(G) Any other exception otherwise pro-
vided by law.”.

(b) WAIVER REPORTING REQUIREMENT.—Section
8302 of title 41, United States Code, is amended by add-
ing at the end the following new section:

“(c) WAIVER REPORTING REQUIREMENT.—The head
of each Federal agency shall establish a location on the
website of such agency for the publication of waivers ac-
cessible by the public and shall publish a list at such loca-
tion of each waiver granted under this chapter not later
than 30 days after such waiver is granted.”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall take effect not later than 180 days after
the date of the enactment of this subtitle.

SEC. 1205. IMPLEMENTATION THROUGH THE FEDERAL AC-
QUISITION REGULATION.

Not later than 180 days after the date of the enact-
ment of this subtitle, the Federal Acquisition Regulation
shall be revised as necessary to implement the provisions
of this subtitle.
SEC. 1206. DEFINITIONS.

In this subtitle:

(1) Energy savings performance contract.—The term “energy savings performance contract” has the meaning given that term under section 436.31 of title 10, Code of Federal Regulations.

(2) Federal agency.—The term “Federal agency” means any executive agency (as defined in section 133 of title 41, United States Code) or any establishment in the legislative or judicial branch of the Federal Government.

Subtitle C—Fairness and Transparency in Contracting Act of 2011

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the “Fairness and Transparency in Contracting Act of 2011”.

SEC. 1302. DEFINITIONS.

In this subtitle—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “parent company”, relating to a business concern, means a person other than an in-
individual that owns not less than 51 percent of that business concern;

(3) the terms “small business concern”, “small business concern owned and controlled by veterans”, “small business concern owned and controlled by service-disabled veterans”, and “small business concern owned and controlled by women” have the meanings given those terms in section 3 of the Small Business Act (15 U.S.C. 632), as amended by this subtitle; and

(4) the term “small business concern owned and controlled by socially and economically disadvantaged individuals” has the meaning given that term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

SEC. 1303. PURPOSE.

The purpose of this subtitle is to modify the definitions relating to whether a business concern qualifies as a small business concern to establish additional requirements that ensure that no publically traded business concern, subsidiary of a publically traded business concern, foreign-owned business concern, or subsidiary of a foreign-owned business concern is considered a small business concern for the purpose of Federal Government contracting and subcontracting, including for procurement goals.
SEC. 1304. DEFINITION OF SMALL BUSINESS CONCERN AND
STATUS REVIEW.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

“(6) INDEPENDENTLY OWNED AND OPERATED.—

“(A) IN GENERAL.—In this subsection, the term ‘independently owned and operated’ does not include a business concern—

“(i) that is—

“(I) an issuer of a class of securities registered or that is required to be registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)); or

“(II) owned by an entity that is an issuer of a class of securities registered or that is required to be registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)); or

“(ii) more than 50 percent of which is owned, directly or indirectly, by one or more individuals that are not United States citizens.
“(B) ENTITIES.—In determining ownership of a business concern, any interest in the business concern that is owned by a person that is not an individual (including a corporation, partnership, estate, or trust) shall be considered owned proportionately by or for the individuals that own that person.”.

SEC. 1305. NOTIFICATION.

(a) In General.—Not later than 6 months after the date of enactment of this subtitle, the Administrator shall notify the head of each Federal department or agency regarding this subtitle and the amendments made by this subtitle.

(b) To Contractors.—Not later than 6 months after receiving notice under subsection (a), the head of a Federal department or agency shall notify any contractor of that department or agency regarding this subtitle and the amendments made by this subtitle.

SEC. 1306. REPORTING.

(a) In General.—Not later than 6 months after the end of each fiscal year, the Administrator shall publish a report regarding prime contracts with the Federal Government awarded to business concerns that were identified as small business concerns for the purposes of achieving the small business contracting goals of the Federal Government during the previous fiscal year.
(b) CONTENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall, for the fiscal year before the year in which that report is published, include—

(A) the name of each small business concern, small business concern owned and controlled by socially and economically disadvantaged individuals, small business concern owned and controlled by women, small business concern owned and controlled by veterans, and small business concern owned and controlled by service-disabled veterans that was awarded a prime contract with the Federal Government; and

(B) for each small business concern described in subparagraph (A), the total dollar amount of prime contracts with the Federal Government awarded to that small business concern in descending order.

(2) PARENT COMPANIES.—If a small business concern described in paragraph (1)(A) has a parent company, the Administrator shall report information relating to any prime contract with the Federal Government of that small business concern under the name of that parent company.
(c) Availability.—The Administrator shall make each report under subsection (a) available on the Web site of the Administration in a manner that is easily accessible by members of the public.

SEC. 1307. LIST OF CONTRACTORS.

(a) In General.—Each Federal department and agency shall publish on the Web site of that department or agency a list of each business concern that received a contract award because that business concern was identified as a small business concern.

(b) List Contents.—A list published under subsection (a) shall—

(1) list business concerns in the order of the total amount in dollars of contracts between the Federal Government and that business concern, beginning with the largest total value;

(2) include the total amount in dollars of contracts between the Federal Government and each business concern on such list; and

(3) include the name of any parent company of a business concern on such list.

SEC. 1308. CONTRACTING DATABASES.

The Administrator shall, by regulation, establish procedures to ensure that the Central Contractor Registration database and any successor database provide an adequate
warning regarding criminal penalties established under section 16(d) of the Small Business Act (15 U.S.C. 645(d)) for misrepresenting the status of a business concern or person in order to obtain certain contracts with the Federal Government.

SEC. 1309. ENFORCEMENT.

(a) Complaints.—

(1) IN GENERAL.—Any person may file a complaint with the Administrator and the head of the affected department or agency about the classification of a business concern as a small business concern and the Administrator and the head of the affected department or agency shall resolve any complaint filed under this paragraph in a timely manner.

(2) REPORTS.—The Administrator shall annually submit to Congress a report describing any complaints described in paragraph (1) that were filed during the relevant year and the resolution of any such complaint.

(b) DEBARMENT.—The head of each Federal department or agency shall issue or amend the contracting rules and regulations for that department or agency to ensure that a business concern shall be debarred from receiving...
a Federal contract for a period of not less than 5 years if that business concern—

(1) fraudulently represents that it is a small business concern as part of a bid for a small business contract with that department or agency; or

(2) violates this subtitle or an amendment made by this subtitle.

Subtitle D—National Infrastructure Development Bank Act of 2011

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the “National Infrastructure Development Bank Act of 2011”.

SEC. 1402. FINDINGS.

Congress finds the following:

(1) 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 meet adequate conditions.

(2) 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 our surface
transportation system to a state of good repair and create a more advanced system.

(3) The Environmental Protection Agency projects that—

(A) $334,000,000,000 is needed to invest in infrastructure improvements over 20 years to ensure the provision of safe water; and

(B) $202,500,000,000 is needed for publicly owned wastewater systems-related infrastructure needs over 20 years.

(4) According to the Edison Electric Institute, the electric power industry will need to invest $298,000,000,000 in the Nation’s transmission system by 2030 in order to maintain reliable service.

(5) According to the American Council on Renewable Energy, renewable energy could provide up to 635 gigawatts of new electricity generating capacity by 2025, a substantial contribution and potentially more than the Nation’s need for new capacity, according to the United States Energy Information Administration.

(6) According to the United States Green Building Council, United States buildings account for nearly 39 percent of primary energy use and 38 percent of carbon emissions.
(7) According to the Organization for Economic Cooperation and Development (OECD), the United States ranks 14th among OECD nations in broadband access per 100 inhabitants.

(8) Although grant programs of the Government must continue to play a central role in financing the transportation, environment, energy, and telecommunications infrastructure needs of the United States, current and foreseeable demands on existing Federal, State, and local funding for infrastructure expansion 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.

(9) The capital markets, including central banks, pension funds, financial institutions, sovereign wealth funds, and insurance companies, have a growing interest in infrastructure investment. The establishment of a United States Government-owned institution that would provide this investment opportunity through high-quality bond issues that would be used to finance qualifying infrastructure projects would attract needed capital for United States infrastructure development.
SEC. 1403. DEFINITIONS.

For purposes of this subtitle, the following definitions apply unless the context requires otherwise:

(1) BANK.—The term “Bank” means the National Infrastructure Development Bank established under section 1404(a).

(2) BOARD.—The term “Board” means the National Infrastructure Development Bank Board.

(3) CHIEF ASSET AND LIABILITY MANAGEMENT OFFICER.—The term “chief asset and liability management officer” means the chief individual responsible for coordinating the management of assets and liabilities of the Bank.

(4) CHIEF COMPLIANCE OFFICER.—The term “chief compliance officer or CCO” means the chief individual responsible for overseeing and managing the compliance and regulatory affairs issues of the Bank.

(5) CHIEF FINANCIAL OFFICER.—The term “chief financial officer or CFO” means the chief individual responsible for managing the financial risks, planning, and reporting of the Bank.

(6) CHIEF LOAN ORIGINATION OFFICER.—The term “chief loan origination officer” means the chief individual responsible for the processing of new loans provided by the Bank.
(7) Chief Operations Officer.—The term “chief operations officer or COO” means the chief individual responsible for information technology and the day to day operations of the Bank.

(8) Chief Risk Officer.—The term “chief risk officer or CRO” means the chief individual responsible for managing operational and compliance-related risks of the Bank.

(9) Chief Treasury Officer.—The term “chief treasury officer” means the chief individual responsible for managing the Bank’s treasury operations.

(10) Development.—The terms “development” and “develop” mean, with respect to an infrastructure project, any—

(A) preconstruction planning, feasibility review, permitting, design work, and other preconstruction activities; and

(B) construction, reconstruction, rehabilitation, replacement, or expansion.

(11) Disadvantaged Community.—The term “disadvantaged community” means a community with a median household income of less than 80 percent of the statewide median household income for the State in which the community is located.
(12) Energy infrastructure project.—The term “energy infrastructure project” means any project for energy transmission, energy efficiency enhancement for buildings, public housing, and schools, renewable energy, and energy storage.

(13) Entity.—The term “entity” means an individual, corporation, partnership (including a public-private partnership), joint venture, trust, and a State or other governmental entity, including a political subdivision or any other instrumentality of a State or a revolving fund.

(14) Environmental infrastructure project.—The term “environmental infrastructure project” means any project for the establishment, maintenance, or enhancement of any drinking water and wastewater treatment facility, storm water management system, dam, levee, open space management system, solid waste disposal facility, hazardous waste facility, or industrial site cleanup.

(15) Executive director.—The term “executive director” means the individual serving as the chief executive officer of the Bank.

(16) General counsel.—The term “general counsel” means the individual who serves as the chief lawyer for the Bank.
(17) **INFRASTRUCTURE PROJECT.**—The term “infrastructure project” means any energy, environmental, telecommunications, or transportation infrastructure project.

(18) **PUBLIC BENEFIT BOND.**—The term “public benefit bond” means a bond issued with respect to an infrastructure project in accordance with this subtitle if—

(A) the net spendable proceeds from the sale of the issue may be used for expenditures incurred after the date of issuance with respect to the project, subject to the rules of the Bank;

(B) the bond issued by the Bank is in registered form and meets the requirements of this subtitle and otherwise applicable law; and

(C) the payment of principal with respect to the bond is the obligation of the Bank.

(19) **PUBLIC-PRIVATE PARTNERSHIP.**—The term “public-private partnership” means any entity—

(A)(i) which is undertaking the development of all or part of an infrastructure project, which 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; and

(B) which owns, leases, or operates, or will own, lease, or operate, the project in whole or in part, and at least one of the participants in the entity is a nongovernmental entity.

(20) REVOLVING FUND.—The term “revolving fund” means a fund or program established by a State or a political subdivision or other instrumentality of a State, the principal activity of which is to make loans, commitments, or other financial accommodation available for the development of one or more categories of infrastructure projects.

(21) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the designee of the Secretary.

(22) SMART GRID.—The term “smart grid” means a system that provides for any of the smart grid functions set forth in section 1306(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386(d)).
(23) **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.

(24) **Telecommunications Infrastructure Project.**—The term “telecommunications infrastructure project” means any project involving infrastructure required to provide communications by wire or radio.

(25) **Transportation Infrastructure Project.**—The term “transportation infrastructure project” means any project for the construction, maintenance, or enhancement of highways, roads, bridges, transit and intermodal systems, inland waterways, commercial ports, airports, high speed rail and freight rail systems.

**SEC. 1404. ESTABLISHMENT OF NATIONAL INFRASTRUCTURE DEVELOPMENT BANK.**

(a) **Establishment of National Infrastructure Development Bank.**—The National Infrastructure Development Bank is established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly known as the “Govern-
ment Corporation Control Act”), except as otherwise pro-
vided in this subtitle.

(b) RESPONSIBILITY OF THE SECRETARY.—The Sec-
retary shall take such action as may be necessary to assist
in implementing the establishment of the bank in accord-
ance with this subtitle.

(c) CONFORMING AMENDMENT.—Section 9101(3) of
title 31, United States Code, is amended by inserting after
subparagraph (N) the following:

“(O) the National Infrastructure Develop-
ment Bank.”.

SEC. 1405. BOARD OF DIRECTORS.

(a) In General.—The Bank shall have a Board of
Directors consisting of 5 members appointed by the Presi-
dent by and with the advice and consent of the Senate.

(b) Qualifications.—The directors of the Board
shall include individuals representing different regions of
the United States and—

(1) 2 of the directors shall have public sector
experience; and

(2) 3 of the directors shall have private sector
experience.

(e) Chairperson and Vice Chairperson.—As des-
ignated at the time of appointment, one of the directors
of the Board shall be designated chairperson of the Board
by the President and one shall be designated as vice chair-
person of the Board by the President.

(d) Terms.—

(1) In general.—Except as provided in para-
graph (2) and subsection (f), each director shall be
appointed for a term of 6 years.

(2) Initial staggered terms.—Of the initial
members of the Board—

(A) the chairperson and vice chairperson
shall be appointed for terms of 6 years;

(B) 1 shall be appointed for a term of 5
years;

(C) 1 shall be appointed for a term of 4
years; and

(D) 1 shall be appointed for a term of 3
years.

(e) Date of Initial Nominations.—The initial
nominations by the President for appointment of directors
to the Board shall be made not later than 60 days after
the date of enactment of this Act.

(f) Vacancies.—

(1) In general.—A vacancy on the Board
shall be filled in the manner in which the original
appointment was made.
(2) **Appointment to Replace During Term.**—Any director appointed to fill a vacancy occurring before the expiration of the term for which the director’s predecessor was appointed shall be appointed only for the remainder of the term.

(3) **Duration.**—A director may serve after the expiration of that director’s term until a successor has taken office.

(g) **Quorum.**—Three directors shall constitute a quorum.

(h) **Reappointment.**—A director of the Board appointed by the President may be reappointed by the President in accordance with this section.

(i) **Per Diem Reimbursement.**—Directors of the Board shall serve on a part-time basis and shall receive a per diem when engaged in the actual performance of Bank business, plus reasonable reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(j) **Limitations.**—A director of the Board may not participate in any review or decision affecting a project under consideration for assistance under this subtitle if the director has or is affiliated with a person who has an interest in such project.

(k) **Powers and Limitations of the Board.**—
(1) Powers.—In order to carry out the purposes of the Bank as set forth in this subtitle, the Board shall be responsible for monitoring and overseeing infrastructure projects and have the following powers:

(A) To make senior and subordinated loans and purchase senior and subordinated debt securities and enter into a binding commitment to make any such loan or purchase any such security, on such terms as the Board may determine, in the Board’s discretion, to be appropriate, the proceeds of which are used to assist in the financing or refinancing of the development of one or more infrastructure projects.

