

Public Law 112–96  
112th Congress

An Act

Feb. 22, 2012  
[H.R. 3630]

Middle Class Tax  
Relief and Job  
Creation Act  
of 2012.  
26 USC 1 note.

To provide incentives for the creation of jobs, 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 “Middle Class Tax Relief and Job Creation Act of 2012”.

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

Sec. 1. Short title; table of contents.

**TITLE I—EXTENSION OF PAYROLL TAX REDUCTION**

Sec. 1001. Extension of payroll tax reduction.

**TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM  
IMPROVEMENT**

Sec. 2001. Short title.

**Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job  
Creation**

Sec. 2101. Consistent job search requirements.

Sec. 2102. State flexibility to promote the reemployment of unemployed workers.

Sec. 2103. Improving program integrity by better recovery of overpayments.

Sec. 2104. Data exchange standardization for improved interoperability.

Sec. 2105. Drug testing of applicants.

**Subtitle B—Provisions Relating To Extended Benefits**

Sec. 2121. Short title.

Sec. 2122. Extension and modification of emergency unemployment compensation program.

Sec. 2123. Temporary extension of extended benefit provisions.

Sec. 2124. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

**Subtitle C—Improving Reemployment Strategies Under the Emergency  
Unemployment Compensation Program**

Sec. 2141. Improved work search for the long-term unemployed.

Sec. 2142. Reemployment services and reemployment and eligibility assessment activities.

Sec. 2143. Promoting program integrity through better recovery of overpayments.

Sec. 2144. Restore State flexibility to improve unemployment program solvency.

**Subtitle D—Short-Time Compensation Program**

Sec. 2160. Short title.

Sec. 2161. Treatment of short-time compensation programs.

Sec. 2162. Temporary financing of short-time compensation payments in States with programs in law.

Sec. 2163. Temporary financing of short-time compensation agreements.

Sec. 2164. Grants for short-time compensation programs.

Sec. 2165. Assistance and guidance in implementing programs.

Sec. 2166. Reports.

Subtitle E—Self-Employment Assistance

Sec. 2181. State administration of self-employment assistance programs.  
Sec. 2182. Grants for self-employment assistance programs.  
Sec. 2183. Assistance and guidance in implementing self-employment assistance programs.  
Sec. 2184. Definitions.

TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

Subtitle A—Medicare Extensions

Sec. 3001. Extension of MMA section 508 reclassifications.  
Sec. 3002. Extension of outpatient hold harmless payments.  
Sec. 3003. Physician payment update.  
Sec. 3004. Work geographic adjustment.  
Sec. 3005. Payment for outpatient therapy services.  
Sec. 3006. Payment for technical component of certain physician pathology services.  
Sec. 3007. Ambulance add-on payments.

Subtitle B—Other Health Provisions

Sec. 3101. Qualifying individual program.  
Sec. 3102. Transitional medical assistance.

Subtitle C—Health Offsets

Sec. 3201. Reduction of bad debt treated as an allowable cost.  
Sec. 3202. Rebase Medicare clinical laboratory payment rates.  
Sec. 3203. Rebasing State DSH allotments for fiscal year 2021.  
Sec. 3204. Technical correction to the disaster recovery FMAP provision.  
Sec. 3205. Prevention and Public Health Fund.

TITLE IV—TANF EXTENSION

Sec. 4001. Short title.  
Sec. 4002. Extension of program.  
Sec. 4003. Data exchange standardization for improved interoperability.  
Sec. 4004. Spending policies for assistance under State TANF programs.  
Sec. 4005. Technical corrections.

TITLE V—FEDERAL EMPLOYEES RETIREMENT

Sec. 5001. Increase in contributions to Federal Employees' Retirement System for new employees.  
Sec. 5002. Foreign Service Pension System.  
Sec. 5003. Central Intelligence Agency Retirement and Disability System.

TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS

Sec. 6001. Definitions.  
Sec. 6002. Rule of construction.  
Sec. 6003. Enforcement.  
Sec. 6004. National security restrictions on use of funds and auction participation.

Subtitle A—Reallocation of Public Safety Spectrum

Sec. 6101. Reallocation of D block to public safety.  
Sec. 6102. Flexible use of narrowband spectrum.  
Sec. 6103. 470–512 MHz public safety spectrum.

Subtitle B—Governance of Public Safety Spectrum

Sec. 6201. Single public safety wireless network licensee.  
Sec. 6202. Public safety broadband network.  
Sec. 6203. Public Safety Interoperability Board.  
Sec. 6204. Establishment of the First Responder Network Authority.  
Sec. 6205. Advisory committees of the First Responder Network Authority.  
Sec. 6206. Powers, duties, and responsibilities of the First Responder Network Authority.  
Sec. 6207. Initial funding for the First Responder Network Authority.  
Sec. 6208. Permanent self-funding; duty to assess and collect fees for network use.  
Sec. 6209. Audit and report.  
Sec. 6210. Annual report to Congress.  
Sec. 6211. Public safety roaming and priority access.

- Sec. 6212. Prohibition on direct offering of commercial telecommunications service directly to consumers.  
 Sec. 6213. Provision of technical assistance.

Subtitle C—Public Safety Commitments

- Sec. 6301. State and Local Implementation Fund.  
 Sec. 6302. State and local implementation.  
 Sec. 6303. Public safety wireless communications research and development.

Subtitle D—Spectrum Auction Authority

- Sec. 6401. Deadlines for auction of certain spectrum.  
 Sec. 6402. General authority for incentive auctions.  
 Sec. 6403. Special requirements for incentive auction of broadcast TV spectrum.  
 Sec. 6404. Certain conditions on auction participation prohibited.  
 Sec. 6405. Extension of auction authority.  
 Sec. 6406. Unlicensed use in the 5 GHz band.  
 Sec. 6407. Guard bands and unlicensed use.  
 Sec. 6408. Study on receiver performance and spectrum efficiency.  
 Sec. 6409. Wireless facilities deployment.  
 Sec. 6410. Functional responsibility of NTIA to ensure efficient use of spectrum.  
 Sec. 6411. System certification.  
 Sec. 6412. Deployment of 11 GHz, 18 GHz, and 23 GHz microwave bands.  
 Sec. 6413. Public Safety Trust Fund.  
 Sec. 6414. Study on emergency communications by amateur radio and impediments to amateur radio communications.

Subtitle E—Next Generation 9–1–1 Advancement Act of 2012

- Sec. 6501. Short title.  
 Sec. 6502. Definitions.  
 Sec. 6503. Coordination of 9–1–1 implementation.  
 Sec. 6504. Requirements for multi-line telephone systems.  
 Sec. 6505. GAO study of State and local use of 9–1–1 service charges.  
 Sec. 6506. Parity of protection for provision or use of Next Generation 9–1–1 services.  
 Sec. 6507. Commission proceeding on autodialing.  
 Sec. 6508. Report on costs for requirements and specifications of Next Generation 9–1–1 services.  
 Sec. 6509. Commission recommendations for legal and statutory framework for Next Generation 9–1–1 services.

Subtitle F—Telecommunications Development Fund

- Sec. 6601. No additional Federal funds.  
 Sec. 6602. Independence of the Fund.

Subtitle G—Federal Spectrum Relocation

- Sec. 6701. Relocation of and spectrum sharing by Federal Government stations.  
 Sec. 6702. Spectrum Relocation Fund.  
 Sec. 6703. National security and other sensitive information.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 7001. Repeal of certain shifts in the timing of corporate estimated tax payments.  
 Sec. 7002. Repeal of requirement relating to time for remitting certain merchandise processing fees.  
 Sec. 7003. Treatment for PAYGO purposes.

## TITLE I—EXTENSION OF PAYROLL TAX REDUCTION

### SEC. 1001. EXTENSION OF PAYROLL TAX REDUCTION.

(a) IN GENERAL.—Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows:

Definition.

“(c) PAYROLL TAX HOLIDAY PERIOD.—The term ‘payroll tax holiday period’ means calendar years 2011 and 2012.”.

(b) CONFORMING AMENDMENTS.—Section 601 of such Act (26 U.S.C. 1401 note) is amended by striking subsections (f) and (g).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011. 26 USC 1401 note.

## **TITLE II—UNEMPLOYMENT BENEFIT CONTINUATION AND PROGRAM IMPROVEMENT**

Extended Benefits, Reemployment, and Program Integrity Improvement Act.  
State and local governments.  
26 USC 1 note.

### **SEC. 2001. SHORT TITLE.**

This title may be cited as the “Extended Benefits, Reemployment, and Program Integrity Improvement Act”.

## **Subtitle A—Reforms of Unemployment Compensation to Promote Work and Job Creation**

### **SEC. 2101. CONSISTENT JOB SEARCH REQUIREMENTS.**

(a) **IN GENERAL.**—Section 303(a) of the Social Security Act is amended by adding at the end the following: 42 USC 503.