(B) To issue and sell debt securities of the Bank on such terms as the Board shall determine from time to time.

(C) To issue public benefit bonds and to provide financing to infrastructure projects from amounts made available from the issuance of such bonds.

(D) To make loan guarantees.

(E) To make agreements and contracts with any entity in furtherance of the business of the Bank.
(F) To borrow on the global capital market and lend to regional, State, and local entities, and commercial banks for the purpose of funding infrastructure projects.

(G) To purchase in the open market any of the Bank’s outstanding obligations at any time and at any price.

(H) To monitor and oversee infrastructure projects financed, in whole or in part, by the Bank.

(I) To acquire, lease, pledge, exchange, and dispose of real and personal property and otherwise exercise all the usual incidents of ownership of property to the extent the exercise of such powers are appropriate to and consistent with the purposes of the Bank.

(J) To sue and be sued in the Bank’s corporate capacity in any court of competent jurisdiction, except that no attachment, injunction, or similar process, may be issued against the property of the Bank or against the Bank with respect to such property.

(K) To indemnify the directors and officers of the Bank for liabilities arising out of the actions of the directors and officers in such capac-
ity, in accordance with, and subject to the limitations contained in, this subtitle.

(L) To serve as the primary liaison between the Bank, Congress, the executive branch, and State and local governments and to represent the Bank’s interests.

(M) To exercise all other lawful powers which are necessary or appropriate to carry out, and are consistent with, the purposes of the Bank.

(2) LIMITATIONS.—

(A) ISSUANCE OF DEBT SECURITY.—The Board may not issue any debt security without the prior consent of the Secretary.

(B) ISSUANCE OF VOTING SECURITY.—The Board may not issue any voting security in the Bank to any entity other than the Secretary.

(3) ACTIONS CONSISTENT WITH SELF-SUPPORTING ENTITY STATUS.—The Board shall conduct its business in a manner consistent with the requirements of this section.

(4) COORDINATION WITH STATE AND LOCAL REGULATORY AUTHORITY.—The provision of financial assistance by the Board pursuant to this subtitle shall not be construed as—
(A) limiting the right of any State or political subdivision or other instrumentality of a State to approve or regulate rates of return on private equity invested in a project; or

(B) otherwise superseding any State law or regulation applicable to a project.

(5) Federal Personnel Requests.—The Board shall have the power to request the detail, on a reimbursable basis, of personnel from other Federal agencies with specific expertise not available from within the Bank or elsewhere. The head of any Federal agency may detail, on a reimbursable basis, any personnel of such agency requested by the Board and shall not withhold unreasonably the detail of any personnel requested by the Board.

(1) Meetings.—

(1) Open to the public; notice.—All meetings of the Board held to conduct the business of the Bank shall be open to the public and shall be preceded by reasonable notice.

(2) Initial meeting.—The Board shall meet not later than 90 days after the date on which all directors of the Board are first appointed and otherwise at the call of the Chairperson.
(3) Exception for closed meetings.—Pursuant to such rules as the Board may establish through their bylaws, the directors may close a meeting of the Board if, at the meeting, there is likely to be disclosed information which could adversely affect or lead to speculation relating to an infrastructure project under consideration for assistance under this subtitle or in financial or securities or commodities markets or institutions, utilities, or real estate. The determination to close any meeting of the Board shall be made in a meeting of the Board, open to the public, and preceded by reasonable notice. The Board shall prepare minutes of any meeting which is closed to the public and make such minutes available as soon as the considerations necessitating closing such meeting no longer apply.

SEC. 1406. EXECUTIVE COMMITTEE.

(a) In general.—The Board shall have an executive committee consisting of 9 members, headed by the executive director of the Bank.

(b) Executive Director.—A majority of the Board shall have the authority to appoint and reappoint the executive director.

(c) CEO.—The executive director shall be the chief executive officer of the Bank, with such executive func-
tions, powers, and duties as may be prescribed by this sub-
title, the bylaws of the Bank, or the Board.

(d) Other Executive Officers.—The Board shall
appoint, remove, fix the compensation, and define duties
of 8 other executive officers to serve on the Executive
Committee as the—

(1) chief compliance officer;
(2) chief financial officer;
(3) chief asset and liability management officer;
(4) chief loan origination officer;
(5) chief operations officer;
(6) chief risk officer;
(7) chief treasury officer; and
(8) general counsel.

(e) Qualifications.—The executive director and
other executive officers shall have demonstrated experience
and expertise in one or more of the following:

(1) Transportation infrastructure.
(2) Environmental infrastructure.
(3) Energy infrastructure.
(4) Telecommunications infrastructure.
(5) Economic development.
(6) Workforce development.
(7) Public health.
(8) Private or public finance.
(f) DUTIES.—In order to carry out the purposes of
the Bank as set forth in this subtitle, the executive com-
mittee shall—

(1) establish disclosure and application proce-
dures for entities nominating projects for assistance
under this subtitle;

(2) accept, for consideration, project proposals
relating to the development of infrastructure
projects, which meet the basic criteria established by
the Board, and which are submitted by an entity;

(3) provide recommendations to the Board and
place project proposals accepted by the executive
committee on a list for consideration for financial
assistance from the Board; and

(4) provide technical assistance to entities re-
ceiving financing from the Bank and otherwise im-
plement decisions of the Board.

(g) VACANCY.—A vacancy in the position of executive
director shall be filled in the manner in which the original
appointment was made.

(h) COMPENSATION.—The compensation of the exec-
utive director and other executive officers of the executive
committee shall be determined by the Board.
(i) **Removal.**—The executive director and other executive officers may be removed at the discretion of a majority of the Board.

(j) **Term.**—The executive director and other executive officers shall serve a 6-year term and may be re-appointed in accordance with this section.

(k) **Limitations.**—The executive director and other executive officers shall not—

   (1) hold any other public office;

   (2) have any interest in an infrastructure project considered by the Board;

   (3) have any interest in an investment institution, commercial bank, or other entity seeking financial assistance for any infrastructure project from the Bank; and

   (4) have any such interest during the 2-year period beginning on the date such officer ceases to serve in such capacity.

**Sec. 1407. Risk Management Committee.**

(a) **Establishment of Risk Management Committee.**—The Bank shall establish a risk management committee consisting of 5 members, headed by the chief risk officer.
(b) APPOINTMENTS.—A majority of the Board shall have the authority to appoint and reappoint the CRO of the Bank.

(c) FUNCTIONS; DUTIES.—

(1) IN GENERAL.—The CRO shall have such functions, powers, and duties as may be prescribed by one or more of the following: This subtitle, the bylaws of the Bank, and the Board. The CRO shall report directly to the Board.

(2) RISK MANAGEMENT DUTIES.—In order to carry out the purposes of this subtitle, the risk management committee shall—

(A) create financial, credit, and operational risk management guidelines and policies to be adhered to by the Bank;

(B) set guidelines to ensure diversification of lending activities by both region and infrastructure project type;

(C) create conforming standards for infrastructure finance securities;

(D) monitor financial, credit and operational exposure of the Bank; and

(E) provide financial recommendations to the Board.
(d) **OTHER RISK MANAGEMENT OFFICERS.**—The Board shall appoint, remove, fix the compensation, and define the duties of 4 other risk management officers to serve on the risk management committee.

(e) **QUALIFICATIONS.**—The CRO and other risk management officers shall have demonstrated experience and expertise in one or more of the following:

1. Treasury and asset and liability management.
2. Investment regulations.
3. Insurance.
4. Credit risk management and credit evaluations.
5. Related disciplines.

(f) **VACANCY.**—A vacancy in the position of CRO or any other risk management officer shall be filled in the manner in which the original appointment was made.

(g) **COMPENSATION.**—The compensation of the CRO and other risk management officers shall be determined by the Board.

(h) **REMOVAL.**—The CRO and any other risk management officers may be removed at the discretion of a majority of the Board.
(i) **TERM.**—The CRO and other risk management officers shall serve a 6-year term and may be reappointed in accordance with this section.

(j) **LIMITATIONS.**—The CRO and other risk management officers shall not—

1. hold any other public office;
2. have any interest in an infrastructure project considered by the Board;
3. have any interest in an investment institution, commercial bank, or other entity seeking financial assistance for any infrastructure project from the Bank; and
4. have any such interest during the 2-year period beginning on the date such officer ceases to serve in such capacity.

**SEC. 1408. AUDIT COMMITTEE.**

(a) **IN GENERAL.**—The Bank shall have an audit committee consisting of 5 members, headed by the chief compliance officer of the Bank.

(b) **APPOINTMENTS.**—A majority of the Board shall have the authority to appoint and reappoint the CCO of the Bank.

(c) **FUNCTIONS; DUTIES.**—The CCO shall have such functions, powers, and duties as may be prescribed by one or more of the following: This subtitle, the bylaws of the
Bank, and the Board. The CCO shall report directly to the Board.

(d) Audit Duties.—In order to carry out the purposes of the Bank under this subtitle, the audit committee shall—

(1) provide internal controls and internal auditing activities for the Bank;

(2) maintain responsibility for the accounting activities of the Bank;

(3) issue financial reports of the Bank; and

(4) complete reports with outside auditors and public accountants appointed by the Board.

(e) Other Audit Officers.—The Board shall appoint, remove, fix the compensation, and define the duties of 4 other audit officers to serve on the audit committee.

(f) Qualifications.—The CCO and other audit officers shall have demonstrated experience and expertise in one or more of the following:

(1) Internal auditing.

(2) Internal investigations.

(3) Accounting practices.

(4) Financing practices.

(g) Vacancy.—A vacancy in the position of CCO or any other audit officer shall be filled in the manner in which the original appointment was made.
(h) COMPENSATION.—The compensation of the CCO and other audit officers shall be determined by the Board.

(i) REMOVAL.—The CCO and other audit officers may be removed at the discretion of a majority of the Board.

(j) TERM.—The CCO and other audit officers shall serve a 6-year term and may be reappointed in accordance with this section.

(k) LIMITATIONS.—The CCO and other audit officers shall not—

(1) hold any other public office;

(2) have any interest in an infrastructure project considered by the Board;

(3) have any interest in an investment institution, commercial bank, or other entity seeking financial assistance for any infrastructure project from the Bank; and

(4) have any such interest during the 2-year period beginning on the date such officer ceases to serve in such capacity.

SEC. 1409. PERSONNEL.

The chairperson of the Board, executive director, chief risk officer, and chief compliance officer shall appoint, remove, fix the compensation of, and define the duties of such qualified personnel to serve under the Board,
executive committee, risk management committee, or
audit committee, as the case may be, as necessary and
prescribed by one or more of the following: This subtitle,
the bylaws of the Bank, and the Board.

SEC. 1410. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM
BANK.

(a) In General.—No financial assistance shall be
available under this subtitle from the Bank unless the ap-
plicant for such assistance has demonstrated to the satis-
faction of the Board that the project for which such assist-
ance is being sought meets—

(1) the requirements of this subtitle; and

(2) any criteria established in accordance with
this subtitle by the Board.

(b) Establishment of Project Criteria.—

(1) In General.—Consistent with the require-
ments of subsections (c) and (d), the Board shall es-

(A) criteria for determining eligibility for
financial assistance under this subtitle;

(B) disclosure and application procedures
to be followed by entities to nominate projects
for assistance under this subtitle; and
(C) such other criteria as the Board may consider to be appropriate for purposes of carrying out this subtitle.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—

(A) IN GENERAL.—The Bank shall conduct an analysis that takes into account the economic, environmental, social benefits, and costs of each project under consideration for financial assistance under this subtitle, prioritizing projects that contribute to economic growth, lead to job creation, and are of regional or national significance.

(B) CRITERIA.—The criteria established pursuant to paragraph (1)(A) shall provide for the consideration of the following factors in considering eligibility for financial assistance under this subtitle:

(i) The means by which development of the infrastructure project under consideration is being financed, including—

(I) the terms and conditions and financial structure of the proposed financing;
(II) the financial assumptions and projections on which the project is based; and

(III) the extent to which the infrastructure project maximizes investment from other sources.

(ii) The likelihood that the provision of assistance by the Bank will cause such development to proceed more promptly and with lower costs for financing than would be the case without such assistance.

(iii) The extent to which the provision of assistance by the Bank maximizes the level of private investment in the infrastructure project while providing a public benefit.

(c) FACTORS FOR SPECIFIC TYPES OF PROJECTS.—

(1) TRANSPORTATION INFRASTRUCTURE PROJECTS.—For any transportation infrastructure project, the Board shall consider the following:

(A) Job creation, including workforce development for women and minorities, responsible employment practices, and quality job training opportunities.

(B) Reduction in carbon emissions.
(C) Reduction in surface and air traffic congestion.

(D) Poverty and inequality reduction through targeted training and employment opportunities for low-income workers.

(E) Use of smart tolling, such as vehicle miles traveled and congestion pricing, for highway, road, and bridge projects.

(F) Public health benefits.

ENVIRONMENTAL INFRASTRUCTURE PROJECT.—For any environmental infrastructure project, the Board shall consider the following:

(A) Public health benefits.

(B) Pollution reductions.

(C) Job creation, including workforce development for women and minorities, responsible employment practices, and quality job training opportunities.

(D) Poverty and inequality reduction through targeted training and employment opportunities for low-income workers.

ENERGY INFRASTRUCTURE PROJECT.—For any energy infrastructure project, the Board shall consider the following:
(A) Job creation, including workforce development for women and minorities, responsible employment practices, and quality job training opportunities.

(B) Poverty and inequality reduction through targeted training and employment opportunities for low-income workers.

(C) Reduction in carbon emissions.

(D) Expanded use of renewable energy.

(E) Development of a smart grid.

(F) Energy efficient building, housing, and school modernization.

(G) In any case in which the project is also a public housing project—

(i) improvement of the physical shape and layout;

(ii) environmental improvement; and

(iii) mobility improvements for residents.

(H) Public health benefits.

(4) TELECOMMUNICATIONS.—For any telecommunications project, the Board shall consider the following:
(A) The extent to which assistance expands or improves broadband and wireless services in rural and disadvantaged communities.

(B) Poverty and inequality reduction through targeted training and employment opportunities for low-income workers.

(C) Job creation, including work force development for women and minorities, responsible employment practices, and quality job training opportunities.

(d) CONSIDERATION OF PROJECT PROPOSALS.—

(1) PARTICIPATION BY OTHER AGENCY PERSONNEL.—Consideration of projects by the executive committee and the Board shall be conducted with personnel on detail to the Bank from relevant Federal agencies from among individuals who are familiar with and experienced in the selection criteria for competitive projects.

(2) FEES.—A fee may be charged for the review of any project proposal in such amount as may be considered appropriate by the executive committee to cover the cost of such review.

(e) DISCRETION OF BOARD.—Consistent with other provisions of this subtitle, any determination of the Board to provide assistance to any project, and the manner in
which such assistance is provided, including the terms, conditions, fees, and charges shall be at the sole discretion of the Board.

(f) STATE AND LOCAL PERMITS REQUIRED.—The provision of assistance by the Board in accordance with this subtitle shall not be deemed to relieve any recipient of assistance or the related project of any obligation to obtain required State and local permits and approvals.

(g) ANNUAL REPORT.—An entity receiving assistance from the Board shall make annual reports to the Board on the use of any such assistance, compliance with the criteria set forth in this section, and a disclosure of all entities with a development, ownership, or operational interest in a project assisted or proposed to be assisted under this subtitle.

SEC. 1411. EXEMPTION FROM LOCAL TAXATION.

All notes, debentures, bonds or other such obligations issued by the Bank, and the interest on or credits with respect to such bonds or other obligations, shall not be subject to taxation by any State, county, municipality, or local taxing authority.

SEC. 1412. STATUS AND APPLICABILITY OF CERTAIN FEDERAL LAWS; NO FULL FAITH AND CREDIT.

(a) BUDGETING AND AUDITORS PRACTICES.—The Bank shall comply with all Federal laws regulating the
budgetary and auditing practices of a government corpora-
tion, except as otherwise provided in this subtitle.

(b) No Full Faith and Credit of the United States.—Obligations of the Bank shall not be obligations of, or guaranteed as to principal or interest by, the United States or any agency of the United States and the obligations shall so plainly state.

(c) Effect of and Exemptions from Other Laws.—

(1) Exempt Securities.—All debt securities and other obligations issued by the Bank pursuant to this subtitle shall be deemed to be exempt securi-
ties within the meaning of laws administered by the Securities and Exchange Commission to the same extent as securities which are direct obligations of, or obligations fully guaranteed as to principal or in-
terest by, the United States.

(2) Open Market Operations and State Tax Exempt Status.—The obligations of the Bank shall be deemed to be obligations of the United States for the purposes of the provision designated as (b)(2) of the 2nd undesignated paragraph of sec-
(3) No priority as a federal claim.—The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not apply with respect to any indebtedness of the Bank.

(d) Federal Reserve Banks as Depositories, Custodians, and Fiscal Agents.—The Federal reserve banks may act as depositories for, or custodians or fiscal agents of, the Bank.

(e) Access to Book-Entry System.—The Secretary may authorize the Bank to use the book-entry system of the Federal reserve system.

SEC. 1413. COMPLIANCE WITH DAVIS-BACON 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 Bank pursuant to this subtitle 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 part A of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat.
The receipt by any entity of any assistance under this subtitle, directly or indirectly, and any financial assistance provided by any governmental entity in connection with such assistance under this subtitle shall be valid and lawful notwithstanding any State or local restrictions regarding extensions of credit or other benefits to private persons or entities, or other similar restrictions.

SEC. 1415. AUDITS; REPORTS TO PRESIDENT AND CONGRESS.

(a) ACCOUNTING.—The books of account of the Bank shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by independent public accountants appointed by the Board and of nationally recognized standing.

(b) REPORTS.—

(1) BOARD.—The Board shall submit to the President and Congress, within 90 days after the last day of each fiscal year, a complete and detailed report with respect to the preceding fiscal year, setting forth—

(A) a summary of the Bank’s operations, for such preceding fiscal year;
(B) a schedule of the Bank’s obligations and capital securities outstanding at the end of such preceding fiscal year, with a statement of the amounts issued and redeemed or paid during such preceding fiscal year; and

(C) the status of projects receiving funding or other assistance pursuant to this subtitle, including disclosure of all entities with a development, ownership, or operational interest in such projects.

(2) GAO.—Not later than 5 years after the date of enactment of this subtitle, the Comptroller General of the United States shall submit to Congress a report evaluating activities of the Bank for the fiscal years covered by the report that includes an assessment of the impact and benefits of each funded project, including a review of how effectively each project accomplished the goals prioritized by the Bank’s project criteria.

(e) Books and Records.—

(1) In General.—The Bank shall maintain adequate books and records to support the financial transactions of the Bank with a description of financial transactions and infrastructure projects receiving funding, and the amount of funding for each
(2) Audits by the Secretary and GAO.—
The books and records of the Bank shall be main-
tained in accordance with recommended accounting
practices and shall be open to inspection by the Sec-
etary and the Comptroller General of the United
States.

SEC. 1416. CAPITALIZATION OF BANK.

(a) Authorization of Appropriation.—There is
authorized to be appropriated to the Secretary for pur-
chase of the shares of the Bank $5,000,000,000 for each
the aggregate representing 10 percent of the total sub-
scribed capital of the Bank.

(b) Callable Capital.—Of the total subscribed
capital of the Bank, 90 percent shall be callable capital
subject to call from the Secretary only as and when re-
quired by the Bank to meet its obligations on borrowing
of funds for inclusion in its ordinary capital resources or
guarantees chargeable to such resources.

(c) Outstanding Loans.—At any time, the aggre-
gate amount outstanding of bonds issued by the Bank
shall not exceed 250 percent of its total subscribed capital.
SEC. 1417. SUNSET.

The Bank shall cease to exist 15 years after the date of enactment of this subtitle.

Subtitle E—Wounded Veteran Job Security Act

SEC. 1501. SHORT TITLE.

This subtitle may be cited as the “Wounded Veteran Job Security Act”.

SEC. 1502. EXPANSION OF DEFINITION OF SERVICE IN UNIFORMED SERVICES FOR PURPOSES OF USERRA.

Section 4303(13) of title 38, United States Code, is amended to read as follows:

“(13) The term ‘service in the uniformed services’ means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32, and a period for
which a person is absent from a position of employment for the purpose of obtaining medical treatment for an injury or illness recognized by the Secretary of Veterans Affairs as a service-connected, or for which a ‘line of duty’ document has been granted by the Secretary of Defense.”.

SEC. 1503. DOCUMENTATION OF TREATMENT FOR PURPOSES OF REEMPLOYMENT UNDER USERRA.

Section 4312(f) of such title is amended—

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

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) A person who submits an application for reemployment due to an absence for the purpose of obtaining medical treatment for an injury or illness referred to in section 4303(13) of this title shall provide to the person’s employer (upon the request of such employer) documentation to establish the individual’s eligibility for reemployment on that basis. Such an application shall include sufficient documentation to establish a link between the injury or illness and the medical treatment the person obtained.”;

(3) in paragraph (3), as so redesignated, by striking “paragraph (1)” and inserting “paragraph (1) or paragraph (2)”;

and
(4) in paragraph (4)(A), as so redesignated—

(A) by striking “paragraph (2)” and inserting “paragraph (3)”; and

(B) by striking “paragraph (1)” and inserting “paragraph (1) or should be deemed ineligible for reemployment on the grounds of paragraph (2)”.

SEC. 1504. NOTIFICATION OF EMPLOYER OF INTENT TO RETURN TO A POSITION OF EMPLOYMENT.

Section 4312(e)(1)(A) of such title is amended by inserting after “31 days” the following: “or a person who was absent from a position of employment for the purpose of obtaining medical treatment for an injury or illness recognized by the Secretary of Veterans Affairs as a service-connected, or for which a ‘line of duty’ document has been granted by the Secretary of Defense”.

SEC. 1505. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the date that is 90 days after the date of the enactment of this subtitle.
Subtitle F—Emergency Unemployment Compensation Extension Act of 2011

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the “Emergency Unemployment Compensation Extension Act of 2011”.

SEC. 1602. 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 1602(a) of the Emergency Unemployment Compensation Extension Act of 2011; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312; 26 U.S.C. 3304 note).

SEC. 1603. 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”; and

(2) 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
203 of the Federal-State Extended Unemployment Com-
pensation Act of 1970 (26 U.S.C. 3304 note) is amend-
ed—

(1) in subsection (d), by striking “December
31, 2011” and inserting “December 31, 2012”; and

(2) in subsection (f)(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 enact-
ment of the Tax Relief, Unemployment Insurance Reau-
thorization, and Job Creation Act of 2010 (Public Law

Subtitle G—Emergency Unemploy-
ment Compensation Expansion
Act of 2011

SEC. 1701. SHORT TITLE.

This subtitle may be cited as the “Emergency Unem-
ployment Compensation Expansion Act of 2011”.

SEC. 1702. ADDITIONAL FIRST-TIER EMERGENCY UNEM-
PLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 4002(b)(1) of the Supple-
mental Appropriations Act, 2008 (Public Law 110–252;
26 U.S.C. 3304 note) is amended—

(1) in subparagraph (A), by striking “80” and
inserting “131”; and
(2) in subparagraph (B), by striking “20” and inserting “34”.

(b) COORDINATION RULE.—Section 4002(f) of such Act is amended by adding at the end the following:

“(3) RULES RELATING TO ADDITIONAL WEEKS OF FIRST-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—

“(A) IN GENERAL.—If a State determines that implementation of the increased entitlement to first-tier emergency unemployment compensation by reason of the amendments made by section 1702(a) of the Emergency Unemployment Compensation Expansion Act of 2011 would unduly delay the prompt payment of emergency unemployment compensation under this title, such State may elect to pay second-tier, third-tier, or fourth-tier emergency unemployment compensation (or a combination of those tiers) prior to the payment of such increased first-tier emergency unemployment compensation until such time as such State determines that such increased first-tier emergency unemployment compensation may be paid without undue delay.
“(B) SPECIAL RULES.—If a State makes an election under subparagraph (A) which results in—

“(i) the payment of second-tier (but not third-tier) emergency unemployment compensation prior to the payment of increased first-tier emergency unemployment compensation, then, for purposes of determining whether an account may be augmented for third-tier emergency unemployment compensation under subsection (d), such State shall treat the date of exhaustion of such increased first-tier emergency unemployment compensation as the date of exhaustion of second-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the second-tier emergency unemployment compensation; or

“(ii) the payment of third-tier emergency unemployment compensation prior to the payment of increased first-tier emergency unemployment compensation, then, for purposes of determining whether an account may be augmented for fourth-tier
emergency unemployment compensation under subsection (e), such State shall treat the date of exhaustion of such increased first-tier emergency unemployment compensation as the date of exhaustion of third-tier emergency unemployment compensation, if such date is later than the date of exhaustion of the third-tier emergency unemployment compensation.

“(4) Coordination of Modifications (Relating to Additional First-Tier Emergency Unemployment Compensation) with Extended Compensation.—Notwithstanding an election under section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any additional emergency unemployment compensation under subsection (b) (payable by reason of the amendments made by section 1702(a) of the Emergency Unemployment Compensation Expansion Act of 2011), if such individual claimed extended compensation for at least 1 week of unemployment after the exhaustion of emergency unemployment compensation under subsection (b) (as
such subsection was in effect on the day before the

date of the enactment of this paragraph), (e), (d),
or (e).”.

(c) **FUNDING.**—Section 4004(e)(1) of such Act, as
amended by section 1602(b) of the Emergency Unemploy-
ment Compensation Extension Act of 2011, is further
amended—

(1) in subparagraph (G), by striking “and” at
the end; and

(2) by inserting after subparagraph (H) the fol-
lowing:

“(I) the amendments made by section
1702(a) of the Emergency Unemployment Com-
penstation Expansion Act of 2011; and”.

SEC. 1703. **REGULATIONS.**

The Secretary of Labor may prescribe any operating
instructions or regulations necessary to carry out this sub-
title and the amendments made by this subtitle.

SEC. 1704. **EFFECTIVE DATE.**

The amendments made by this subtitle shall take ef-
flect as if included in the enactment of the Unemployment
Compensation Extension Act of 2010 (Public Law 111–
205), except that no additional first-tier emergency unem-
ployment compensation shall be payable by virtue of the
amendments made by section 1702(a) with respect to any
week of unemployment commencing before the date of the enactment of this subtitle.

Subtitle H—Currency Reform for Fair Trade Act

SEC. 1801. SHORT TITLE.

This subtitle may be cited as the “Currency Reform for Fair Trade Act”.

SEC. 1802. CLARIFICATION REGARDING DEFINITION OF COUNTERVAILABLE SUBSIDY.

(a) Benefit Conferred.—Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended—

(1) in clause (iii), by striking “and” at the end;

(2) in clause (iv), by striking the period at the end and inserting “, and”; and

(3) by inserting after clause (iv) the following new clause:

“(v) in the case in which the currency of a country in which the subject merchandise is produced is exchanged for foreign currency obtained from export transactions, and the currency of such country is a fundamentally undervalued currency, as defined in paragraph (37), the difference between the amount of the cur-
(b) Export Subsidy.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end the following new sentence: “In the case of a subsidy relating to a fundamentally undervalued currency, the fact that the subsidy may also be provided in circumstances not involving export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance.”.

(c) Definition of Fundamentally Undervalued Currency.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end the following new paragraph:

“(37) Fundamentally Undervalued Currency.—The administering authority shall determine that the currency of a country in which the subject merchandise is produced is a ‘fundamentally undervalued currency’ if—

“(A) the government of the country (including any public entity within the territory of...
the country) engages in protracted, large-scale intervention in one or more foreign exchange markets during part or all of the 18-month period that represents the most recent 18 months for which the information required under paragraph (38) is reasonably available, but that does not include any period of time later than the final month in the period of investigation or the period of review, as applicable;

“(B) the real effective exchange rate of the currency is undervalued by at least 5 percent, on average and as calculated under paragraph (38), relative to the equilibrium real effective exchange rate for the country’s currency during the 18-month period;

“(C) during the 18-month period, the country has experienced significant and persistent global current account surpluses; and

“(D) during the 18-month period, the foreign asset reserves held by the government of the country exceed—

“(i) the amount necessary to repay all debt obligations of the government falling due within the coming 12 months;
“(ii) 20 percent of the country’s money supply, using standard measures of M2; and

“(iii) the value of the country’s imports during the previous 4 months.”.

(d) Definition of Real Effective Exchange Rate Undervaluation.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677), as amended by subsection (c) of this section, is further amended by adding at the end the following new paragraph:

“(38) Real effective exchange rate undervaluation.—The calculation of real effective exchange rate undervaluation, for purposes of paragraph (5)(E)(v) and paragraph (37), shall—

“(A)(i) rely upon, and where appropriate be the simple average of, the results yielded from application of the approaches described in the guidelines of the International Monetary Fund’s Consultative Group on Exchange Rate Issues; or

“(ii) if the guidelines of the International Monetary Fund’s Consultative Group on Exchange Rate Issues are not available, be based on generally accepted economic and econometric
techniques and methodologies to measure the
level of undervaluation;

“(B) rely upon data that are publicly avail-
able, reliable, and compiled and maintained by
the International Monetary Fund or, if the
International Monetary Fund cannot provide
the data, by other international organizations or
by national governments; and

“(C) use inflation-adjusted, trade-weighted
exchange rates.”.

SEC. 1803. REPORT ON IMPLEMENTATION OF SUBTITLE.

(a) IN GENERAL.—Not later than 9 months after the
date of the enactment of this subtitle, the Comptroller
General of the United States shall submit to Congress a
report on the implementation of the amendments made by
this subtitle.

(b) MATTERS TO BE INCLUDED.—The report re-
quired by subsection (a) shall include a description of the
extent to which United States industries that have been
materially injured by reason of imports of subject mer-
chandise produced in foreign countries with fundamentally
undervalued currencies have received relief under title VII
of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), as
amended by this subtitle.
SEC. 1804. APPLICATION TO GOODS FROM CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3438), the amendments made by section 1802 shall apply to goods from Canada and Mexico.

Subtitle I—Prioritize Emergency Job Creation Act

SEC. 1851. SHORT TITLE.

This subtitle may be cited as the “Prioritize Emergency Job Creation Act”.

SEC. 1852. EMERGENCY JOB CREATION.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

“(E) EMERGENCY JOB CREATION.—If, for fiscal years 2012 through 2021, appropriations for discretionary accounts are enacted that Congress designates and the President subsequently so designates as being for emergency job creation in statute, the adjustment for a fiscal year shall be the total of such appropriations for the fiscal year in discretionary accounts designated as being for emergency job creation.”.
Subtitle J—Fair Employment Opportunity Act of 2011

SEC. 1901. SHORT TITLE.