“(12) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 42 USC 503 note.

### **SEC. 2102. STATE FLEXIBILITY TO PROMOTE THE REEMPLOYMENT OF UNEMPLOYED WORKERS.**

Title III of the Social Security Act (42 U.S.C. 501 and following) is amended by adding at the end the following:

#### **“DEMONSTRATION PROJECTS**

“SEC. 305. (a) The Secretary of Labor may enter into agreements, with up to 10 States that submit an application described in subsection (b), for the purpose of allowing such States to conduct demonstration projects to test and evaluate measures designed— 42 USC 505.

“(1) to expedite the reemployment of individuals who have established a benefit year and are otherwise eligible to claim unemployment compensation under the State law of such State; or

“(2) to improve the effectiveness of a State in carrying out its State law with respect to reemployment.

“(b) The Governor of any State desiring to conduct a demonstration project under this section shall submit an application to the Secretary of Labor. Any such application shall include—

“(1) a general description of the proposed demonstration project, including the authority (under the laws of the State) for the measures to be tested, as well as the period of time during which such demonstration project would be conducted;

“(2) if a waiver under subsection (c) is requested, a statement describing the specific aspects of the project to which

the waiver would apply and the reasons why such waiver is needed;

“(3) a description of the goals and the expected programmatic outcomes of the demonstration project, including how the project would contribute to the objective described in subsection (a)(1), subsection (a)(2), or both;

“(4) assurances (accompanied by supporting analysis) that the demonstration project would operate for a period of at least 1 calendar year and not result in any increased net costs to the State’s account in the Unemployment Trust Fund;

“(5) a description of the manner in which the State—  
 “(A) will conduct an impact evaluation, using a methodology appropriate to determine the effects of the demonstration project, including on individual skill levels, earnings, and employment retention; and

“(B) will determine the extent to which the goals and outcomes described in paragraph (3) were achieved;

“(6) assurances that the State will provide any reports relating to the demonstration project, after its approval, as the Secretary of Labor may require; and

“(7) assurances that employment meets the State’s suitable work requirement and the requirements of section 3304(a)(5) of the Internal Revenue Code of 1986.

Waiver authority.

“(c) The Secretary of Labor may waive any of the requirements of section 3304(a)(4) of the Internal Revenue Code of 1986 or paragraph (1) or (5) of section 303(a), to the extent and for the period the Secretary of Labor considers necessary to enable the State to carry out a demonstration project under this section.

“(d) A demonstration project under this section—

“(1) may be commenced any time after the date of enactment of this section;

Time period.

“(2) may not be approved for a period of time greater than 3 years; and

Deadline.

“(3) must be completed by not later than December 31, 2015.

“(e) Activities that may be pursued under a demonstration project under this section are limited to—

“(1) subsidies for employer-provided training, such as wage subsidies; and

“(2) direct disbursements to employers who hire individuals receiving unemployment compensation, not to exceed the weekly benefit amount for each such individual, to pay part of the cost of wages that exceed the unemployed individual’s prior benefit level.

Time periods.

“(f) The Secretary of Labor shall, in the case of any State for which an application is submitted under subsection (b)—

Notification.

“(1) notify the State as to whether such application has been approved or denied within 30 days after receipt of a complete application; and

Notice.

“(2) provide public notice of the decision within 10 days after providing notification to the State in accordance with paragraph (1).

Public notice under paragraph (2) may be provided through the Internet or other appropriate means. Any application under this section that has not been denied within the 30-day period described in paragraph (1) shall be deemed approved, and public notice of

any approval under this sentence shall be provided within 10 days thereafter.

“(g) The Secretary of Labor may terminate a demonstration project under this section if the Secretary determines that the State has violated the substantive terms or conditions of the project. Determination.

“(h) Funding certified under section 302(a) may be used for an approved demonstration project.”.

**SEC. 2103. IMPROVING PROGRAM INTEGRITY BY BETTER RECOVERY OF OVERPAYMENTS.**

(a) USE OF UNEMPLOYMENT COMPENSATION TO REPAY OVERPAYMENTS.—Section 3304(a)(4)(D) of the Internal Revenue Code of 1986 and section 303(g)(1) of the Social Security Act are each amended by striking “may” and inserting “shall”. 26 USC 3304; 42 USC 503.

(b) USE OF UNEMPLOYMENT COMPENSATION TO REPAY FEDERAL ADDITIONAL COMPENSATION OVERPAYMENTS.—Section 303(g)(3) of the Social Security Act is amended by inserting “Federal additional compensation,” after “trade adjustment allowances,”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act. 26 USC 3304 note.

**SEC. 2104. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) IN GENERAL.—Title IX of the Social Security Act is amended by adding at the end the following:

“DATA EXCHANGE STANDARDIZATION FOR IMPROVED  
INTEROPERABILITY

“Data Exchange Standards

“SEC. 911. (a)(1) The Secretary of Labor, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate a data exchange standard for any category of information required under title III, title XII, or this title. Establishment. Regulations. 42 USC 1111.

“(2) Data exchange standards designated under paragraph (1) shall, to the extent practicable, be nonproprietary and interoperable.

“(3) In designating data exchange standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate—

“(A) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(B) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(C) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulations Council.

## “Data Exchange Standards for Reporting

“(b)(1) The Secretary of Labor, in consultation with an inter-agency work group established by the Office of Management and Budget, and considering State and employer perspectives, shall, by rule, designate data exchange standards to govern the reporting required under title III, title XII, or this title.

“(2) The data exchange standards required by paragraph (1) shall, to the extent practicable—

“(A) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

“(B) be consistent with and implement applicable accounting principles; and

“(C) be capable of being continually upgraded as necessary.

“(3) In designating reporting standards under this subsection, the Secretary of Labor shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”

42 USC 1111  
note.  
Time periods.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Labor shall issue a proposed rule under section 911(a)(1) of the Social Security Act (as added by subsection (a)) within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 911(a)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 911(b)(1) of such Act (as so added) shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

**SEC. 2105. DRUG TESTING OF APPLICANTS.**

42 USC 305.

Section 303 of the Social Security Act is amended by adding at the end the following:

“(1)(1) Nothing in this Act or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for—

“(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant—

“(i) was terminated from employment with the applicant’s most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or

Regulations.

“(ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or

“(B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).

Definitions.

“(2) For purposes of this subsection—

“(A) the term ‘unemployment compensation’ has the meaning given such term in subsection (d)(2)(A); and

“(B) the term ‘controlled substance’ has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).”.

## Subtitle B—Provisions Relating To Extended Benefits

Unemployment  
Benefits  
Extension Act  
of 2012.

26 USC 1 note.

### SEC. 2121. SHORT TITLE.

This subtitle may be cited as the “Unemployment Benefits Extension Act of 2012”.

### SEC. 2122. EXTENSION AND MODIFICATION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) EXTENSION.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subsection (a)—

(A) by striking “Except as provided in subsection (b), an” and inserting “An”; and

(B) by striking “March 6, 2012” and inserting “January 2, 2013”; and

(2) by striking subsection (b) and inserting the following:

“(b) TERMINATION.—No compensation under this title shall be payable for any week subsequent to the last week described in subsection (a).”.

(b) MODIFICATIONS RELATING TO TRIGGERS.—

(1) FOR SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(c) of such Act is amended—

(A) in the subsection heading, by striking “SPECIAL RULE” and inserting “SECOND-TIER EMERGENCY UNEMPLOYMENT COMPENSATION”;

(B) in paragraph (1), by striking “At” and all that follows through “augmented by an amount” and inserting “If, at the time that the amount established in an individual’s account under subsection (b) is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount (hereinafter ‘second-tier emergency unemployment compensation’)”;

(C) by redesignating paragraph (2) as paragraph (4); and

(D) by inserting after paragraph (1) the following:

“(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if such a period would then be in effect for such State under such Act if—

“(A) section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 were applied to such State (regardless of whether the State by law had provided for such application); and

“(B) such section 203(f)—

“(i) were applied by substituting the applicable percentage under paragraph (3) for ‘6.5 percent’ in paragraph (1)(A)(i) thereof; and

“(ii) did not include the requirement under paragraph (1)(A)(ii) thereof.

26 USC 3304  
note.

Applicability.

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 0 percent; and

“(B) after the last week under subparagraph (A), 6 percent.”.

(2) FOR THIRD-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(d) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 6 percent; and

“(B) after the last week under subparagraph (A), 7 percent.”.

(3) FOR FOURTH-TIER EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4002(e) of such Act is amended—

(A) in paragraph (2)(A), by striking “under such Act” and inserting “under the Federal-State Extended Unemployment Compensation Act of 1970”;

(B) in paragraph (2)(B)(ii)(I), by striking the matter after “substituting” and before “in paragraph (1)(A)(i) thereof” and inserting “the applicable percentage under paragraph (3) for ‘6.5 percent’”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

“(3) APPLICABLE PERCENTAGE.—The applicable percentage under this paragraph is, for purposes of determining if a State is in an extended benefit period as of a date occurring in a week ending—

“(A) before June 1, 2012, 8.5 percent; and

“(B) after the last week under subparagraph (A), 9 percent.”.

26 USC 3304 note.

(c) MODIFICATIONS RELATING TO WEEKS OF EMERGENCY UNEMPLOYMENT COMPENSATION.—

(1) NUMBER OF WEEKS IN FIRST TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(b) of such Act is amended—

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

(B) by inserting after paragraph (1) the following:

Applicability.

“(2) SPECIAL RULE RELATING TO AMOUNTS ESTABLISHED IN AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), in the case of any account established as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘54 percent’ for ‘80 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘14 weeks’ for ‘20 weeks’.”

(2) NUMBER OF WEEKS IN THIRD TIER BEGINNING AFTER SEPTEMBER 2, 2012.—Section 4002(d) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(2)(C)) the following:

“(5) SPECIAL RULE RELATING TO AMOUNTS ADDED TO AN ACCOUNT AS OF A WEEK ENDING AFTER SEPTEMBER 2, 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(A) paragraph (1)(A) shall be applied by substituting ‘35 percent’ for ‘50 percent’; and

“(B) paragraph (1)(B) shall be applied by substituting ‘9 times’ for ‘13 times’.”

(3) NUMBER OF WEEKS IN FOURTH TIER.—Section 4002(e) of such Act is amended by adding after paragraph (4) (as so redesignated by subsection (b)(3)(C)) the following:

“(5) SPECIAL RULES RELATING TO AMOUNTS ADDED TO AN ACCOUNT.—

“(A) MARCH TO MAY OF 2012.—

“(i) SPECIAL RULE.—Notwithstanding any provision of paragraph (1) but subject to the following 2 sentences, if augmentation under this subsection occurs as of a week ending after the date of enactment of this paragraph and before June 1, 2012 (or if, as of such date of enactment, any fourth-tier amounts remain in the individual’s account)—

“(I) paragraph (1)(A) shall be applied by substituting ‘62 percent’ for ‘24 percent’; and

“(II) paragraph (1)(B) shall be applied by substituting ‘16 times’ for ‘6 times’.

The preceding sentence shall apply only if, at the time that the account would be augmented under this subparagraph, such individual’s State is not in an extended benefit period as determined under the Federal-State Extended Unemployment Compensation Act of 1970. In no event shall the total amount added to the account of an individual under this subparagraph cause, in the case of an individual described in the parenthetical matter in the first sentence of this clause, the sum of the total amount previously added to such individual’s account under this subsection (as in effect before the date of enactment of this paragraph) and any further amounts added as a result of the enactment of this clause, to exceed the total amount allowable under subclause (I) or (II), as the case may be.

“(ii) LIMITATION.—Notwithstanding any other provision of this title, the amounts added to the account of an individual under this subparagraph may not cause the sum of the amounts previously established in or added to such account, plus any weeks of extended benefits provided to such individual under the Federal-State Extended Unemployment Compensation Act of

1970 (based on the same exhaustion of regular compensation under section 4001(b)(1)), to in the aggregate exceed the lesser of—

“(I) 282 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under the State law; or

“(II) 73 times the individual’s average weekly benefit amount (as determined under subsection (b)(3)) for the benefit year.

Applicability.

“(B) AFTER AUGUST OF 2012.—Notwithstanding any provision of paragraph (1), if augmentation under this subsection occurs as of a week ending after September 2, 2012—

“(i) paragraph (1)(A) shall be applied by substituting ‘39 percent’ for ‘24 percent’; and

“(ii) paragraph (1)(B) shall be applied by substituting ‘10 times’ for ‘6 times’.”

26 USC 3304 note.

(d) ORDER OF PAYMENTS REQUIREMENT.—

(1) IN GENERAL.—Section 4001(e) of such Act is amended to read as follows:

Applicability.  
Determination.

“(e) COORDINATION RULE.—An agreement under this section shall apply with respect to a State only upon a determination by the Secretary that, under the State law or other applicable rules of such State, the payment of extended compensation for which an individual is otherwise eligible must be deferred until after the payment of any emergency unemployment compensation under section 4002, as amended by the Unemployment Benefits Extension Act of 2012, for which the individual is concurrently eligible.”

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 4001(b)(2) of such Act is amended—

(A) by striking “or extended compensation”; and

(B) by striking “law (except as provided under subsection (e));” and inserting “law;”.

26 USC 3304 note.

(e) FUNDING.—Section 4004(e)(1) of such Act is amended—

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

(2) by inserting after subparagraph (H) the following:

“(I) the amendments made by section 2122 of the Unemployment Benefits Extension Act of 2012; and”.

26 USC 3304 note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (b), (c), and (d) shall take effect as of February 28, 2012, and shall apply with respect to weeks of unemployment beginning after that date.

(2) WEEK DEFINED.—For purposes of this subsection, the term “week” has the meaning given such term under section 4006 of the Supplemental Appropriations Act, 2008.

**SEC. 2123. 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 “March 7, 2012” each place it appears and inserting “December 31, 2012”; and

(2) in subsection (c), by striking “August 15, 2012” and inserting “June 30, 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 “August 15, 2012” and inserting “June 30, 2013”.

(c) EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “February 29, 2012” and inserting “December 31, 2012”; and

(2) in subsection (f)(2), by striking “February 29, 2012” and inserting “December 31, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78).

26 USC 3304  
note.

**SEC. 2124. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.**

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), and section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

45 USC 352.

(1) by striking “August 31, 2011” and inserting “June 30, 2012”; and

(2) by striking “February 29, 2012” and inserting “December 31, 2012”.

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

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$500,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

Appropriation  
authorization.

## Subtitle C—Improving Reemployment Strategies Under the Emergency Unemployment Compensation Program

### SEC. 2141. IMPROVED WORK SEARCH FOR THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Section 4001(b) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) are able to work, available to work, and actively seeking work.”.

(b) ACTIVELY SEEKING WORK.—Section 4001 of such Act is amended by adding at the end the following:

“(h) ACTIVELY SEEKING WORK.—

Definition.

“(1) IN GENERAL.—For purposes of subsection (b)(4), the term ‘actively seeking work’ means, with respect to any individual, that such individual—

“(A) is registered for employment services in such a manner and to such extent as prescribed by the State agency;

“(B) has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual’s skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the State;

“(C) has maintained a record of such work search, including employers contacted, method of contact, and date contacted; and

“(D) when requested, has provided such work search record to the State agency.

Claims.

“(2) RANDOM AUDITING.—The Secretary shall establish for each State a minimum number of claims for which work search records must be audited on a random basis in any given week.”.

### SEC. 2142. REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) PROVISION OF SERVICES AND ACTIVITIES.—Section 4001 of such Act, as amended by section 2141(b), is further amended by adding at the end the following:

“(i) PROVISION OF SERVICES AND ACTIVITIES.—

“(1) IN GENERAL.—An agreement under this section shall require the following:

“(A) The State which is party to such agreement shall provide reemployment services and reemployment and eligibility assessment activities to each individual—

“(i) who, on or after the 30th day after the date of enactment of the Extended Benefits, Reemployment, and Program Integrity Improvement Act, begins receiving amounts described in subsections (b) and (c); and

“(ii) while such individual continues to receive emergency unemployment compensation under this title.

“(B) As a condition of eligibility for emergency unemployment compensation for any week—

“(i) a claimant who has been duly referred to reemployment services shall participate in such services; and

“(ii) a claimant shall be actively seeking work (determined applying subsection (i)).

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

“(A) shall include—

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

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

“(iii) orientation to the services available through the one-stop centers established under title I of the Workforce Investment Act of 1998; and

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

“(B) may include the provision of—

“(i) comprehensive and specialized assessments;

“(ii) individual and group career counseling;

“(iii) training services;

“(iv) additional reemployment services; and

“(v) job search counseling and the development or review of an individual reemployment plan that includes participation in job search activities and appropriate workshops.

“(3) PARTICIPATION REQUIREMENT.—As a condition of continuing eligibility for emergency unemployment compensation for any week, an individual who has been referred to reemployment services or reemployment and eligibility assessment activities under this subsection shall participate in such services or activities, unless the State agency responsible for the administration of State unemployment compensation law determines that—

“(A) such individual has completed participating in such services or activities; or

“(B) there is justifiable cause for failure to participate or to complete participating in such services or activities, as determined in accordance with guidance to be issued by the Secretary.”.

(b) ISSUANCE OF GUIDANCE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the reemployment services and reemployment and eligibility assessment activities required to be provided under the amendment made by subsection (a).

Deadline.  
26 USC 3304  
note.