This subtitle may be cited as the “Fair Employment Opportunity Act of 2011”.

SEC. 1902. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that denial of employment opportunities to individuals because they are or have been 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 State and Federal 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 states, localities and the Federal Government rely on to support operations and institutions essential to commerce.
(b) PURPOSE.—The purpose of this subtitle is to prohibit consideration of an individual’s status as unemployed in screening for or filling positions except where a requirement related to employment status is a bona fide occupational qualification reasonably necessary to successful performance in the job and to eliminate the burdens imposed on commerce by excluding such individuals from employment.

SEC. 1903. DEFINITIONS.

As used in this subtitle—

(1) the term “employer” means any person engaged in commerce or any industry or activity affecting commerce 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 includes—

(A) any person who acts, directly or indirectly, in the interest of an employer with respect to employing individuals to work for the employer; and

(B) any successor in interest of an employer;

(2) 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 for an employer and includes an agent of such a person, and includes any person who maintains an Internet website that publishes advertisements or announce-
ments of job openings;

(3) the term “affected individual” means any person who was refused consideration for employ-
ment or was not hired by an employer because of the person’s current employment status, or any person who was not considered, screened, or referred for employment opportunities by an employment agency because of the person’s current employment status;

(4) the term “status as unemployed” means an individual’s present or past unemployment regardless of the length of time such individual was unem-
ployed; and

(5) the term “Secretary” means the Secretary of Labor.

SEC. 1904. PROHIBITED ACTS.

(a) EMPLOYERS.—It shall be an unlawful practice for an employer to—

(1) refuse to consider for employment or refuse to offer employment to an individual because of the individual’s status as unemployed;
(2) publish in print, on the Internet, or in any other medium, an advertisement or announcement for any job that includes—

(A) any provision stating or indicating that an individual’s status as unemployed disqualifies the individual for a job; and

(B) any provision stating or indicating that an employer will not consider an applicant for employment based on that individual’s status as unemployed; and

(3) direct or request that an employment agency take an individual’s status as unemployed into account in screening or referring applicants for employment.

(b) EMPLOYMENT AGENCIES.—It shall be an unlawful practice for an employment agency to—

(1) refuse to consider or refer an individual for employment based on the individual’s status as unemployed;

(2) limit, segregate, or classify individuals in any manner that may limit their access to information about jobs or referral for consideration of jobs because of their status as unemployed; or
(3) publish, in print or on the Internet or in any other medium, an advertisement or announce-
ment for any job vacancy that includes—

(A) any provision stating or indicating that an individual’s status as unemployed disquali-
fies the individual for a job; and

(B) any provision stating or indicating that an employer will not consider individuals for employment based on that individual’s status as unemployed.

(c) INTERFERENCE WITH RIGHTS, PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any employer or em-
ployment agency to—

(1) interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subtitle; or

(2) refuse to hire, to discharge, or in any other manner to discriminate against any individual be-
cause such individual—

(A) opposed any practice made unlawful by this subtitle;

(B) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this subtitle;
(C) has given, or is about to give, any in-
formation in connection with any inquiry or
proceeding relating to any right provided under
this subtitle; or

(D) has testified, or is about to testify, in
any inquiry or proceeding relating to any right
provided under this subtitle.

(d) BONA FIDE OCCUPATIONAL QUALIFICATION.—
Notwithstanding any other provision of this subtitle, con-
sideration by an employer or employment agency of an in-
dividual’s status as unemployed shall not be an unlawful
employment practice where an individual’s employment in
a similar or related job for a period of time reasonably
proximate to the hiring of such individual is a bona fide
occupational qualification reasonably necessary to success-
ful performance of the job that is being filled.

SEC. 1905. ENFORCEMENT.

(a) CIVIL ACTION BY INDIVIDUAL.—

(1) LIABILITY FOR EMPLOYERS AND EMPLOY-
MENT AGENCIES.—Any employer or employment
agency that violates section 1904(a) or (b) shall be
liable to any affected individual—

(A) for actual damages equal to—

(i) the amount of—
(I) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation or a civil penalty of $1,000 per violation per day, whichever is greater;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer or employment agency that has violated section 1904 proves to the satisfaction of the court that the act or omission that violated section 1904 was in good faith and that the employer had reasonable
grounds for believing that the act or omission was not a violation of section 1904, such court may, in its discretion, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment and compensatory and punitive damages.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) of this subsection may be maintained against any employer or employment agency in any Federal or State court of competent jurisdiction by any one or more persons for and in behalf of—

(A) the affected individual; or

(B) the affected individual and other individuals similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney’s fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS.—The right provided by paragraph (2) of this subsection to bring an action by or
on behalf of any affected individual shall termi-
nate—

(A) on the filing of a complaint by the Sec-
retary in an action under subsection (d) in
which restraint is sought of any violation of sec-
tion 1904; or

(B) on the filing of a complaint by the Sec-
retary in an action under subsection (b) in
which a recovery is sought of the damages de-
scribed in paragraph (1)(A) owing to an af-
fected individual by an employer or employment
agency liable under paragraph (1), unless the
action described in subparagraph (A) or (B) is
dismissed without prejudice on motion of the
Secretary.

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary
shall receive, investigate, and attempt to resolve
complaints of violations of section 1904 in the same
manner that the Secretary receives, investigates, and
attempts to resolve complaints of violations of sec-
tions 6 and 7 of the Fair Labor Standards Act of

(2) CIVIL ACTION.—The Secretary may bring
an action in any court of competent jurisdiction—
(A) to enjoin violations of this subtitle and seek other relief going forward necessary to prevent future violations;

(B) to recover—

(i) the damages described in subsection (a)(1)(A);

(ii) in the case of a violation of section 1904(c), a civil penalty of not less than $250 per violation; or

(iii) such other equitable relief the Court deems appropriate.

(3) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to paragraph (2)(A) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each affected individual. Any such sums recovered pursuant to paragraph (2)(A) that are not paid to an affected individual because of inability to do so within a period of 3 years and any sums recovered pursuant to paragraph (2)(B) shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action under subsection (a) may be brought not later than 2 years after the date of the
last event constituting the alleged violation for which
the action is brought, provided that the limitations
for filing an action shall be tolled during the period
that the Secretary is considering a complaint against
any defendant named in a complaint filed with the
Secretary under subsection (b)(1) above.

(2) WILLFUL VIOLATION.—In the case of such
action brought for a willful violation of section 1904,
such action may be brought within 3 years of the
date of the last event constituting the alleged viola-
tion for which such action is brought, provided that
the limitations for filing an action by an individual
shall be tolled during the period that the Secretary
is considering a complaint pursuant to subsection
(b)(1).

(3) COMMENCEMENT.—In determining when an
action is commenced by the Secretary under this
section for the purposes of this subsection, it shall
be considered to be commenced on the date when the
Secretary files a complaint in a court of competent
jurisdiction.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The
district courts of the United States shall have jurisdiction,
for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 1904; and
(2) to award such other equitable relief as may be appropriate, including employment and monetary damages.

(e) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

Subtitle K—New Jobs for America Act of 2011

SEC. 1951. SHORT TITLE.

This subtitle may be cited as the “New Jobs for America Act of 2011”.

SEC. 1952. COMPENSATED EMPLOYMENT TRAINING GRANTS.

(a) AUTHORIZATION.—Subject to the availability of appropriations for such funds, the Secretary of Labor shall make grants to States, units of local government, and Indian tribes to carry out the activities described in subsection (b).

(b) USE OF FUNDS.—A recipient of a grant under this subtitle shall use the grant for the following purposes:

(1) To seek out unemployed individuals struggling financially whose prior training consisted of skills necessary for a faltering or dying industry.
(2) To create compensated training programs that offer training in emerging markets and industries (such as green technologies).

(3) To partner with historically Black colleges and universities and Hispanic serving colleges and universities along with local community college systems to create innovative retraining programs for minorities focused on retooling workers for jobs in the growth sectors of healthcare, biotech, and information technology.

(4) To partner with cities and non-profit organizations to provide apprenticeships and internships.

(5) To provide compensation to participants in training programs to temporarily aide in their financial distress.

(6) To provide access to public healthcare programs for participants.

(7) To create training programs for ex-offenders in an effort to reduce recidivism.

(8) To aide newly trained participants in securing employment within the field of their newly acquired expertise.

(e) CONDITIONS.—As a condition of receiving a grant under this subtitle, a grant recipient shall—
(1) comply with nondiscrimination standards of the Civil Rights Act;

(2) allocate not less than 80 percent of the funding allocated under the grant to wages, benefits, and support activities, including child care services to individuals receiving compensated training under such a grant; and

(3) institute a program to aide newly trained participants in securing employment in their new area of expertise.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Subtitle L—Transportation Infrastructure Investment

SEC. 1961. TRANSPORTATION INFRASTRUCTURE INVESTMENT.

(a) Highway Infrastructure Investment.—

(1) In general.—There is made available to the Secretary of Transportation $45,000,000,000 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, United States Code.

(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 sec-
tion 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 fis-
cal 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 subtitle.

(6) REDISTRIBUTION.—

(A) The Secretary shall, 180 days fol-
lowing 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 divi-
sion A of Public Law 111–117.

(B) One year following the date of appor-
tionment, the Secretary shall withdraw from
each recipient of funds apportioned under para-
graph (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 shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, 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, $750,000,000 shall be set aside for investments in transportation at Indian reservations and Federal lands in accordance with the following:
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(A) Of the funds set aside by this paragraph, $410,000,000 shall be for the Indian Reservation Roads program, $270,000,000 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 subtitle, 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, $100,000,000 shall be set aside for the development and administration of transportation training programs under section 140(b) of title 23, United States Code, in accordance with the following:

(A) Funds set aside under this paragraph 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, may be transferred to, or administered in partnership with, the Secretary of Labor, and shall be used for programs that demonstrate to the Secretary of Transportation program outcomes, including with respect to—

(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 of 1998 (Public Law 105–220);

(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 paragraph, 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 2012 and 2013 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 Adminis-
tractor 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.

(b) TRANSPORTATION INFRASTRUCTURE GRANTS AND FINANCING.—

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

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

(3) AVAILABILITY.—The amounts made available under this subsection shall be available for obligation until the date that is two years after the date of the enactment of this subtitle. The Secretary shall obligate amounts totaling not less than 50 percent of the funds made available within one year of en-
actment 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 replace-
ments, 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 particip-
ating in the New Starts or Small Starts pro-
grams that will expedite the completion of those
projects and their entry into revenue service;

(C) passenger and freight rail transpor-
tation projects; and

(D) port infrastructure investments, in-
cluding projects that connect ports to other
modes of transportation and improve the effi-
ciency 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 com-
pleted within 3 years of the date of the enactment
of this subtitle.

(7) **Deadline for Issuance of Competition**
criteria.—The Secretary shall publish criteria on
which to base the competition for any grants award-
ed under this subsection not later than 90 days after
enactment of this subtitle. The Secretary shall re-
quire 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 funding not
later than one year after the date of the enactment
of this subtitle.

(8) **Applicability of Title 40.**—Each project
conducted using funds provided under this sub-
section shall comply with the requirements of sub-
chapter 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.

Subtitle M—Jobs NOW Act

SEC. 1971. SHORT TITLE.

This subtitle may be cited as the “Jobs NOW Act”.

SEC. 1972. RESTORATION OF TANF EMERGENCY CONTINGENCY FUND.

(a) In general.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end the following:

“(c) Emergency Fund.—

“(1) Establishment.—There is established in the Treasury of the United States a fund which shall be known as the ‘Emergency Contingency
Fund for State Temporary Assistance for Needy Families Programs’ (in this subsection referred to as the ‘Emergency Fund’).

“(2) DEPOSITS INTO FUND.—

“(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $5,000,000 for each of fiscal years 2012 and 2013, for payment to the Emergency Fund.

“(B) AVAILABILITY AND USE OF FUNDS.—The amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2012 shall be available for the 1st 12 months of the program period, and the amounts so appropriated for fiscal year 2013 shall be available for the 2nd 12 months of the program period, and all such amounts shall be used to make grants to States in accordance with paragraph (3).

“(C) LIMITATION.—In no case may the Secretary make a grant from the Emergency Fund for a fiscal year after the end of the program period.

“(D) PROGRAM PERIOD DEFINED.—In this subsection, the term ‘program period’ means
the 2-year period that begins with the 1st day of the 1st calendar quarter that begins after the effective date of this subsection.

“(3) GRANTS.—

“(A) IN GENERAL.—For each calendar quarter in the program period, the Secretary shall make a grant from the Emergency Fund to each State that—

“(i) requests a grant under this subparagraph for the quarter; and

“(ii) meets the requirement of clause (ii) for the quarter.

“(B) REQUIREMENT.—A State meets the requirement of this clause for a quarter if the unemployment rate of the State (as determined by the Secretary of Commerce in consultation with the Secretary of Labor) was not less than 6 percent for each month in the most recent 6-month period for which such information is available.

“(C) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 75 percent of the State family assistance grant.
“(4) LIMITATIONS ON USE OF FUNDS.—A State to which an amount is paid under this subsection may use the amount only as authorized by section 404.

“(5) TIMING OF IMPLEMENTATION.—The Secretary shall implement this subsection as quickly as reasonably possible, pursuant to appropriate guidance to States.

“(6) APPLICATION TO INDIAN TRIBES.—This subsection shall apply to an Indian tribe with an approved tribal family assistance plan under section 412 in the same manner as this subsection applies to a State.”.

(b) DISREGARD FROM LIMITATION ON TOTAL PAYMENTS TO TERRITORIES.—Section 1108(a)(2) of such Act (42 U.S.C. 1308(a)(2)) is amended by inserting “403(c)(3),” after “403(a)(5),”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this subtitle.
Subtitle N—Discretionary Spending Limits

SEC. 1981. REPEAL OF NEW DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) is hereby repealed.

(b) CONFORMING AMENDMENT.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 250(a), by amending the table of contents by striking the item relating to section 251A; and

(2) by amending section 251(c) to read as follows:

“(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term ‘discretionary spending limit’ means—

“(1) with respect to fiscal year 2012—

“(A) for the security category, $684,000,000,000 in new budget authority; and

“(B) for the nonsecurity category, $359,000,000,000 in new budget authority;

“(2) with respect to fiscal year 2013—

“(A) for the security category, $686,000,000,000 in new budget authority; and
“(B) for the nonsecurity category, $361,000,000,000 in new budget authority;

“(3) with respect to fiscal year 2014, for the discretionary category, $1,066,000,000,000 in new budget authority;

“(4) with respect to fiscal year 2015, for the discretionary category, $1,086,000,000,000 in new budget authority;

“(5) with respect to fiscal year 2016, for the discretionary category, $1,107,000,000,000 in new budget authority;

“(6) with respect to fiscal year 2017, for the discretionary category, $1,131,000,000,000 in new budget authority;

“(7) with respect to fiscal year 2018, for the discretionary category, $1,156,000,000,000 in new budget authority;

“(8) with respect to fiscal year 2019, for the discretionary category, $1,182,000,000,000 in new budget authority;

“(9) with respect to fiscal year 2020, for the discretionary category, $1,208,000,000,000 in new budget authority; and
“(10) with respect to fiscal year 2021, for the discretionary category, $1,234,000,000,000 in new budget authority;

as adjusted in strict conformance with subsection (b).”.

Subtitle O—Emergency Job Creation Designation

SEC. 1991. CONGRESSIONAL DESIGNATION.

For purposes of section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), the Congress hereby designates all appropriations made under this title, and amendments made by this title, as being for the purpose of emergency job creation.