(c) FUNDING.—

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

(A) by striking “STATES.—There” and inserting the following: “STATES.—

“(1) ADMINISTRATION.—There”; and

(B) by adding at the end the following new paragraph:

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

“(A) APPROPRIATION.—There are appropriated from the general fund of the Treasury, for the period of fiscal year 2012 through fiscal year 2013, out of the employment security administration account (as established by section 901(a) of the Social Security Act), such sums as determined by the Secretary of Labor in accordance with subparagraph (B) to assist States in providing reemployment services and reemployment and eligibility assessment activities described in section 4001(h)(2).

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

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

“(ii) \$85.

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

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

“(ii) \$85.”.

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

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

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

(C) by adding at the end the following paragraph:

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

**SEC. 2143. PROMOTING PROGRAM INTEGRITY THROUGH BETTER RECOVERY OF OVERPAYMENTS.**

Section 4005(c)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) by striking “may” and inserting “shall”; and

(2) by striking “except that” and all that follows through “made” and inserting “in accordance with the same procedures

as apply to the recovery of overpayments of regular unemployment benefits paid by the State”.

**SEC. 2144. RESTORE STATE FLEXIBILITY TO IMPROVE UNEMPLOYMENT PROGRAM SOLVENCY.**

Subsection (g) of section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) shall not apply with respect to a State that has enacted a law before March 1, 2012, that, upon taking effect, would violate such subsection.

## **Subtitle D—Short-Time Compensation Program**

Layoff  
Prevention Act  
of 2012.

**SEC. 2160. SHORT TITLE.**

This subtitle may be cited as the “Layoff Prevention Act of 2012”.

26 USC 1 note.

**SEC. 2161. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.**

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this part, the term ‘short-time compensation program’ means a program under which—

Definition.

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees in lieu of layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;

“(5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;

“(6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998) to enhance job skills if such program has been approved by the State agency;

“(7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced

Certification.

or to the same extent as other employees not participating in the short-time compensation program;

Plans.

“(8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;

“(9) the terms of the employer’s written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and

“(10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.”.

26 USC 3306  
note.

(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

26 USC 3306  
note.

(3) TRANSITION PERIOD FOR EXISTING PROGRAMS.—In the case of a State that is administering a short-time compensation program as of the date of the enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(A) the date the State changes its State law in order to be consistent with such amendment; or

(B) the date that is 2 years and 6 months after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

26 USC 3304.

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));”.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-time compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and”; and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

42 USC 503.

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short-time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)”.

Repeal.  
26 USC 3304  
note.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment

Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

**SEC. 2162. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.**

26 USC 3304  
note.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)) under the provisions of the State law.

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—

(1) IN GENERAL.—Payments to a State under subsection (a) shall be available for weeks of unemployment—

(A) beginning on or after the date of the enactment of this Act; and

Effective date.

(B) ending on or before the date that is 3 years and 6 months after the date of the enactment of this Act.

Termination  
date.

(2) THREE-YEAR FUNDING LIMITATION FOR COMBINED PAYMENTS UNDER THIS SECTION AND SECTION 2163.—States may receive payments under this section and section 2163 with respect to a total of not more than 156 weeks.

(c) TWO-YEAR TRANSITION PERIOD FOR EXISTING PROGRAMS.—

During any period that the transition provision under section 2161(a)(3) is applicable to a State with respect to a short-time compensation program, such State shall be eligible for payments under this section. Subject to paragraphs (1)(B) and (2) of subsection (b), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a),

the State shall be eligible for payments under this section after the effective date of such enactment.

Appropriation  
authorization.

(d) FUNDING AND CERTIFICATIONS.—

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

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

(e) DEFINITIONS.—In this section:

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

(2) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2163. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.**

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State’s law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

Notice.

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for a week of total unemployment.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State’s unemployment fund and shall not be used for purposes of calculating

an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

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

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

Appropriation authorization.

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

(d) APPLICABILITY.—

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

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

Effective date.

(B) ending on or before the date that is 2 years and 13 weeks after the date of the enactment of this Act.

Termination date.

(2) TWO-YEAR FUNDING LIMITATION.—States may receive payments under this section with respect to a total of not more than 104 weeks.

(e) SPECIAL RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a), the State—

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to paragraphs (1)(B) and (2) of section 2162(b), shall be eligible to receive payments under section 2162 after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2164. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.**

(a) GRANTS.—

(1) FOR IMPLEMENTATION OR IMPROVED ADMINISTRATION.—The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) FOR PROMOTION AND ENROLLMENT.—The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) ELIGIBILITY.—

(A) IN GENERAL.—The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) CLARIFICATION.—A State administering a short-time compensation program, including a program being administered by a State that is participating in the transition under the provisions of sections 301(a)(3) and 302(c), that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986 (as added by 211(a)), and a State with an agreement under section 2163, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) AMOUNT OF GRANTS.—

(1) IN GENERAL.—The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2010, under the provisions of subsection (a) of such section.

(2) AMOUNT AVAILABLE FOR DIFFERENT GRANTS.—Of the maximum incentive payment determined under paragraph (1) with respect to a State—

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) GRANT APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2014.

Deadline.

Deadline.

(2) NOTICE.—The Secretary shall, within 30 days after receiving a complete application, notify the State agency of

the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) CERTIFICATION.—If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

Deadline.

(4) REQUIREMENT.—No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection (a) may be made with respect to any State whose—

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

Time period.

(d) USE OF FUNDS.—The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through—

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate—

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) ADMINISTRATION.—The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) RECOUPMENT.—The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State—

Determination.  
Time period.

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

(h) REPORTING.—The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) DEFINITIONS.—In this section:

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

(2) SHORT-TIME COMPENSATION PROGRAM.—The term “short-time compensation program” has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a).

(3) STATE; STATE AGENCY; STATE LAW.—The terms “State”, “State agency”, and “State law” have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

26 USC 3304  
note.

**SEC. 2165. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.**

(a) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)), the Secretary of Labor (in this section referred to as the “Secretary”) shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

Requirements.

(3) establish reporting requirements for States, including reporting on—

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers;

and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) MODEL LANGUAGE AND GUIDANCE.—The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) CONSULTATION.—In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts.

**SEC. 2166. REPORTS.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this subtitle.

(2) REQUIREMENTS.—Any report under paragraph (1) shall at a minimum include the following:

(A) A description of best practices by States and employers in the administration, promotion, and use of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2161(a)).

(B) An analysis of the significant challenges to State enactment and implementation of short-time compensation programs.

(C) A survey of employers in all States to determine the level of interest in participating in short-time compensation programs.

(b) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, \$1,500,000 to carry out this section, to remain available without fiscal year limitation.

Appropriation  
authorization.

## Subtitle E—Self-Employment Assistance

### SEC. 2181. STATE ADMINISTRATION OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.

(a) AVAILABILITY FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION.—Title II of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended by inserting at the end the following new section:

#### “AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAMS

“SEC. 208. (a)(1) At the option of a State, for any weeks of unemployment beginning after the date of enactment of this section, the State agency of the State may establish a self-employment assistance program, as described in subsection (b), to provide for the payment of extended compensation as self-employment assistance allowances to individuals who would otherwise satisfy the eligibility criteria under this title.

“(2) Subject to paragraph (3), the self-employment assistance allowance described in paragraph (1) shall be paid to an eligible individual from such individual’s extended compensation account, as described in section 202(b), and the amount in such account shall be reduced accordingly.

“(3)(A) Subject to subparagraph (B), for purposes of self-employment assistance programs established under this section and section 4001(j) of the Supplemental Appropriations Act, 2008, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this section as the ‘combined eligibility limit’).

“(B) For purposes of an individual who is participating in a self-employment assistance program established under this section and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 4001(j) of the Supplemental Appropriations Act, 2008, until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title IV of such Act.

“(b) For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(1) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to

‘extended compensation under title II of the Federal-State Extended Unemployment Compensation Act of 1970’;

“(2) paragraph (3)(B) shall not apply;

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

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

“(4) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(5) paragraph (5) shall not apply.

“(c) In the case of an individual who is eligible to receive extended compensation under this title, such individual shall not receive self-employment assistance allowances under this section unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

“(d)(1) An individual who is participating in a self-employment assistance program established under this section may elect to discontinue participation in such program at any time.

“(2) For purposes of an individual whose participation in a self-employment assistance program established under this section is terminated pursuant to subsection (a)(3) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for extended compensation under this title, the individual shall receive extended compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 202(b).”.

(b) AVAILABILITY FOR INDIVIDUALS RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by sections 2141(b) and 2142(a), is further amended by inserting at the end the following new subsection:

“(j) AUTHORITY TO CONDUCT SELF-EMPLOYMENT ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—

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

“(B) PAYMENT OF ALLOWANCES.—Subject to subparagraph (C), the self-employment assistance allowance described in subparagraph (A) shall be paid to an eligible individual from such individual’s emergency unemployment compensation account, as described in section 4002, and the amount in such account shall be reduced accordingly.