TITLE II—RESPONSIBLE SAVINGS AND FAIR TAXATION

Subtitle A—Responsible End to the War in Afghanistan Act

SEC. 2001. SHORT TITLE.

This subtitle may be cited as the “Responsible End to the War in Afghanistan Act”.

SEC. 2002. STATEMENT OF POLICY.

It is the policy of the United States to ensure that funds made available for operations of the Armed Forces in Afghanistan are to be used only for purposes of providing for the safe and orderly withdrawal from Afghani-
stan of all members of the Armed Forces and Department of Defense contractor personnel who are in Afghanistan.

SEC. 2003. LIMITATION ON USE OF FUNDS FOR OPERATIONS OF THE ARMED FORCES IN AFGHANISTAN.

(a) LIMITATION.—Funds appropriated or otherwise made available under any provision of law for operations of the Armed Forces in Afghanistan shall be obligated and expended only for purposes of providing for the safe and orderly withdrawal from Afghanistan of all members of the Armed Forces and Department of Defense contractor personnel who are in Afghanistan.

(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed—

(1) to authorize the use of funds for the continuation of combat operations in Afghanistan while carrying out the safe and orderly withdrawal from Afghanistan of all members of the Armed Forces and Department of Defense contractor personnel who are in Afghanistan; and

(2) to prohibit or otherwise restrict the use of funds available to any department or agency of the United States to carry out diplomatic efforts or humanitarian, development, or general reconstruction activities in Afghanistan.
Subtitle B—Defense and Deficit Reduction Act

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the “Defense and Deficit Reduction Act”.

SEC. 2102. FINDINGS.

Congress finds the following:

(1) Under H. Res. 38, the Chair of the Committee on the Budget shall include in the Congressional Record an allocation for the remainder of fiscal year 2011 that assumes nonsecurity spending at fiscal year 2008 levels.

(2) Reductions in defense spending should be included in any effort to reduce Federal outlays and reduce the national deficit.

(3) In fiscal year 2010, defense spending comprised 58 percent of discretionary spending.

(4) If defense spending continued at fiscal year 2010 levels for the next 5 years, it would total $3,600,000,000,000.

(5) Reducing defense spending to fiscal year 2008 levels would save approximately $182,000,000,000 over 5 years compared to current levels.
(6) In January 2011 Secretary of Defense Gates stated that the Administration is seeking $78,000,000,000 in cuts to the defense budget over the next five years on top of $100,000,000,000 in efficiencies. This savings should be used to decrease the deficit.

(7) President Obama has pledged to begin drawing down forces in Afghanistan in July 2011 with a goal of full withdrawal in 2014. With a decrease in troops abroad, our defense spending should decrease.

(8) In a CBS News Poll from January 2011, over 50 percent of Americans questioned would reduce defense spending to decrease the Federal deficit.

(9) The United States currently spends more on its military and defense than the next 19 biggest spending nations combined.

(10) Making reasonable reductions to the defense budget can help to solve the Nation’s long-term fiscal problems.

SEC. 2103. REDUCTION AND FREEZE IN BUDGET OF DEPARTMENT OF DEFENSE.

(a) REDUCTION AND FREEZE.—The aggregate amount of funds appropriated or otherwise made available
for military functions administered by the Department of Defense (other than the functions excluded by subsection (b)) for a fiscal year may not exceed—

(1) in the case of fiscal year 2011, the aggregate amount of funds appropriated or otherwise made available for military functions administered by the Department of Defense (other than the functions excluded by subsection (b)) for fiscal year 2008; and

(2) in the case of fiscal years 2012 through 2016, the aggregate amount of funds appropriated or otherwise made available for such functions for the previous fiscal year.

(b) EXCLUSION OF MILITARY PERSONNEL PAY AND BENEFITS.—In determining the aggregate amount of funds appropriated or otherwise made available for military functions administered by the Department of Defense for fiscal year 2008 or any subsequent fiscal year for purposes of subsection (a), there shall be excluded all amounts appropriated or otherwise made available in general and supplemental appropriations Acts for—

(1) military personnel, reserve personnel, and National Guard personnel accounts of the Department of Defense, generally title I of the annual Department of Defense appropriations Act;
(2) the Defense Health Program; and
(3) drug interdiction and counter-drug activities of the Department of Defense, but only to the extent the amounts were transferred to personnel accounts referred to in paragraph (1).

c) USE OF SAVINGS.—All funds saved by the imple-
mentation of this section shall be used for deficit reduc-

Subtitle C—Reduction in Military End Strength Level in Europe

SEC. 2201. REDUCTION IN END STRENGTH LEVEL OF MEM-
BERS OF THE UNITED STATES ARMED FORCES ASSIGNED TO PERMANENT DUTY IN EUROPE AND CORRESPONDING GENERAL END STRENGTH REDUCTIONS.

(a) EUROPEAN END STRENGTH LEVEL.—Effective September 30, 2012, the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Europe may not exceed a permanent ceiling of 30,000 in any fiscal year.

(b) EXCLUSION OF CERTAIN MEMBERS.—For pur-
poses of this section, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Europe:
(1) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

(2) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.

(c) EXCEPTIONS; WAIVER.—This section shall not apply in the event of a declaration of war or an armed attack on any European member nation of the North Atlantic Treaty Organization. The President may waive operation of this section if the President declares an emergency and immediately informs the Congress of the waiver and the reasons therefor.

(d) REPEAL OF SUPERCEDED END STRENGTH LIMITATION.—Section 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is repealed.

SEC. 2202. CONFORMING CHANGES TO ARMED FORCES END STRENGTH LEVELS.

(a) END STRENGTHS FOR ACTIVE FORCES FOR FISCAL YEAR 2012.—Notwithstanding section 401, the Armed Forces are authorized strengths for active duty personnel as of September 30, 2012, as follows:

(1) The Army, 556,600.

(2) The Navy, 325,239.

(3) The Marine Corps, 202,000.
(4) The Air Force, 328,800.

(b) Continuation of Reductions in Subsequent Fiscal Years.—For each of fiscal years 2013 through 2016, the end strength numbers shall be reduced by an additional 10,000 a year, as follows:

(1) 5,400 a year from the Army.
(2) 4,000 a year from the Air Force.
(3) 500 a year from the Navy.
(4) 100 a year from the Marine Corps.

(c) Revision in Permanent Active Duty End Strength Minimum Levels.—Section 691(b) of title 10, United States Code, as amended by section 402, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

“(1) For the Army, 535,000.
“(2) For the Navy, 323,239.
“(3) For the Marine Corps, 201,600.
“(4) For the Air Force, 312,800.”.

Subtitle D—V-22 Osprey Aircraft Program

SEC. 2401. TERMINATION OF V-22 OSPREY AIRCRAFT PROGRAM.

Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for fiscal year 2012 or any fiscal year thereafter...
for the Department of Defense may be obligated or ex-
pended for the procurement of V–22 Osprey aircraft.

Subtitle E—Fairness in Taxation

SEC. 2501. INCREASED TAX RATES FOR TAXPAYERS WITH MORE THAN $1,000,000 TAXABLE INCOME.

(a) In General.—

(1) Mar ried Individuals filing joint re-
turns and surviving spouses.—The table con-
tained in subsection (a) of section 1 of the Internal
Revenue Code of 1986 is amended to read as fol-
lows:

<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $69,000</td>
<td>15% of taxable income.</td>
</tr>
<tr>
<td>Over $69,000 but not over $139,350.</td>
<td>$10,350, plus 28% of the excess over $69,000.</td>
</tr>
<tr>
<td>Over $139,350 but not over $212,300.</td>
<td>$30,048, plus 31% of the excess over $139,350.</td>
</tr>
<tr>
<td>Over $212,300 but not over $379,150.</td>
<td>$52,662.50, plus 36% of the excess over $212,300.</td>
</tr>
<tr>
<td>Over $379,150 but not over $1,000,000.</td>
<td>$112,728.50, plus 39.6% of the excess over $379,150.</td>
</tr>
<tr>
<td>Over $1,000,000 but not over $10,000,000.</td>
<td>$358,585.10, plus 45% of the excess over $1,000,000.</td>
</tr>
<tr>
<td>Over $10,000,000 but not over $20,000,000.</td>
<td>$4,408,585.10, plus 46% of the excess over $10,000,000.</td>
</tr>
<tr>
<td>Over $20,000,000 but not over $100,000,000.</td>
<td>$9,008,585.10, plus 47% of the excess over $20,000,000.</td>
</tr>
<tr>
<td>Over $100,000,000 but not over $1,000,000,000.</td>
<td>$46,608,585.10, plus 48% of the excess over $100,000,000.</td>
</tr>
<tr>
<td>Over $1,000,000,000</td>
<td>$478,608,585.10, plus 49% over the excess over $1,000,000,000.</td>
</tr>
</tbody>
</table>

(2) Heads of Household.—The table con-
tained in subsection (b) of section 1 of such Code is
amended to read as follows:

<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $46,250</td>
<td>15% of taxable income.</td>
</tr>
<tr>
<td>Over $46,250 but not over $119,400.</td>
<td>$6,937.50, plus 28% of the excess over $46,250.</td>
</tr>
</tbody>
</table>
### Unmarried Individuals (Other Than Surviving Spouses and Heads of Households)

- **If taxable income is:**
  - **Over $34,500 but not over $83,600.**
  - **Over $83,600 but not over $174,400.**
  - **Over $174,400 but not over $379,150.**
  - **Over $379,150 but not over $1,000,000.**
  - **Over $1,000,000 but not over $10,000,000.**
  - **Over $10,000,000 but not over $20,000,000.**
  - **Over $20,000,000 but not over $100,000,000.**
  - **Over $100,000,000 but not over $1,000,000,000.**
  - **Over $1,000,000,000 but not over $1,000,000,000.**
- **The tax is:**
  - **15% of taxable income.**
  - **$5,175, plus 28% of the excess over $34,500.**
  - **$18,923, plus 31% of the excess over $83,600.**
  - **$47,071, plus 36% of the excess over $174,400.**
  - **$120,781, plus 39.6% of the excess over $379,150.**
  - **$366,637.60, plus 45% of the excess over $1,000,000.**
  - **$4,416,637.60, plus 46% of the excess over $10,000,000.**
  - **$9,016,637.60, plus 47% of the excess over $20,000,000.**
  - **$46,616,637.60, plus 48% of the excess over $100,000,000.**
  - **$478,616,637.60, plus 49% of the excess over $1,000,000,000.**

### Married Individuals Filing Separate Returns

- **If taxable income is:**
  - **Over $119,400 but not over $193,350.**
  - **Over $193,350 but not over $379,150.**
  - **Over $379,150 but not over $1,000,000.**
  - **Over $1,000,000 but not over $10,000,000.**
  - **Over $10,000,000 but not over $20,000,000.**
  - **Over $20,000,000 but not over $100,000,000.**
  - **Over $100,000,000 but not over $1,000,000,000.**
  - **Over $1,000,000,000 but not over $1,000,000,000.**
- **The tax is:**
  - **$27,419.50, plus 31% of the excess over $119,400.**
  - **$50,344, plus 36% of the excess over $193,350.**
  - **$117,232, plus 39.6% of the excess over $379,150.**
  - **$363,088.60, plus 45% of the excess over $1,000,000.**
  - **$4,416,637.60, plus 46% of the excess over $10,000,000.**
  - **$46,616,637.60, plus 48% of the excess over $100,000,000.**
  - **$478,616,637.60, plus 49% of the excess over $1,000,000,000.**
section 1 of such Code is amended to read as follows:

<table>
<thead>
<tr>
<th>If taxable income is:</th>
<th>The tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $34,500</td>
<td>plus 15% of taxable income.</td>
</tr>
<tr>
<td>Over $34,500 but not over $69,675</td>
<td>$5,175, plus 28% of the excess over $34,500.</td>
</tr>
<tr>
<td>Over $69,675 but not over $106,150</td>
<td>$15,024, plus 31% of the excess over $69,675.</td>
</tr>
<tr>
<td>Over $106,150 but not over $189,575</td>
<td>$26,331.25, plus 35% of the excess over $106,150.</td>
</tr>
<tr>
<td>Over $189,575 but not over $500,000</td>
<td>$55,530, plus 39.6% of the excess over $189,575.</td>
</tr>
<tr>
<td>Over $500,000 but not over $5,000,000</td>
<td>$178,458.30, plus 45% of the excess over $500,000.</td>
</tr>
<tr>
<td>Over $5,000,000 but not over $10,000,000</td>
<td>$2,203,458.30, plus 46% of the excess over $5,000,000.</td>
</tr>
<tr>
<td>Over $10,000,000 but not over $50,000,000</td>
<td>$4,503,458.30, plus 47% of the excess over $10,000,000.</td>
</tr>
<tr>
<td>Over $50,000,000 but not over $500,000,000</td>
<td>$23,303,458.30, plus 48% of the excess over $50,000,000.</td>
</tr>
<tr>
<td>Over $500,000,000</td>
<td>$239,303,458.30, plus 49% of the excess over $500,000,000.</td>
</tr>
</tbody>
</table>

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 2502. RECAPTURE OF LOWER CAPITAL GAINS RATES FOR INDIVIDUALS SUBJECT TO ADDED RATE BRACKETS.

(a) In General.—Section 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(j) Special Rule for Capital Gains in Case of Taxable Income Subject to at Least 45-Percent Rate Bracket.—If for the taxable year a taxpayer has taxable income in excess of the minimum dollar amount
for the 45-percent rate bracket and has a net capital gain,
then—

“(1) the tax imposed by this section for the taxable year with respect to such excess shall be determined without regard to subsection (h), and

“(2) the amount of net capital gain of the taxpayer taken into account for the taxable year under subsection (h) shall be reduced by the lesser of—

“(A) such excess, or

“(B) the net capital gain for the taxable year.

Any reduction in net capital gain under the preceding sentence shall be allocated between adjusted net capital gain, unrecaptured 1250 gain, and section 1202 gain in amounts proportionate to the amounts of each such gain.”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 1(h) of such Code is amended by striking “If a taxpayer has” and inserting “Except to the extent provided in subsection (j), if a taxpayer has”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.
Subtitle F—End Big Oil Tax Subsidies Act of 2011

SEC. 2601. SHORT TITLE.

This subtitle may be cited as the “End Big Oil Tax Subsidies Act of 2011”.

SEC. 2602. AMORTIZATION OF GEOLOGICAL AND GEO-

PHYSICAL EXPENDITURES.

(a) IN GENERAL.—Subparagraph (A) of section 167(h)(5) of the Internal Revenue Code of 1986 is amended by striking “major integrated oil company” and inserting “covered large oil company”.

(b) COVERED LARGE OIL COMPANY.—Paragraph (5)
of section 167(h) of such Code is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subpara-
graph:

“(B) COVERED LARGE OIL COMPANY.—

For purposes of this paragraph, the term ‘covered large oil company’ means a taxpayer which—

“(i) is a major integrated oil company, or

“(ii) has gross receipts in excess of $50,000,000 for the taxable year.
For purposes of clause (ii), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”.

(c) Conforming Amendment.—The heading for paragraph (5) of section 167(h) of such Code is amended by inserting “AND OTHER LARGE TAXPAYERS”.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2011.

SEC. 2603. PRODUCING OIL AND GAS FROM MARGINAL WELLS.

(a) In General.—Section 45I of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) Exception for Taxpayer Who Is Not Small, Independent Oil and Gas Company.—

“(1) In General.—Subsection (a) shall not apply to any taxpayer which is not a small, independent oil and gas company for the taxable year.