“(C) LIMITATION ON SELF-EMPLOYMENT ASSISTANCE FOR INDIVIDUALS RECEIVING EXTENDED COMPENSATION AND EMERGENCY UNEMPLOYMENT COMPENSATION.—

“(i) COMBINED ELIGIBILITY LIMIT.—Subject to clause (ii), for purposes of self-employment assistance programs established under this subsection and section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, an individual shall be provided with self-employment assistance allowances under such programs for a total of not greater than 26 weeks (referred to in this subsection as the ‘combined eligibility limit’).

“(ii) CARRYOVER RULE.—For purposes of an individual who is participating in a self-employment assistance program established under this subsection and has not reached the combined eligibility limit as of the date on which such individual exhausts all rights to extended compensation under this title, the individual shall be eligible to receive self-employment assistance allowances under a self-employment assistance program established under section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 until such individual has reached the combined eligibility limit, provided that the individual otherwise satisfies the eligibility criteria described under title II of such Act.

“(2) DEFINITION OF ‘SELF-EMPLOYMENT ASSISTANCE PROGRAM’.—For the purposes of this section, the term ‘self-employment assistance program’ means a program as defined under section 3306(t) of the Internal Revenue Code of 1986, except as follows:

“(A) all references to ‘regular unemployment compensation under the State law’ shall be deemed to refer instead to ‘emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008’;

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

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

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

“(D) the reference to ‘5 percent’ in paragraph (4) shall be deemed to refer instead to ‘1 percent’; and

“(E) paragraph (5) shall not apply.

“(3) AVAILABILITY OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCES.—In the case of an individual who is eligible to receive emergency unemployment compensation payment under this title, such individual shall not receive self-employment assistance allowances under this subsection unless the State agency has a reasonable expectation that such individual will be entitled to at least 13 times the individual’s average weekly benefit amount of extended compensation and emergency unemployment compensation.

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

“(A) TERMINATION.—An individual who is participating in a self-employment assistance program established under this subsection may elect to discontinue participation in such program at any time.

“(B) CONTINUED ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.—For purposes of an individual whose participation in the self-employment assistance program established under this subsection is terminated pursuant to paragraph (1)(C) or who has discontinued participation in such program, if the individual continues to satisfy the eligibility requirements for emergency unemployment compensation under this title, the individual shall receive emergency unemployment compensation payments with respect to subsequent weeks of unemployment, to the extent that amounts remain in the account established for such individual under section 4002(b) or to the extent that such individual commences receiving the amounts described in subsections (c), (d), or (e) of such section, respectively.”.

26 USC 3304  
note.

**SEC. 2182. GRANTS FOR SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—

(1) ESTABLISHMENT OR IMPROVED ADMINISTRATION.—Subject to the requirements established under subsection (b), the Secretary shall award grants to States for the purposes of—

(A) improved administration of self-employment assistance programs that have been established, prior to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), for individuals who are eligible to receive regular unemployment compensation;

(B) development, implementation, and administration of self-employment assistance programs that are established, subsequent to the date of the enactment of this Act, pursuant to section 3306(t) of the Internal Revenue Code of 1986, for individuals who are eligible to receive regular unemployment compensation; and

(C) development, implementation, and administration of self-employment assistance programs that are established pursuant to section 208 of the Federal-State Extended Unemployment Compensation Act of 1970 or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive extended compensation or emergency unemployment compensation.

(2) PROMOTION AND ENROLLMENT.—Subject to the requirements established under subsection (b), the Secretary shall award additional grants to States that submit approved applications for a grant under paragraph (1) for such States to promote self-employment assistance programs and enroll unemployed individuals in such programs.

(b) APPLICATION AND DISBURSAL.—

(1) APPLICATION.—Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as is determined appropriate by the Secretary.

In no case shall the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2013.	Deadline.
(2) NOTICE.—Not later than 30 days after receiving an application described in paragraph (1) from a State, the Secretary shall notify the State agency as to whether a grant has been approved for such State for the purposes described in subsection (a).	Deadline.
(3) CERTIFICATION.—If the Secretary determines that a State has met the requirements for a grant under subsection (a), the Secretary shall make a certification to that effect to the Secretary of the Treasury, as well as a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund under section 904 of the Social Security Act (42 U.S.C. 1104). The Secretary of the Treasury shall make the appropriate transfer to the State account not later than 7 days after receiving such certification.	Determination.
(c) ALLOTMENT FACTORS.—For purposes of allotting the funds available under subsection (d) to States that have met the requirements for a grant under this section, the amount of the grant provided to each State shall be determined based upon the percentage of unemployed individuals in the State relative to the percentage of unemployed individuals in all States.	Transfer authority. Deadline.
(d) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, \$35,000,000 for the period of fiscal year 2012 through fiscal year 2013 for purposes of carrying out the grant program under this section,	Determination.
<b>SEC. 2183. ASSISTANCE AND GUIDANCE IN IMPLEMENTING SELF-EMPLOYMENT ASSISTANCE PROGRAMS.</b>	Appropriation authorization.
(a) MODEL LANGUAGE AND GUIDANCE.—For purposes of assisting States in establishing, improving, and administering self-employment assistance programs, the Secretary shall—	26 USC 3304 note.
(1) develop model language that may be used by States in enacting such programs, as well as periodically review and revise such model language; and	Review.
(2) provide technical assistance and guidance in establishing, improving, and administering such programs.	
(b) REPORTING AND EVALUATION.—	
(1) REPORTING.—The Secretary shall establish reporting requirements for States that have established self-employment assistance programs, which shall include reporting on—	
(A) the total number of individuals who received unemployment compensation and—	
(i) were referred to a self-employment assistance program;	
(ii) participated in such program; and	
(iii) received an allowance under such program;	
(B) the total amount of allowances provided to individuals participating in a self-employment assistance program;	
(C) the total income (as determined by survey or other appropriate method) for businesses that have been established by individuals participating in a self-employment assistance program, as well as the total number of individuals employed through such businesses; and	

- (D) any additional information, as determined appropriate by the Secretary.
- Deadline. (2) EVALUATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report that evaluates the effectiveness of self-employment assistance programs established by States, including—
- (A) an analysis of the implementation and operation of self-employment assistance programs by States;
  - (B) an evaluation of the economic outcomes for individuals who participated in a self-employment assistance program as compared to individuals who received unemployment compensation and did not participate in a self-employment assistance program, including a comparison as to employment status, income, and duration of receipt of unemployment compensation or self-employment assistance allowances; and
  - (C) an evaluation of the state of the businesses started by individuals who participated in a self-employment assistance program, including information regarding—
    - (i) the type of businesses established;
    - (ii) the sustainability of the businesses;
    - (iii) the total income collected by the businesses;
    - (iv) the total number of individuals employed through such businesses; and
    - (v) the estimated Federal and State tax revenue collected from such businesses and their employees.
- (c) FLEXIBILITY AND ACCOUNTABILITY.—The model language, guidance, and reporting requirements developed by the Secretary under subsections (a) and (b) shall—
- (1) allow sufficient flexibility for States and participating individuals; and
  - (2) ensure accountability and program integrity.
- (d) CONSULTATION.—For purposes of developing the model language, guidance, and reporting requirements described under subsections (a) and (b), the Secretary shall consult with employers, labor organizations, State agencies, and other relevant program experts.
- (e) ENTREPRENEURIAL TRAINING PROGRAMS.—The Secretary shall utilize resources available through the Department of Labor and coordinate with the Administrator of the Small Business Administration to ensure that adequate funding is reserved and made available for the provision of entrepreneurial training to individuals participating in self-employment assistance programs.
- Definition. (f) SELF-EMPLOYMENT ASSISTANCE PROGRAM.—For purposes of this section, the term “self-employment assistance program” means a program established pursuant to section 3306(t) of the Internal Revenue Code of 1986 (26 U.S.C. 3306(t)), section 208 of the Federal-State Extended Unemployment Compensation Act of 1970, or section 4001(j) of the Supplemental Appropriations Act, 2008, for individuals who are eligible to receive regular unemployment compensation, extended compensation, or emergency unemployment compensation.

**SEC. 2184. DEFINITIONS.**

In this subtitle:

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

(2) STATE; STATE AGENCY.—The terms “State” and “State agency” have the meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## TITLE III—MEDICARE AND OTHER HEALTH PROVISIONS

### Subtitle A—Medicare Extensions

#### SEC. 3001. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111-148), section 102(a) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111-309), and section 302(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended by striking “November 30, 2011” and inserting “March 31, 2012”.

42 USC 1395ww  
note.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of implementation of the amendment made by subsection (a), including for purposes of the implementation of paragraph (2) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), for the period beginning on December 1, 2011, and ending on March 31, 2012, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 18, 2011 (76 Fed. Reg. 51476), and any subsequent corrections.

42 USC 1395ww  
note.  
Time period.

(2) EXCEPTION.—In determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall, for the period described in paragraph (1), include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by subsection (a) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this paragraph shall not be effected in a budget neutral manner.

(c) TIMEFRAME FOR PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make payments required under subsections (a) and (b) by not later than June 30, 2012.

42 USC 1395ww  
note.

(2) OCTOBER 2011 AND NOVEMBER 2011 CONFORMING CHANGE.—Section 302(c) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78) is amended by striking “December 31, 2012” and inserting “June 30, 2012”.

42 USC 1395ww  
note.

**SEC. 3002. EXTENSION OF OUTPATIENT HOLD HARMLESS PAYMENTS.**

(a) **IN GENERAL.**—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 308 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”; and

(B) in the second sentence, by striking “or the first two months of 2012” and inserting “or 2012”; and

(2) in subclause (III), in the first sentence, by striking “March 1, 2012” and inserting “January 1, 2013”.

(b) **REPORT.**—Not later than July 1, 2012, the Secretary of Health and Human Services shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report including recommendations for which types of hospitals should continue to receive hold harmless payments described in subclauses (II) and (III) of section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) in order to maintain adequate beneficiary access to outpatient services. In conducting such report, the Secretary should examine why some similarly situated hospitals do not receive such hold harmless payments and are able to rely only on the prospective payment system for hospital outpatient department services under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

**SEC. 3003. PHYSICIAN PAYMENT UPDATE.**

(a) **IN GENERAL.**—Section 1848(d)(13) of the Social Security Act (42 U.S.C. 1395w-4(d)(13)), as added by section 301 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) in the heading, by striking “FIRST TWO MONTHS OF 2012” and inserting “2012”;

(2) in subparagraph (A), by striking “the period beginning on January 1, 2012, and ending on February 29, 2012” and inserting “2012”;

(3) in the heading of subparagraph (B), by striking “REMAINING PORTION OF 2012” and inserting “2013”; and

(4) in subparagraph (B), by striking “for the period beginning on March 1, 2012, and ending on December 31, 2012, and for 2013” and inserting “for 2013”.

(b) **MANDATED STUDIES ON PHYSICIAN PAYMENT REFORM.**—

(1) **STUDY BY SECRETARY ON OPTIONS FOR BUNDLED OR EPISODE-BASED PAYMENT.**—

(A) **IN GENERAL.**—The Secretary of Health and Human Services shall conduct a study that examines options for bundled or episode-based payments, to cover physicians’ services currently paid under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w-4), for one or more prevalent chronic conditions (such as cancer, diabetes, and congestive heart failure) or episodes of care for one or more major procedures (such as medical device implantation). In conducting the study, the Secretary shall consult with medical professional societies and other relevant stakeholders. The study shall

include an examination of related private payer payment initiatives.

(B) REPORT.—Not later than January 1, 2013, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. The Secretary shall include in the report recommendations on suitable alternative payment options for services paid under such fee schedule and on associated implementation requirements (such as timelines, operational issues, and interactions with other payment reform initiatives).

(2) GAO STUDY OF PRIVATE PAYER INITIATIVES.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study that examines initiatives of private entities offering or administering health insurance coverage, group health plans, or other private health benefit plans to base or adjust physician payment rates under such coverage or plans for performance on quality and efficiency, as well as demonstration of care delivery improvement activities (such as adherence to evidence-based guidelines and patient-shared decision making programs). In conducting such study, the Comptroller General shall consult, to the extent appropriate, with medical professional societies and other relevant stakeholders.

Consultation.

(B) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph. Such report shall include an assessment of the applicability of the payer initiatives described in subparagraph (A) to the Medicare program and recommendations on modifications to existing Medicare performance-based initiatives.

#### **SEC. 3004. WORK GEOGRAPHIC ADJUSTMENT.**

(a) IN GENERAL.—Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)), as amended by section 303 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “before March 1, 2012” and inserting “before January 1, 2013”.

(b) REPORT.—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that assesses whether any adjustment under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) to distinguish the difference in work effort by geographic area is appropriate and, if so, what that level should be and where it should be applied. The report shall also assess the impact of the work geographic adjustment under such section, including the extent to which the floor on such adjustment impacts access to care.

#### **SEC. 3005. PAYMENT FOR OUTPATIENT THERAPY SERVICES.**

(a) APPLICATION OF ADDITIONAL REQUIREMENTS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as

amended by section 304 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112-78), is amended—

(1) by inserting “(A)” after “(5)”;

(2) in the first sentence, by striking “February 29, 2012” and inserting “December 31, 2012”;

(3) in the first sentence, by inserting “and if the requirement of subparagraph (B) is met” after “medically necessary”;

(4) in the second sentence, by inserting “made in accordance with such requirement” after “receipt of the request”; and

(5) by adding at the end the following new subparagraphs:

“(B) In the case of outpatient therapy services for which an exception is requested under the first sentence of subparagraph (A), the claim for such services shall contain an appropriate modifier (such as the KX modifier used as of the date of the enactment of this subparagraph) indicating that such services are medically necessary as justified by appropriate documentation in the medical record involved.

Applicability.  
Time period.  
Review.

“(C)(i) In applying this paragraph with respect to a request for an exception with respect to expenses that would be incurred for outpatient therapy services (including services described in subsection (a)(8)(B)) that would exceed the threshold described in clause (ii) for a year, the request for such an exception, for services furnished on or after October 1, 2012, shall be subject to a manual medical review process that is similar to the manual medical review process used for certain exceptions under this paragraph in 2006.

“(ii) The threshold under this clause for a year is \$3,700. Such threshold shall be applied separately—

“(I) for physical therapy services and speech-language pathology services; and

“(II) for occupational therapy services.”.

(b) TEMPORARY APPLICATION OF THERAPY CAP TO THERAPY FURNISHED AS PART OF HOSPITAL OUTPATIENT SERVICES.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) in each of paragraphs (1) and (3), by striking “but not described in section 1833(a)(8)(B)” and inserting “but (except as provided in paragraph (6)) not described in subsection (a)(8)(B)”; and

(2) by adding at the end the following new paragraph:

Applicability.  
Time period.

“(6) In applying paragraphs (1) and (3) to services furnished during the period beginning not later than October 1, 2012, and ending on December 31, 2012, the exclusion of services described in subsection (a)(8)(B) from the uniform dollar limitation specified in paragraph (2) shall not apply to such services furnished during 2012.”.

(c) REQUIREMENT FOR INCLUSION ON CLAIMS OF NPI OF PHYSICIAN WHO REVIEWS THERAPY PLAN.—Section 1842(t) of such Act (42 U.S.C. 1395u(t)) is amended—

(1) by inserting “(1)” after “(t)”; and

(2) by adding at the end the following new paragraph:

Time period.

“(2) Each request for payment, or bill submitted, for therapy services described in paragraph (1) or (3) of section 1833(g), including services described in section 1833(a)(8)(B), furnished on or after October 1, 2012, for which payment may be made under this part shall include the national provider identifier of the physician who periodically reviews the plan for such services under section 1861(p)(2).”.

(d) IMPLEMENTATION.—The Secretary of Health and Human Services shall implement such claims processing edits and issue such guidance as may be necessary to implement the amendments made by this section in a timely manner. Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction. Of the amount of funds made available to the Secretary for fiscal year 2012 for program management for the Centers for Medicare & Medicaid Services, not to exceed \$9,375,000 shall be available for such fiscal year and the first 3 months of fiscal year 2013 to carry out section 1833(g)(5)(C) of the Social Security Act (relating to manual medical review), as added by subsection (a).

42 USC 1395f  
note.

(e) EFFECTIVE DATE.—The requirement of subparagraph (B) of section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as added by subsection (a), shall apply to services furnished on or after March 1, 2012.

42 USC 1395f  
note.

(f) MEDPAC REPORT ON IMPROVED MEDICARE THERAPY BENEFITS.—Not later than June 15, 2013, the Medicare Payment Advisory Commission shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report making recommendations on how to improve the outpatient therapy benefit under part B of title XVIII of the Social Security Act. The report shall include recommendations on how to reform the payment system for such outpatient therapy services under such part so that the benefit is better designed to reflect individual acuity, condition, and therapy needs of the patient. Such report shall include an examination of private sector initiatives relating to outpatient therapy benefits.

Deadline.

(g) COLLECTION OF ADDITIONAL DATA.—

(1) STRATEGY.—The Secretary of Health and Human Services shall implement, beginning on January 1, 2013, a claims-based data collection strategy that is designed to assist in reforming the Medicare payment system for outpatient therapy services subject to the limitations of section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)). Such strategy shall be designed to provide for the collection of data on patient function during the course of therapy services in order to better understand patient condition and outcomes.

42 USC 1395f  
note.  
Effective date.

(2) CONSULTATION.—In proposing and implementing such strategy, the Secretary shall consult with relevant stakeholders.