“(2) Aggregation Rule.—For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”.
SEC. 2604. ENHANCED OIL RECOVERY CREDIT.

(a) IN GENERAL.—Section 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) EXCEPTION FOR TAXPAYER WHO IS NOT SMALL, INDEPENDENT OIL AND GAS COMPANY.—

“(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer which is not a small, independent oil and gas company for the taxable year.

“(2) AGGREGATION RULE.—For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2011.

SEC. 2605. INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.

(a) IN GENERAL.—Subsection (c) of section 263 of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “This subsection shall not apply to amounts paid or incurred by a taxpayer
in any taxable year in which such taxpayer is not a small,

independent oil and gas company, determined by deeming

all persons treated as a single employer under subsections

(a) and (b) of section 52 as 1 person.”.

(b) Effective Date.—The amendment made by

this section shall apply to amounts paid or incurred in tax-

able years beginning after December 31, 2011.

SEC. 2606. PERCENTAGE DEPLETION.

(a) In General.—Section 613A of the Internal Rev-

enue Code of 1986 is amended by adding at the end the

following new subsection:

“(f) Exception for Taxpayer Who Is Not Small, Independent Oil and Gas Company.—

“(1) In General.—This section and section

611 shall not apply to any taxpayer which is not a small, independent oil and gas company for the tax-

able year.

“(2) Aggregation rule.—For purposes of

paragraph (1), all persons treated as a single em-

ployer under subsections (a) and (b) of section 52

shall be treated as 1 person.”.

(b) Conforming Amendment.—Section 613A(c)(1)

of such Code is amended by striking “subsection (d)” and

inserting “subsections (d) and (f)”.
(c) **Effective Date.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

**SEC. 2607. TERTIARY INJECTANTS.**

(a) **In General.**—Section 193 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) **Exception for Taxpayer Who Is Not Small, Independent Oil and Gas Company.**—

“(1) **In General.**—Subsection (a) shall not apply to any taxpayer which is not a small, independent oil and gas company for the taxable year.

“(2) **Exception for Qualified Carbon Dioxide Disposed in Secure Geological Storage.**—Paragraph (1) shall not apply in the case of any qualified tertiary injectant expense paid or incurred for any tertiary injectant is qualified carbon dioxide (as defined in section 45Q(b)) which is disposed of by the taxpayer in secure geological storage (as defined by section 45Q(d)).

“(3) **Aggregation Rule.**—For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”
(b) Effective Date.—The amendment made by this section shall apply to expenses incurred after December 31, 2011.

SEC. 2608. PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.

(a) In General.—Paragraph (3) of section 469(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(C) Exception for taxpayer who is not small, independent oil and gas company.—

“(i) In general.—Subparagraph (A) shall not apply to any taxpayer which is not a small, independent oil and gas company for the taxable year.

“(ii) Aggregation rule.—For purposes of clause (i), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”.

SEC. 2609. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

(a) In General.—Section 199 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:
“(e) Exception for Taxpayer Who Is Not Small, Independent Oil and Gas Company.—Subsection (a) shall not apply to the income derived from the production, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof by any taxpayer which for the taxable year is an oil and gas company which is not a small, independent oil and gas company.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 2610. PROHIBITION ON USING LAST-IN, FIRST-OUT ACCOUNTING FOR MAJOR INTEGRATED OIL COMPANIES.

(a) In General.—Section 472 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) Major Integrated Oil Companies.—Notwithstanding any other provision of this section, a major integrated oil company (as defined in section 167(h)) may not use the method provided in subsection (b) in inventorying of any goods.”.

(b) Effective Date and Special Rule.—
(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2011.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this subtitle—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period (not greater than 8 taxable years) beginning with such first taxable year.

SEC. 2611. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating 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 to a foreign country or possession of the United States for any period with respect to combined foreign oil and gas income (as defined in section 907(b)(1)) 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.”.

(b) Effective Date.—
(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 2011.

(2) 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.

Subtitle G—Superfund
Reinvestment Act

SEC. 2701. SHORT TITLE.

This subtitle may be cited as the “Superfund Reinvestment Act”.

SEC. 2702. USE OF HAZARDOUS SUBSTANCE SUPERFUND FOR CLEANUP.

(a) AVAILABILITY OF AMOUNTS.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended—

(1) in subsection (a) by striking “For the purposes specified” and all that follows through “for the following purposes:” and inserting the following: “The amount in the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 shall be available, without further appropriation, to be used for the purposes
specified in this section. The President shall use such amount for the following purposes:’; and

(2) in subsection (c)—

(A) by striking ‘‘Subject to such amounts as are provided in appropriations Acts, the’’ each place it appears and inserting ‘‘The’’; and

(B) in paragraph (12) by striking ‘‘to the extent that such costs’’ and all that follows through ‘‘and 1994’’.

(b) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 9507 of the Internal Revenue Code of 1986 is amended—

(1) by striking ‘‘appropriated to’’ in subsection (a)(1) and inserting ‘‘made available for’’,

(2) by striking ‘‘appropriated’’ in subsection (b) and inserting ‘‘transferred’’,

(3) by striking ‘‘, as provided in appropriations Acts,’’ in subsection (c)(1), and

(4) by striking ‘‘1995’’ in subsection (d)(3)(B) and inserting ‘‘2021’’.

SEC. 2703. BUDGETARY TREATMENT OF HAZARDOUS SUBSTANCE SUPERFUND.

Notwithstanding any other provision of law, the receipts and disbursements of the Hazardous Substance
Superfund established in section 9507 of the Internal Revenue Code of 1986—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget (including allocations of budget authority and outlays provided therein);

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; or

(D) the Statutory Pay-As-You-Go Act of 2010;

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

(3) shall be available only for the purposes specified in section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611).
SEC. 2704. EXTENSION OF SUPERFUND TAXES.

(a) Excise Taxes.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

“(e) Application of Hazardous Substance Superfund Financing Rate.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Superfund Reinvestment Act and before January 1, 2019.”.

(b) Corporate Environmental Income Tax.—Subsection (e) of section 59A of such Code is amended to read as follows:

“(e) Application of Tax.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after the date of the enactment of the Superfund Reinvestment Act and before January 1, 2019.”.

(c) Technical Amendments.—

(1) Subsection (b) of section 4611 of such Code is amended—

(A) by striking “or exported from” in paragraph (1)(A),

(B) by striking “or exportation” in paragraph (1)(B), and
(C) by striking “AND EXPORTATION” in the heading thereof.

(2) Paragraph (3) of section 4611(d) of such Code is amended—

(A) by striking “or exporting the crude oil, as the case may be” and inserting “the crude oil”, and

(B) by striking “OR EXPORTS” in the heading thereof.

SEC. 2705. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this subtitle (including the amendments made by this subtitle) shall apply to fiscal years beginning after September 30, 2011.

(b) EXCISE TAXES.—The amendments made by sections 2704(a) and 2704(c) shall take effect on the date of the enactment of this subtitle.

(c) INCOME TAX.—The amendment made by section 2704(b) shall apply to taxable years beginning after the date of the enactment of this subtitle.

Subtitle H—Wall Street Trading and Speculators Tax Act

SEC. 2801. SHORT TITLE.

This subtitle may be cited as the “Wall Street Trading and Speculators Tax Act”. 
SEC. 2802. TRANSACTION TAX.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 is amended by inserting after subchapter B the following new subchapter:

“Subchapter C—Tax on Trading Transactions

“Sec. 4475. Tax on trading transactions.

“SEC. 4475. TAX ON TRADING TRANSACTIONS.

“(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each covered transaction with respect to any security.

“(b) RATE OF TAX.—The tax imposed under subsection (a) with respect to any covered transaction shall be 0.03 percent of the specified base amount with respect to such covered transaction.

“(c) SPECIFIED BASE AMOUNT.—For purposes of this section, the term ‘specified base amount’ means—

“(1) except as provided in paragraph (2), the fair market value of the security (determined as of the time of the covered transaction), and

“(2) in the case of any payment described in subsection (h), the amount of such payment.

“(d) COVERED TRANSACTION.—For purposes of this section, the term ‘covered transaction’ means—

“(1) except as provided in paragraph (2), any

purchase if—
“(A) such purchase occurs or is cleared on a facility located in the United States, or

“(B) the purchaser or seller is a United States person, and

“(2) any transaction with respect to a security described in subparagraph (D), (E), or (F) of subsection (e)(1), if—

“(A) such security is traded or cleared on a facility located in the United States, or

“(B) any party with rights under such security is a United States person.

“(e) SECURITY AND OTHER DEFINITIONS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘security’ means—

“(A) any share of stock in a corporation,

“(B) any partnership or beneficial ownership interest in a partnership or trust,

“(C) any note, bond, debenture, or other evidence of indebtedness,

“(D) any evidence of an interest in, or a derivative financial instrument with respect to, any security or securities described in subparagraph (A), (B), or (C),
“(E) any derivative financial instrument with respect to any currency or commodity, and
“(F) any other derivative financial instrument any payment with respect to which is calculated by reference to any specified index.

“(2) DERIVATIVE FINANCIAL INSTRUMENT.—The term ‘derivative financial instrument’ includes any option, forward contract, futures contract, notional principal contract, or any similar financial instrument.

“(3) SPECIFIED INDEX.—The term ‘specified index’ means any 1 or more of any combination of—
“(A) a fixed rate, price, or amount, or
“(B) a variable rate, price, or amount, which is based on any current objectively determinable information which is not within the control of any of the parties to the contract or instrument and is not unique to any of the parties’ circumstances.

“(4) TREATMENT OF EXCHANGES.—
“(A) IN GENERAL.—An exchange shall be treated as the sale of the property transferred and a purchase of the property received by each party to the exchange.
“(B) Certain Deemed Exchanges.—In the case of a distribution treated as an exchange for stock under section 302 or 331, the corporation making such distribution shall be treated as having purchased such stock for purposes of this section.

“(f) Exceptions.—

“(1) Exception for Initial Issues.—No tax shall be imposed under subsection (a) on any covered transaction with respect to the initial issuance of any security described in subparagraph (A), (B), or (C) of subsection (e)(1).

“(2) Exception for Certain Traded Short-Term Indebtedness.—A note, bond, debenture, or other evidence of indebtedness which—

“(A) is traded on a trading facility located in the United States, and

“(B) has a fixed maturity of not more than 100 days,

shall not be treated as described in subsection (e)(1)(C).

“(3) Exception for Securities Lending Arrangements.—No tax shall be imposed under subsection (a) on any covered transaction with respect
to which gain or loss is not recognized by reason of
section 1058.

“(g) By Whom Paid.—

“(1) In general.—The tax imposed by this
section shall be paid by—

“(A) in the case of a transaction which oc-
curs or is cleared on a facility located in the
United States, such facility, and

“(B) in the case of a purchase not de-
scribed in subparagraph (A) which is executed
by a broker (as defined in section 6045(c)(1))
which is a United States person, such broker.

“(2) Special rules for direct, etc.,
transactions.—In the case of any transaction to
which paragraph (1) does not apply, the tax imposed
by this section shall be paid by—

“(A) in the case of a transaction described
in subsection (d)(1)—

“(i) the purchaser if the purchaser is
a United States person, and

“(ii) the seller if the purchaser is not
a United States person, and

“(B) in the case of a transaction described
in subsection (d)(2)—
“(i) the payor if the payor is a United States person, and

“(ii) the payee if the payor is not a United States person.

“(h) CERTAIN PAYMENTS TREATED AS SEPARATE TRANSACTIONS.—Except as otherwise provided by the Secretary, any payment with respect to a security described in subparagraph (D), (E), or (F) of subsection (e)(1) shall be treated as a separate transaction for purposes of this section, including—

“(1) any net initial payment, net final or terminating payment, or net periodical payment with respect to a notional principal contract (or similar financial instrument),

“(2) any payment with respect to any forward contract (or similar financial instrument), and

“(3) any premium paid with respect to any option (or similar financial instrument).

“(i) ADMINISTRATION.—The Secretary shall carry out this section in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission.

“(j) GUIDANCE; REGULATIONS.—The Secretary shall—
“(1) provide guidance regarding such information reporting concerning covered transactions as the Secretary deems appropriate, and

“(2) prescribe such regulations as are necessary or appropriate to prevent avoidance of the purposes of this section, including the use of non-United States persons in such transactions.”.

(b) Clerical Amendment.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subchapter B the following new item:

“Subchapter C. Tax on trading transactions.”.

(c) Effective Date.—The amendments made by this section shall apply to transactions after December 31, 2012.

Subtitle I—Making Work Pay Tax Credit

SEC. 2901. TWO-YEAR EXTENSION OF MAKING WORK PAY CREDIT.

(a) In General.—Subsection (e) of section 36A of the Internal Revenue Code of 1986 is amended by striking “December 31, 2010” and inserting “December 31, 2012”.

(b) Treatment of Possessions.—Paragraph (1) of section 1001(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended by striking “2009

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

Subtitle J—Employee Misclassification Prevention Act

SEC. 2951 SHORT TITLE.

This subtitle may be cited as the “Employee Misclassification Prevention Act”.

SEC. 2952. CLASSIFICATION OF EMPLOYEES AND NON-EMPLOYEES.

(a) RECORDKEEPING AND NOTICE REQUIREMENTS.—Section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) is amended—

(1) by striking “(e) Every employer subject to any provision of this Act or of any order issued under this Act” and inserting the following:

“(c) RECORDKEEPING AND NOTICE REQUIREMENTS.—

“(1) IN GENERAL.—Every person subject to any provision of this Act or of any order issued under this Act”;

(2) by striking “of the persons employed by him” and inserting the following: “of—
“(A) each individual employed by such person”;

(3) by striking “employment maintained by him, and shall” and inserting the following: “employment;

“(B) subject to paragraph (2), each individual—

“(i) who is not an employee within the meaning given the term in section 3(e) (referred to in this subsection as a ‘non-employee’);

“(ii) whom the person has engaged, in the course of the person’s trade or business, for the performance of labor or services; and

“(iii)(I) with respect to whom the person is required to file an information return under section 6041A(a) of the Internal Revenue Code of 1986; or

“(II) who is providing labor or services to the person through an entity that is a trust, estate, partnership, association, company, or corporation (as such terms are used in section 7701(a)(1) of the Internal Revenue Code of 1986) if—
“(aa) such individual has an ownership interest in the entity;

“(bb) creation or maintenance of such entity is a condition for the provision of such labor or services to the person; and

“(cc) the person would be required to file an information return for the entity under section 6041A(a) of the Internal Revenue Code of 1986 if the entity were an individual; and

“(C) the remuneration and hours relating to the performance of labor or services by each individual described in subparagraph (B); and

“(D) the notices required under paragraph (5), and shall”; and

(4) by adding at the end the following:

“(2) RECORDKEEPING LIMITATION.—A person otherwise subject to the requirements of paragraph (1) shall have no responsibility for making, keeping, or preserving records, including the records described in such paragraph and paragraph (4), concerning the employees of any individual described in paragraph (1)(B) or the non-employees with whom
such individual has engaged for the performance of labor or services for such person, unless such records are provided during the course of the trade or business to the person.

“(3) Presumption.—

“(A) In general.—For purposes of this Act and the regulations or orders issued under this Act, an individual who is employed, or who is remunerated for the performance of labor or services, by a person, shall be presumed to be an employee of the person if—

“(i) the person has not made, kept, and preserved records in accordance with subparagraphs (B) and (C) of paragraph (1) regarding the individual; or

“(ii) the person has not provided the individual with the notice required under paragraph (5).

“(B) Rebuttal.—The presumption under subparagraph (A) shall be rebutted only through the presentation of clear and convincing evidence that an individual described in such subparagraph is not an employee (within the meaning of section 3(e)) of the person.
“(4) ACCURATE CLASSIFICATION.—An accurate classification of the status of each individual described in paragraph (1) as either an employee (within the meaning of section 3(e)) of the person maintaining the records or a non-employee of such person shall be included within the records under this subsection.

“(5) NOTICE.—

“(A) IN GENERAL.—Every person subject to any provision of this Act or of any order issued under this Act shall provide the notice described in subparagraph (C) to each employee of the person and each individual classified by the person as a non-employee under paragraph (1)(B).

“(B) TIMING OF NOTICE.—

“(i) IN GENERAL.—Such notice shall be provided, at a minimum, not later than 6 months after the date of enactment of the Employee Misclassification Prevention Act, and thereafter—

“(I) for new employees, upon employment; and

“(II) for new non-employees who are classified under paragraph (1)(B),
upon commencement of the labor or services described in such paragraph.

“(ii) Change in Status.—Each person required to provide notice under subparagraph (A) to an individual shall also provide such notice to such individual upon changing such individual’s status as an employee or non-employee under paragraph (1).

“(C) Contents of Notice.—The notice required under this paragraph shall be in writing and shall—

“(i) inform the individual of the individual’s classification, by the person submitting the notice, as an employee or a non-employee under paragraph (1);

“(ii) include a statement directing such individual to a Department of Labor website established for the purpose of providing further information about the rights of employees under the law;

“(iii) include the address and telephone number for the applicable local office of the United States Department of Labor;
“(iv) include for each individual classified as a non-employee under paragraph (1)(B) by the person submitting the notice, the following statement: ‘Your rights to wage, hour, and other labor protections depend upon your proper classification as an employee or non-employee. If you have any questions or concerns about how you have been classified or suspect that you may have been misclassified, contact the U.S. Department of Labor.’; and

“(v) include such additional information as the Secretary shall prescribe by regulation.”.

(b) SPECIAL PROHIBITED ACTS.—Section 15(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)) is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) to discharge or in any other manner discriminate against any individual (including an employee) because such individual has—

“(A) opposed any practice, or filed a petition or complaint or instituted or caused to be instituted any proceeding—
“(i) under or related to this Act (including concerning an individual’s status as an employee or non-employee for purposes of this Act); or

“(ii) concerning an individual’s status as an employee or non-employee for employment tax purposes within the meaning of subtitle C of the Internal Revenue Code of 1986;

“(B) testified or is about to testify in any proceeding described in subparagraph (A); or

“(C) served, or is about to serve, on an industry committee;”;

(2) in paragraph (5), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(6) to fail to accurately classify an individual as an employee.”.

(c) Special Penalty for Certain Misclassification, Recordkeeping, and Notice Violations.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b)—
(A) in the sixth sentence, by striking “any employee” each place the term occurs and inserting “any employee or individual”;

(B) in the fourth sentence, by striking “employee” and inserting “employee or individual”;

(C) in the third sentence—

(i) by striking “either of the preceding sentences” and inserting “any of the preceding sentences”;

(ii) by striking “one or more employees” and inserting “one or more employees or individuals”; and

(iii) by striking “other employees” and inserting “other employees or individuals, respectively,”; and

(D) by inserting after the first sentence the following: “Such liquidated damages are doubled (subject to section 11 of the Portal-to-Portal Pay Act of 1947 (29 U.S.C. 260)) where, in addition to violating the provisions of section 6 or 7, the employer has violated the provisions of section 15(a)(6) with respect to such employee or employees.”; and
(2) in subsection (e), by striking paragraph (2)

and inserting the following:

“(2) Any person who violates section 6, 7, 11(c), or

15(a)(6) shall be subject to a civil penalty, for each em-

ployee or other individual who was the subject of such a

violation, in an amount—

“(A) not to exceed $1,100; or

“(B) in the case of a person who has repeatedly

or willfully committed such violation, not to exceed

$5,000.”.

(d) EMPLOYEE RIGHTS WEBSITE.—

(1) IN GENERAL.—Not later than 180 days

after the date of enactment of this subtitle, the Sec-

retary of Labor shall establish, for purposes of sec-

tion 11(c)(5)(C)(ii) of the Fair Labor Standards Act

of 1938 (as added by this subtitle), a single webpage

on the Department of Labor website that summa-

rizes in plain language the rights of employees as

described in the amendments made by subsection (a)

and other information considered appropriate by the

Secretary, including appropriate links to additional

information on the Department of Labor website or

other Federal agency websites. In addition, such

webpage—
(A) shall include a statement explaining that employees may have additional or greater rights under State or local laws and how employees may obtain additional information about their rights under State or local laws;

(B) shall be made available in English and any other languages that the Secretary determines to be prevalent among individuals likely to access the webpage; and

(C) may provide a link to permit individuals to file complaints online.

(2) COORDINATION WITH OTHER FEDERAL WEBSITES.—The Secretary shall coordinate with other relevant Federal agencies in order to provide information similar to the information described in paragraph (1) (or a link to the Department of Labor webpage required by this subsection) on the websites of such other agencies.

SEC. 2953. MISCLASSIFICATION OF EMPLOYEES FOR UNEMPLOYMENT COMPENSATION PURPOSES.

(a) IN GENERAL.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) in paragraph (10), by striking the period and inserting “; and”; and
(2) by adding after paragraph (10) the following:

“(11)(A) Such auditing and investigative procedures as may be necessary to identify employers that have not registered under the State law or that are paying unreported wages, where these actions or omissions by the employers have the effect of excluding employees from unemployment compensation coverage; and

“(B) The making of quarterly reports to the Secretary of Labor (in such form as the Secretary of Labor may require) describing the results of the procedures under subparagraph (A); and

“(12) The establishment of administrative penalties for misclassifying employees, or paying unreported wages to employees without proper recordkeeping, for unemployment compensation purposes.”.

(b) REVIEW OF AUDITING PROGRAMS.—The Secretary of Labor shall include, in the Department of Labor’s system for measuring States’ performance in conducting unemployment compensation tax audits, a specific measure of their effectiveness in identifying the underreporting of wages and the underpayment of unemployment compensation contributions (including their effec-
tiveness in identifying instances of such underreporting or
underpayments despite the absence of cancelled checks,
original time sheets, or other similar documentation).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in para-
graph (2), the amendments made by subsection (a)
shall take effect 12 months after the date of the en-
actment of this subtitle.

(2) EXCEPTION.—If the Secretary of Labor
finds that legislation is necessary in order for the
unemployment compensation law of a State to com-
ply with the amendments made by subsection (a),
such amendments shall not apply with respect to
such law until the later of—

(A) the day after the close of the first reg-
ular session of the legislature of such State
which begins after the date of the enactment of
this subtitle; or

(B) 12 months after the date of the enact-
ment of this subtitle.

(d) DEFINITION OF STATE.—For purposes of this
section, the term “State” has the meaning given such
term by section 3306(j) of the Internal Revenue Code of
1986.
SEC. 2954. DEPARTMENT OF LABOR COORDINATION, REFERRAL, AND REGULATIONS.

(a) Coordination and Referral.—Notwithstanding any other provision of law, any office, administration, or division of the Department of Labor that, while in the performance of its official duties, obtains information regarding the misclassification by a person subject to the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or any order issued under such Act of any individual regarding whether such individual is an employee or a non-employee contracted for the performance of labor or services for purposes of section 6 or 7 of such Act (29 U.S.C. 206, 207) or in records required under section 11(c) of such Act (29 U.S.C. 211(c)), shall report such information to the Wage and Hour Division of the Department. The Wage and Hour Division may report such information to the Internal Revenue Service as the Division considers appropriate.

(b) Regulations.—The Secretary of Labor shall promulgate regulations to carry out this Act and the amendments made by this Act.

SEC. 2955. TARGETED AUDITS.

The audits of employers subject to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) that are conducted by the Wage and Hour Division of the Department of Labor shall include certain industries with fre-
quent incidence of misclassifying employees as non-em-
ployees, as determined by the Secretary of Labor.

Subtitle K—Corporate Assets
Should Be Used to Hire Act

SEC. 2961. SHORT TITLE.

This subtitle may be cited as the “Corporate Assets
Should be used to Hire Act”.

SEC. 2962. TEMPORARY SURTAX ON INCREASES IN RE-
TAINED EARNINGS OF DOMESTIC CORPOR-
ATIONS.

(a) In General.—Part II of subchapter A of chap-
ter 1 of the Internal Revenue Code of 1986 is amended
by redesignating section 12 as section 13 and by inserting
after section 11 the following new section:

“SEC. 12. TEMPORARY SURTAX ON INCREASES IN RE-
TAINED EARNINGS OF DOMESTIC CORPOR-
ATIONS.

“(a) In General.—In the case of a domestic cor-
poration for any taxable year beginning during 2011 or
2012, there is hereby imposed (in addition to any other
tax imposed by this part) a tax equal to 40 percent of
the excess (if any) of—

“(1) the retained earnings of such corporation
for such taxable year, over
“(2) the average retained earnings of such corporation for the 3 taxable years immediately preceding such taxable year.

“(b) EXCEPTIONS.—

“(1) RETAINED EARNINGS REQUIRED BY LAW.—Subsection (a) shall not apply to so much of the excess described in such subsection as is attributable to any increase in retained earnings which is required by Federal law or regulation.

“(2) SMALL BUSINESS EXCEPTION.—Subsection (a) shall not apply to any corporation for any taxable year with respect to which the retained earnings of such corporation for such taxable year is less than $5,000,000. For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (m) or (o) of section 414, shall be treated as one person.

“(3) CORPORATIONS NOT IN EXISTENCE FOR ENTIRE BASE PERIOD.—Subsection (a) shall not apply to any corporation if such corporation was not in existence for the entire 3 taxable year period referred to in subsection (a)(2).

“(e) RETAINED EARNINGS.—For purposes of this section, the term ‘retained earnings’ means, with respect to any taxable year, the excess (if any) of—
“(1) the retained earnings of such corporation as of the end of such taxable year, over
“(2) the retained earnings of such corporation as of the beginning of such taxable year.

Appropriated and unappropriated retained earnings shall be taken into account under paragraphs (1) and (2).

“(d) Treatment of Predecessors.—Any reference in this section to a corporation shall include a reference to any predecessor of such corporation.”.

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 1 of such Code is amended by redesignating the item relating to section 12 as an item relating to section 13 and by inserting after the item relating to section 11 the following new item:

“Sec. 12. Temporary surtax on increases in retained earnings of domestic corporations.”.

(e) Deficit Reduction.—The increase in Federal revenue resulting from the amendments made by this section shall be deposited in the Treasury and used for Federal budget deficit reduction or, if there is no Federal budget deficit, for reducing the Federal debt in such manner as the Secretary of the Treasury considers appropriate.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.
TITLE III—PROTECT AND STRENGTHEN SOCIAL SECURITY, MEDICARE, AND MEDICAID

Subtitle A—Public Option Deficit Reduction Act

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the “Public Option Deficit Reduction Act”.

SEC. 3002. PUBLIC HEALTH INSURANCE OPTION.

(a) In General.—Part III of subtitle D of title I of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended by adding at the end the following new section:

“SEC. 1325. PUBLIC HEALTH INSURANCE OPTION.

“(a) Establishment and Administration of a Public Health Insurance Option.—

“(1) Establishment.—For years beginning with 2014, the Secretary of Health and Human Services (in this subtitle referred to as the ‘Secretary’) shall provide for the offering through Exchanges established under this title of a health benefits plan (in this Act referred to as the ‘public health insurance option’) that ensures choice, competition, and stability of affordable, high-quality coverage...
throughout the United States in accordance with this section. In designing the option, the Secretary’s primary responsibility is to create a low-cost plan without compromising quality or access to care.

“(2) OFFERING THROUGH EXCHANGES.—

“(A) EXCLUSIVE TO EXCHANGES.—The public health insurance option shall only be made available through Exchanges established under this title.

“(B) ENSURING A LEVEL PLAYING FIELD.—Consistent with this section, the public health insurance option shall comply with requirements that are applicable under this title to health benefits plans offered through such Exchanges, including requirements related to benefits, benefit levels, provider networks, notices, consumer protections, and cost sharing.

“(C) PROVISION OF BENEFIT LEVELS.—The public health insurance option—

“(i) shall offer bronze, silver, and gold plans; and

“(ii) may offer platinum plans.

“(3) ADMINISTRATIVE CONTRACTING.—The Secretary may enter into contracts for the purpose of performing administrative functions (including
functions described in subsection (a)(4) of section 1874A of the Social Security Act) with respect to the public health insurance option in the same manner as the Secretary may enter into contracts under subsection (a)(1) of such section. The Secretary has the same authority with respect to the public health insurance option as the Secretary has under subsections (a)(1) and (b) of section 1874A of the Social Security Act with respect to title XVIII of such Act. Contracts under this subsection shall not involve the transfer of insurance risk to such entity.

“(4) OMBUDSMAN.—The Secretary shall establish an office of the ombudsman for the public health insurance option which shall have duties with respect to the public health insurance option similar to the duties of the Medicare Beneficiary Ombudsman under section 1808(c)(2) of the Social Security Act. In addition, such office shall work with States to ensure that information and notice is provided that the public health insurance option is one of the health plans available through an Exchange.

“(5) DATA COLLECTION.—The Secretary shall collect such data as may be required to establish premiums and payment rates for the public health insurance option and for other purposes under this
section, including to improve quality and to reduce racial, ethnic, and other disparities in health and health care.

“(6) ACCESS TO FEDERAL COURTS.—The provisions of Medicare (and related provisions of title II of the Social Security Act) relating to access of Medicare beneficiaries to Federal courts for the enforcement of rights under Medicare, including with respect to amounts in controversy, shall apply to the public health insurance option and individuals enrolled under such option under this title in the same manner as such provisions apply to Medicare and Medicare beneficiaries.

“(b) PREMIUMS AND FINANCING.—

“(1) ESTABLISHMENT OF PREMIUMS.—

“(A) IN GENERAL.—The Secretary shall establish geographically adjusted premium rates for the public health insurance option—

“(i) in a manner that complies with the premium rules under paragraph (3); and

“(ii) at a level sufficient to fully finance the costs of—
“(I) health benefits provided by
the public health insurance option;
and
“(II) administrative costs related
to operating the public health insur-
ance option.
“(B) CONTINGENCY MARGIN.—In estab-
lishing premium rates under subparagraph (A),
the Secretary shall include an appropriate
amount for a contingency margin.
“(2) ACCOUNT.—
“(A) ESTABLISHMENT.—There is estab-
lished in the Treasury of the United States an
account for the receipts and disbursements at-
tributable to the operation of the public health
insurance option, including the start-up funding
under subparagraph (B). Section 1854(g) of
the Social Security Act shall apply to receipts
described in the previous sentence in the same
manner as such section applies to payments or
premiums described in such section.
“(B) START-UP FUNDING.—
“(i) IN GENERAL.—In order to pro-
vide for the establishment of the public
health insurance option there is hereby ap-
appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, $2,000,000,000. In order to provide for initial claims reserves before the collection of premiums, there is hereby appropriated to the Secretary, out of any funds in the Treasury not otherwise appropriated, such sums as necessary to cover 90 days worth of claims reserves based on projected enrollment.

“(ii) Amortization of Start-up Funding.—The Secretary shall provide for the repayment of the startup funding provided under clause (i) to the Treasury in an amortized manner over the 10-year period beginning with 2014.