(h) GAO REPORT ON MANUAL MEDICAL REVIEW PROCESS IMPLEMENTATION.—Not later than May 1, 2013, the Comptroller General of the United States shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the implementation of the manual medical review process referred to in section 1833(g)(5)(C) of the Social Security Act, as added by subsection (a). Such report shall include aggregate data on the number of individuals and claims subject to such process, the number of reviews conducted under such process, and the outcome of such reviews.

**SEC. 3006. PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.**

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by

section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148), section 105 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), and section 305 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “and the first two months of 2012” and inserting “and the first six months of 2012”.

42 USC 1395w–4  
note.

**SEC. 3007. AMBULANCE ADD-ON PAYMENTS.**

(a) **GROUND AMBULANCE.**—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as amended by section 306(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in the matter preceding clause (i), by striking “March 1, 2012” and inserting “January 1, 2013”; and

(2) in each of clauses (i) and (ii), by striking “March 1, 2012” and inserting “January 1, 2013” each place it appears.

(b) **AIR AMBULANCE.**—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309) and section 306(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “February 29, 2012” and inserting “December 31, 2012”.

42 USC 1395m  
note.

(c) **SUPER RURAL AMBULANCE.**—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)), as amended by section 306(c) of Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended in the first sentence by striking “March 1, 2012” and inserting “January 1, 2013”.

(d) **GAO REPORT UPDATE.**—Not later than October 1, 2012, the Comptroller General of the United States shall update the GAO report GAO–07–383 (relating to Ambulance Providers: Costs and Expected Medicare Margins Vary Greatly) to reflect current costs for ambulance providers.

Study.

(e) **MEDPAC REPORT.**—The Medicare Payment Advisory Commission shall conduct a study of—

(1) the appropriateness of the add-on payments for ambulance providers under paragraphs (12)(A) and (13)(A) of section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) and the treatment of air ambulance providers under section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275);

(2) the effect these add-on payments and such treatment have on the Medicare margins of ambulance providers; and

(3) whether there is a need to reform the Medicare ambulance fee schedule under such section and, if so, what should such reforms be, including whether the add-on payments should be included in the base rate.

Not later than June 15, 2013, the Commission shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report on such study and shall include in the report such recommendations as the Commission deems appropriate.

## Subtitle B—Other Health Provisions

### SEC. 3101. QUALIFYING INDIVIDUAL PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)), as amended by section 310(a) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended by striking “February” and inserting “December”.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)), as amended by section 310(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), is amended—

(1) in paragraph (2)—

(A) in subparagraph (P), by striking “and” after the semicolon;

(B) in subparagraph (Q), by striking “February 29, 2012, the total allocation amount is \$150,000,000.” and inserting “September 30, 2012, the total allocation amount is \$450,000,000; and”; and

(C) by adding at the end the following new subparagraph:

“(R) for the period that begins on October 1, 2012, and ends on December 31, 2012, the total allocation amount is \$280,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (P)” and inserting “(P), or (R)”.

Time period.

### SEC. 3102. TRANSITIONAL MEDICAL ASSISTANCE.

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)), as amended by section 311 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), are each amended by striking “February 29” and inserting “December 31”.

## Subtitle C—Health Offsets

### SEC. 3201. REDUCTION OF BAD DEBT TREATED AS AN ALLOWABLE COST.

(a) HOSPITALS.—Section 1861(v)(1)(T) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)) is amended—

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

(2) in clause (iv)—

(A) by striking “a subsequent fiscal year” and inserting “fiscal years 2001 through 2012”; and

(B) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following:

- “(v) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”.
- Time periods. (b) SKILLED NURSING FACILITIES.—Section 1861(v)(1)(V) of such Act (42 U.S.C. 1395x(v)(1)(V)) is amended—
- (1) in the matter preceding clause (i), by striking “with respect to cost reporting periods beginning on or after October 1, 2005” and inserting “and (beginning with respect to cost reporting periods beginning during fiscal year 2013) for covered skilled nursing services described in section 1888(e)(2)(A) furnished by hospital providers of extended care services (as described in section 1883)”;
- (2) in clause (i), by striking “reduced by” and all that follows through “allowable; and” and inserting the following: “reduced by—
- “(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, 30 percent of such amount otherwise allowable; and
- “(II) for cost reporting periods beginning during fiscal year 2013 or a subsequent fiscal year, by 35 percent of such amount otherwise allowable.”; and
- (3) in clause (ii), by striking “such section shall not be reduced.” and inserting “such section—
- “(I) for cost reporting periods beginning on or after October 1, 2005, but before fiscal year 2013, shall not be reduced;
- “(II) for cost reporting periods beginning during fiscal year 2013, shall be reduced by 12 percent of such amount otherwise allowable;
- “(III) for cost reporting periods beginning during fiscal year 2014, shall be reduced by 24 percent of such amount otherwise allowable; and
- “(IV) for cost reporting periods beginning during a subsequent fiscal year, shall be reduced by 35 percent of such amount otherwise allowable.”.
- (c) CERTAIN OTHER PROVIDERS.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:
- Time periods. “(W)(i) In determining such reasonable costs for providers described in clause (ii), the amount of bad debts otherwise treated as allowable costs which are attributable to deductibles and coinsurance amounts under this title shall be reduced—
- “(I) for cost reporting periods beginning during fiscal year 2013, by 12 percent of such amount otherwise allowable;
- “(II) for cost reporting periods beginning during fiscal year 2014, by 24 percent of such amount otherwise allowable; and
- “(III) for cost reporting periods beginning during a subsequent fiscal year, by 35 percent of such amount otherwise allowable.
- “(ii) A provider described in this clause is a provider of services not described in subparagraph (T) or (V), a supplier, or any other type of entity that receives payment for bad debts under the authority under subparagraph (A).”.
- Time period. 42 USC 1395f note. (d) CONFORMING AMENDMENT FOR HOSPITAL SERVICES.—Section 4008(c) of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1395 note), as amended by section 8402 of the Technical and Miscellaneous Revenue Act of 1988 and section 6023 of the Omnibus Budget Reconciliation Act of 1989, is amended by adding at the

end the following new sentence: “Effective for cost reporting periods beginning on or after October 1, 2012, the provisions of the previous two sentences shall not apply.”.

**SEC. 3202. REBASE MEDICARE CLINICAL LABORATORY PAYMENT RATES.**

Section 1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)) is amended—

(1) in clause (i), by striking “paragraph (4)” and inserting “clause (v), subparagraph (B), and paragraph (4)”;

(2) by moving clause (iv), subclauses (I) and (II) of such clause, and the flush matter at the end of such clause 6 ems to the left; and

(3) by adding at the end the following new clause:

“(v) The Secretary shall reduce by 2 percent the fee schedules otherwise determined under clause (i) for 2013, and such reduced fee schedules shall serve as the base for 2014 and subsequent years.”.

Reduction.

**SEC. 3203. REBASING STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.**

Section 1923(f) of the Social Security Act (42 U.S.C. 1396r–4(f)) is amended—

(1) by redesignating paragraph (8) as paragraph (9);

(2) in paragraph (3)(A) by striking “paragraphs (6) and (7)” and inserting “paragraphs (6), (7), and (8)”;

(3) by inserting after paragraph (7) the following new paragraph:

“(8) REBASING OF STATE DSH ALLOTMENTS FOR FISCAL YEAR 2021.—With respect to fiscal year 2021, for purposes of applying paragraph (3)(A) to determine the DSH allotment for a State, the amount of the DSH allotment for the State under paragraph (3) for fiscal year 2020 shall be equal to the DSH allotment as reduced under paragraph (7).”.

Applicability.

**SEC. 3204. TECHNICAL CORRECTION TO THE DISASTER RECOVERY FMAP PROVISION.**

(a) IN GENERAL.—Section 1905(aa) of the Social Security Act (42 U.S.C. 1396d(aa)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “the Federal medical assistance percentage determined for the fiscal year” and all that follows through the period and inserting “the State’s regular FMAP shall be increased by 50 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year is less than the Federal medical assistance percentage determined for the State for the preceding fiscal year after the application of only subsection (a) of section 5001 of Public Law 111–5 (if applicable to the preceding fiscal year) and without regard to this subsection, subsections (y) and (z), and subsections (b) and (c) of section 5001 of Public Law 111–5.”; and

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the preceding fiscal year” and all that follows through the period and inserting “State’s regular FMAP for such fiscal year shall be increased by 25 percent of the number of percentage points by which the State’s regular FMAP for such fiscal year

is less than the Federal medical assistance percentage received by the State during the preceding fiscal year.”; (2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”; and

(ii) by striking “subsection (y)” and inserting “subsections (y) and (z)”; and

(B) in subparagraph (B), by striking “Federal medical assistance percentage determined for the State for the fiscal year” and all that follows through “Act,” and inserting “State’s regular FMAP for the fiscal year”;

(3) by redesignating paragraph (3) as paragraph (4); and (4) by inserting after paragraph (2) the following:

Definition. “(3) In this subsection, the term ‘regular FMAP’ means, for each fiscal year for which this subsection applies to a State, the Federal medical assistance percentage that would otherwise apply to the State for the fiscal year, as determined under subsection (b) and without regard to this subsection, subsections (y) and (z), and section 10202 of the Patient Protection and Affordable Care Act.”.