“(iii) Limitation on Funding.—Nothing in this subsection shall be construed as authorizing any additional appropriations to the account, other than such amounts as are otherwise provided with respect to other health benefits plans participating under the Exchange involved.

“(3) Insurance Rating Rules.—The premium rate charged for the public health insurance
option may not vary except as provided under section 2701 of the Public Health Service Act.

“(c) Payment Rates for Items and Services.—

“(1) Rates Established by Secretary.—

“(A) In general.—The Secretary shall establish payment rates for the public health insurance option for services and health care providers consistent with this subsection and may change such payment rates in accordance with subsection (d).

“(B) Initial Payment Rules.—

“(i) In general.—During 2014, 2015, and 2016, the Secretary shall set the payment rates under this subsection for services and providers described in subparagraph (A) equal to the payment rates for equivalent services and providers under parts A and B of Medicare, subject to clause (ii), paragraphs (2)(A) and (4), and subsection (d).

“(ii) Exceptions.—

“(I) Practitioners’ Services.—Payment rates for practitioners’ services otherwise established under the fee schedule under section...
1848 of the Social Security Act shall be applied without regard to the provisions under subsection (f) of such section and the update under subsection (d)(4) under such section for a year as applied under this paragraph shall be not less than 1 percent.

“(II) ADJUSTMENTS.—The Secretary may determine the extent to which Medicare adjustments applicable to base payment rates under parts A and B of Medicare for graduate medical education and disproportionate share hospitals shall apply under this section.

“(C) FOR NEW SERVICES.—The Secretary shall modify payment rates described in subparagraph (B) in order to accommodate payments for services, such as well-child visits, that are not otherwise covered under Medicare.

“(D) PRESCRIPTION DRUGS.—Payment rates under this subsection for prescription drugs that are not paid for under part A or part B of Medicare shall be at rates negotiated by the Secretary.
“(2) Incentives for participating providers.—

“(A) Initial incentive period.—

“(i) In general.—The Secretary shall provide, in the case of services described in clause (ii) furnished during 2014, 2015, and 2016, for payment rates that are 5 percent greater than the rates established under paragraph (1).

“(ii) Services described.—The services described in this clause are items and professional services, under the public health insurance option by a physician or other health care practitioner who participates in both Medicare and the public health insurance option.

“(iii) Special rules.—A pediatrician and any other health care practitioner who is a type of practitioner that does not typically participate in Medicare (as determined by the Secretary) shall also be eligible for the increased payment rates under clause (i).

“(B) Subsequent periods.—Beginning with 2017 and for subsequent years, the Sec-
retary shall continue to use an administrative process to set such rates in order to promote payment accuracy, to ensure adequate beneficiary access to providers, and to promote affordability and the efficient delivery of medical care consistent with subsection (a)(1). Such rates shall not be set at levels expected to increase average medical costs per enrollee covered under the public health insurance option beyond what would be expected if the process under paragraph (1)(B) and subparagraph (A) were continued, as certified by the Office of the Actuary of the Centers for Medicare & Medicaid Services.

“(C) Establishment of a Provider Network.—Health care providers participating under Medicare are participating providers in the public health insurance option unless they opt out in a process established by the Secretary.

“(3) Administrative Process for Setting Rates.—Chapter 5 of title 5, United States Code shall apply to the process for the initial establishment of payment rates under this subsection but not
to the specific methodology for establishing such
rates or the calculation of such rates.

“(4) CONSTRUCTION.—Nothing in this section
shall be construed as limiting the Secretary’s author-
ity to correct for payments that are excessive or defi-
cient, taking into account the provisions of sub-
section (a)(1) and any appropriate adjustments
based on the demographic characteristics of enrollees
covered under the public health insurance option,
but in no case shall the correction of payments
under this paragraph result in a level of expendi-
tures per enrollee that exceeds the level of expendi-
tures that would have occurred under paragraphs
(1)(B) and (2)(A), as certified by the Office of the
Actuary of the Centers for Medicare & Medicaid
Services.

“(5) CONSTRUCTION.—Nothing in this section
shall be construed as affecting the authority of the
Secretary to establish payment rates, including pay-
ments to provide for the more efficient delivery of
services, such as the initiatives provided for under
subsection (d).

“(6) LIMITATIONS ON REVIEW.—There shall be
no administrative or judicial review of a payment
rate or methodology established under this sub-
section or under subsection (d).

“(d) MODERNIZED PAYMENT INITIATIVES AND De-
livery System Reform.—

“(1) In general.—For plan years beginning
with 2014, the Secretary may utilize innovative pay-
ment mechanisms and policies to determine pay-
ments for items and services under the public health
insurance option. The payment mechanisms and
policies under this subsection may include patient-
centered medical home and other care management
payments, accountable care organizations, value-
based purchasing, bundling of services, differential
payment rates, performance or utilization based pay-
ments, partial capitation, and direct contracting with
providers. Payment rates under such payment mech-
anisms and policies shall not be set at levels ex-
pected to increase average medical costs per enrollee
covered under the public health insurance option be-
yond what would be expected if the process under
paragraphs (1)(B) and (2)(A) of subsection (c) were
continued, as certified by the Office of the Actuary
of the Centers for Medicare & Medicaid Services.

“(2) Requirements for innovative pay-
ments.—The Secretary shall design and implement
the payment mechanisms and policies under this subsection in a manner that—

“(A) seeks to—

“(i) improve health outcomes;

“(ii) reduce health disparities (including racial, ethnic, and other disparities);

“(iii) provide efficient and affordable care;

“(iv) address geographic variation in the provision of health services; or

“(v) prevent or manage chronic illness; and

“(B) promotes care that is integrated, patient-centered, high-quality, and efficient.

“(3) ENCOURAGING THE USE OF HIGH VALUE SERVICES.—To the extent allowed by the benefit standards applied to all health benefits plans participating under the Exchange involved, the public health insurance option may modify cost sharing and payment rates to encourage the use of services that promote health and value.

“(4) NON-UNIFORMITY PERMITTED.—Nothing in this subtitle shall prevent the Secretary from varying payments based on different payment structure models (such as accountable care organizations
and medical homes) under the public health insurance option for different geographic areas.

“(e) **Provider Participation.**—

“(1) **In general.**—The Secretary shall establish conditions of participation for health care providers under the public health insurance option.

“(2) **Licensure or Certification.**—The Secretary shall not allow a health care provider to participate in the public health insurance option unless such provider is appropriately licensed or certified under State law.

“(3) **Payment Terms for Providers.**—

“(A) **Physicians.**—The Secretary shall provide for the annual participation of physicians under the public health insurance option, for which payment may be made for services furnished during the year, in one of 2 classes:

“(i) **Preferred Physicians.**—Those physicians who agree to accept the payment rate established under this section (without regard to cost-sharing) as the payment in full.

“(ii) **Participating, Non-Preferred Physicians.**—Those physicians who agree not to impose charges (in rela-
tion to the payment rate described in subsection (c) for such physicians) that exceed
the ratio permitted under section 1848(g)(2)(C) of the Social Security Act.

“(B) OTHER PROVIDERS.—The Secretary shall provide for the participation (on an annual or other basis specified by the Secretary) of health care providers (other than physicians) under the public health insurance option under which payment shall only be available if the provider agrees to accept the payment rate established under subsection (c) (without regard to cost-sharing) as the payment in full.

“(4) EXCLUSION OF CERTAIN PROVIDERS.—The Secretary shall exclude from participation under the public health insurance option a health care provider that is excluded from participation in a Federal health care program (as defined in section 1128B(f) of the Social Security Act).

“(f) APPLICATION OF FRAUD AND ABUSE PROVISIONS.—Provisions of law (other than criminal law provisions) identified by the Secretary by regulation, in consultation with the Inspector General of the Department of Health and Human Services, that impose sanctions with respect to waste, fraud, and abuse under Medicare,
such as the False Claims Act (31 U.S.C. 3729 et seq.), shall also apply to the public health insurance option.

“(g) MEDICARE DEFINED.—For purposes of this section, the term ‘Medicare’ means the health insurance programs under title XVIII of the Social Security Act.”.

(b) CONFORMING AMENDMENTS.—

(1) TREATMENT AS QUALIFIED HEALTH PLAN.—Section 1301(a)(2) of the Patient Protection and Affordable Care Act, as amended by section 10104(a) of such Act, is amended—

(A) in the heading, by inserting “, THE PUBLIC HEALTH INSURANCE OPTION,” before “AND”; and 

(B) by inserting “the public health insurance option under section 1325,” before “and a multi-State plan”.

(2) LEVEL PLAYING FIELD.—Section 1324(a) of such Act, as amended by section 10104(n) of such Act, is amended by inserting “the public health insurance option under section 1325,” before “or a multi-State qualified health plan”.

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Subtitle B—Medicare Prescription Drug Price Negotiation Act of 2011

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the “Medicare Prescription Drug Price Negotiation Act of 2011”.

SEC. 3102. NEGOTIATION OF LOWER COVERED PART D DRUG PRICES ON BEHALF OF MEDICARE BENEFICIARIES.

(a) Negotiation by Secretary.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

“(i) Negotiation of lower drug prices.—

“(1) In general.—Notwithstanding any other provision of law, the Secretary shall negotiate with pharmaceutical manufacturers the prices (including discounts, rebates, and other price concessions) that may be charged to PDP sponsors and MA organizations for covered part D drugs for part D eligible individuals who are enrolled under a prescription drug plan or under an MA–PD plan.

“(2) No change in rules for formularies.—

“(A) In general.—Nothing in paragraph (1) shall be construed to authorize the Sec-
retary to establish or require a particular for-
mulary.

“(B) CONSTRUCTION.—Subparagraph (A) shall not be construed as affecting the Sec- retary’s authority to ensure appropriate and adequate access to covered part D drugs under prescription drug plans and under MA–PD plans, including compliance of such plans with formulary requirements under section 1860D–4(b)(3).

“(3) CONSTRUCTION.—Nothing in this sub- section shall be construed as preventing the sponsor of a prescription drug plan, or an organization offering an MA–PD plan, from obtaining a discount or reduction of the price for a covered part D drug below the price negotiated under paragraph (1).

“(4) SEMI-ANNUAL REPORTS TO CONGRESS.— Not later than June 1, 2012, and every 6 months thereafter, the Secretary shall submit to the Com- mittees on Ways and Means, Energy and Commerce, and Oversight and Government Reform of the House of Representatives and the Committee on Finance of the Senate a report on negotiations conducted by the Secretary to achieve lower prices for Medicare bene-
ficiaries, and the prices and price discounts achieved
by the Secretary as a result of such negotiations.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the date of the enact-
ment of this subtitle and shall first apply to negotia-
tions and prices for plan years beginning on January 1, 2012.

Subtitle C—Medicaid Enhancement
and Emergency Job Creation
Act of 2011

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the “Medicaid Enhance-
ment and Emergency Job Creation Act of 2011”.

SEC. 3202. EXTENSION OF ARRA INCREASE IN FMAP
THROUGH FISCAL YEAR 2012.

(a) IN GENERAL.—Section 5001 of division B of the
American Recovery and Reinvestment Act of 2009 (Public
Law 111–5), as amended by section 201 of Public Law
111–226, is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of para-
graph (2);

(B) in paragraph (3), by striking “, but
only for the first 3 calendar quarters in fiscal
year 2011.” and inserting “; and”; and

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(C) by adding at the end the following new paragraph:

“(4) fiscal year 2011 is less than the FMAP as so determines for fiscal year 2008, fiscal year 2009 (after the application of paragraph (1)), fiscal year 2010 (after the application of paragraph (2), or fiscal year 2011 (after the application of paragraph (3)), the greatest of such FMAP for the State for fiscal year 2008, fiscal year 2009, fiscal year 2010, or fiscal year 2011, shall be substituted for the State’s FMAP for fiscal year 2012 before the application of this section.”;

(2) in subsection (b)(3), by adding at the end the following:

“(C) FOURTH QUARTER OF FISCAL YEAR 2011 AND FIRST AND SECOND QUARTERS OF FISCAL YEAR 2012.—For each State, for the fourth quarter of fiscal year 2011 and the first and second quarters of fiscal year 2012, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 6.2 percentage points.

“(D) THIRD QUARTER OF FISCAL YEAR 2012.—For each State, for the third quarter of fiscal year 2012, the FMAP percentage increase
for the State under paragraph (1) or (2) (as applicable) shall be 3.2 percentage points.

“(E) FOURTH QUARTER OF FISCAL YEAR 2011.—For each State, for the fourth quarter of fiscal year 2012, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 1.2 percentage points.”;

(3) in subsection (c)—

(A) in paragraph (2)(B), by striking “January 1, 2011” and inserting “April 1, 2012”;

(B) in paragraph (3)(B)(i), by striking “January 1, 2011” and inserting “April 1, 2012” each place it appears; and

(C) in paragraph (4)(C)(ii), by striking “January 2011” and inserting “April 2012”;

(4) in subsection (f)(1)(A), by adding at the end the following: “The previous sentence shall apply for quarters beginning after the date of the enactment of this sentence in the case of a State operating under a Statewide waiver as of such date regardless of whether the waiver in effect on July 1, 2008, was renewed or extended after such date”;

(5) in subsection (g)(1), by striking “March 31, 2012” and inserting “September 30, 2013”; and
(6) in subsection (h)(3), by striking “June 30, 2011” and inserting “September 30, 2012”.

(b) PAYMENT ADJUSTMENT.—The Secretary of Health and Human Services shall provide, not later than 30 days after the date of the enactment of this subtitle, for such adjustments of payments to States under title XIX of the Social Security Act as may be necessary for calendar quarters ending before such date to reflect the amendments made by subsection (a).

Subtitle D—Keeping Our Social Security Promises Act

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the “Keeping Our Social Security Promises Act”.

SEC. 3302. PAYROLL TAX ON REMUNERATION UP TO CONTRIBUTION AND BENEFIT BASE AND MORE THAN $250,000.

(a) IN GENERAL.—Paragraph (1) of section 3121(a) of the Internal Revenue Code of 1986 is amended by inserting after “such calendar year.” the following: “The preceding sentence shall apply only to calendar years for which the contribution and benefit base (as so determined) is less than $250,000, and, for such calendar years, only to so much of the remuneration paid to such employee
by such employer with respect to employment as does not exceed $250,000.”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 3121 of the Internal Revenue Code of 1986 is amended by striking “Act) to” and inserting “Act), or in excess of $250,000, to”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 2011.

SEC. 3303. TAX ON NET EARNINGS FROM SELF-EMPLOYMENT UP TO CONTRIBUTION AND BENEFIT BASE AND MORE THAN $250,000.

(a) IN GENERAL.—Paragraph (1) of section 1402(b) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) in the case of the tax imposed by section 1401(a), the excess of—

“(A) that part of the net earnings from self-employment which is in excess of—

“(i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus
“(ii) the amount of the wages paid to such individual during such taxable years; over
“(B) that part of the net earnings from self-employment which is in excess of the sum of—
“(i) the excess of—
“(I) the net earning from self-employment reduced by the excess (if any) of subparagraph (A)(i) over subparagraph (A)(ii), over
“(II) $250,000, reduced by such contribution and benefit base, plus
“(ii) the amount of the wages paid to such individual during such taxable year in excess of such contribution and benefit base and not in excess of $250,000; or”.

(b) PHASEOUT.—Subsection (b) of section 1402 of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Paragraph (1) shall apply only to taxable years beginning in calendar years for which the contribution and benefit base (as determined under section 230 of the Social Security Act) is less than $250,000.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net earnings from self-employ-
ment derived, and remuneration paid, after December 31, 2011.