42 USC 1396d  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2013.

**SEC. 3205. PREVENTION AND PUBLIC HEALTH FUND.**

Section 4002(b) of the Patient Protection and Affordable Care Act (42 U.S.C. 300u–11(b)) is amended by striking paragraphs (2) through (6) and inserting the following:

“(2) for each of fiscal years 2012 through 2017, \$1,000,000,000;

“(3) for each of fiscal years 2018 and 2019, \$1,250,000,000;

“(4) for each of fiscal years 2020 and 2021, \$1,500,000,000;

and

“(5) for fiscal year 2022, and each fiscal year thereafter, \$2,000,000,000.”.

Welfare Integrity  
and Data  
Improvement  
Act.  
42 USC 1305  
note.

**TITLE IV—TANF EXTENSION**

**SEC. 4001. SHORT TITLE.**

This title may be cited as the “Welfare Integrity and Data Improvement Act”.

**SEC. 4002. EXTENSION OF PROGRAM.**

(a) FAMILY ASSISTANCE GRANTS.—Section 403(a)(1) of the Social Security Act (42 U.S.C. 603(a)(1)) is amended—

(1) in subparagraph (A), by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”;

(2) in subparagraph (B)—

(A) by inserting “(as in effect just before the enactment of the Welfare Integrity and Data Improvement Act)” after “this paragraph” the first place it appears; and

(B) by inserting “(as so in effect)” after “this paragraph” the second place it appears; and

(3) in subparagraph (C), by striking “2003” and inserting “2012”.

(b) **HEALTHY MARRIAGE PROMOTION AND RESPONSIBLE FATHERHOOD GRANTS.**—Section 403(a)(2)(D) of such Act (42 U.S.C. 603(a)(2)(D)) is amended by striking “2011” each place it appears and inserting “2012”.

(c) **MAINTENANCE OF EFFORT REQUIREMENT.**—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(1) in subparagraph (A), by striking “fiscal year” and all that follows through “2013” and inserting “a fiscal year”; and

(2) in subparagraph (B)(ii)—

(A) by striking “for fiscal years 1997 through 2012,”; and

(B) by striking “407(a) for the fiscal year,” and inserting “407(a).”.

(d) **TRIBAL GRANTS.**—Section 412(a) of such Act (42 U.S.C. 612(a)) is amended in each of paragraphs (1)(A) and (2)(A) by striking “each of fiscal years 1997” and all that follows through “2003” and inserting “fiscal year 2012”.

(e) **STUDIES AND DEMONSTRATIONS.**—Section 413(h)(1) of such Act (42 U.S.C. 613(h)(1)) is amended by striking “each of fiscal years 1997 through 2002” and inserting “fiscal year 2012”.

(f) **CENSUS BUREAU STUDY.**—Section 414(b) of such Act (42 U.S.C. 614(b)) is amended by striking “each of fiscal years 1996” and all that follows through “2003” and inserting “fiscal year 2012”.

(g) **CHILD CARE ENTITLEMENT.**—Section 418(a)(3) of such Act (42 U.S.C. 618(a)(3)) is amended by striking “appropriated” and all that follows and inserting “appropriated \$2,917,000,000 for fiscal year 2012.”.

(h) **GRANTS TO TERRITORIES.**—Section 1108(b)(2) of such Act (42 U.S.C. 1308(b)(2)) is amended by striking “fiscal years 1997 through 2003” and inserting “fiscal year 2012”.

(i) **PREVENTION OF DUPLICATE APPROPRIATIONS FOR FISCAL YEAR 2012.**—Expenditures made pursuant to the Short-Term TANF Extension Act (Public Law 112–35) and the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78) for fiscal year 2012 shall be charged to the applicable appropriation or authorization provided by the amendments made by this section for such fiscal year.

(j) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

42 USC 603 note.

**SEC. 4003. DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**

(a) **IN GENERAL.**—Section 411 of the Social Security Act (42 U.S.C. 611) is amended by adding at the end the following:

“(d) **DATA EXCHANGE STANDARDIZATION FOR IMPROVED INTEROPERABILITY.**—

“(1) **DATA EXCHANGE STANDARDS.**—

“(A) **DESIGNATION.**—The Secretary, in consultation with an interagency work group which shall be established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate a data exchange standard for any category of information required to be reported under this part.

Establishment.  
Regulations.

“(B) DATA EXCHANGE STANDARDS MUST BE NONPROPRIETARY AND INTEROPERABLE.—The data exchange standard designated under subparagraph (A) shall, to the extent practicable, be nonproprietary and interoperable.

“(C) OTHER REQUIREMENTS.—In designating data exchange standards under this section, the Secretary shall, to the extent practicable, incorporate—

“(i) interoperable standards developed and maintained by an international voluntary consensus standards body, as defined by the Office of Management and Budget, such as the International Organization for Standardization;

“(ii) interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model; and

“(iii) interoperable standards developed and maintained by Federal entities with authority over contracting and financial assistance, such as the Federal Acquisition Regulatory Council.

“(2) DATA EXCHANGE STANDARDS FOR REPORTING.—

“(A) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and considering State and tribal perspectives, shall, by rule, designate data exchange standards to govern the data reporting required under this part.

“(B) REQUIREMENTS.—The data exchange standards required by subparagraph (A) shall, to the extent practicable—

“(i) incorporate a widely-accepted, nonproprietary, searchable, computer-readable format;

“(ii) be consistent with and implement applicable accounting principles; and

“(iii) be capable of being continually upgraded as necessary.

“(C) INCORPORATION OF NONPROPRIETARY STANDARDS.—In designating reporting standards under this paragraph, the Secretary shall, to the extent practicable, incorporate existing nonproprietary standards, such as the eXtensible Markup Language.”.

Establishment.  
Regulations.

42 USC 611 note.  
Regulations.  
Deadlines.

(b) EFFECTIVE DATES.—

(1) DATA EXCHANGE STANDARDS.—The Secretary of Health and Human Services shall issue a proposed rule under section 411(d)(1) of the Social Security Act within 12 months after the date of the enactment of this section, and shall issue a final rule under such section 411(d)(1), after public comment, within 24 months after such date of enactment.

(2) DATA REPORTING STANDARDS.—The reporting standards required under section 411(d)(2) of such Act shall become effective with respect to reports required in the first reporting period, after the effective date of the final rule referred to in paragraph (1) of this subsection, for which the authority for data collection and reporting is established or renewed under the Paperwork Reduction Act.

**SEC. 4004. SPENDING POLICIES FOR ASSISTANCE UNDER STATE TANF PROGRAMS.**

(a) STATE REQUIREMENT.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(12) STATE REQUIREMENT TO PREVENT UNAUTHORIZED SPENDING OF BENEFITS.—

“(A) IN GENERAL.—A State to which a grant is made under section 403 shall maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in—

“(i) any liquor store;

“(ii) any casino, gambling casino, or gaming establishment; or

“(iii) any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

“(B) DEFINITIONS.—For purposes of subparagraph (A)—

“(i) LIQUOR STORE.—The term ‘liquor store’ means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).

“(ii) CASINO, GAMBLING CASINO, OR GAMING ESTABLISHMENT.—The terms ‘casino’, ‘gambling casino’, and ‘gaming establishment’ do not include—

“(I) a grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

“(II) any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

“(iii) ELECTRONIC BENEFIT TRANSFER TRANSACTION.—The term ‘electronic benefit transfer transaction’ means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.”.

(b) PENALTY.—Section 409(a) of such Act (42 U.S.C. 609(a)) is amended by adding at the end the following:

“(16) PENALTY FOR FAILURE TO ENFORCE SPENDING POLICIES.—

“(A) IN GENERAL.—If, within 2 years after the date of the enactment of this paragraph, any State has not reported to the Secretary on such State’s implementation of the policies and practices required by section 408(a)(12), or the Secretary determines, based on the information provided in State reports, that any State has not implemented and maintained such policies and practices, the Secretary shall reduce, by an amount equal to 5 percent of the

Time period.  
Determination.  
Reduction.

State family assistance grant, the grant payable to such State under section 403(a)(1) for—

“(i) the fiscal year immediately succeeding the year in which such 2-year period ends; and

“(ii) each succeeding fiscal year in which the State does not demonstrate that such State has implemented and maintained such policies and practices.

“(B) REDUCTION OF APPLICABLE PENALTY.—The Secretary may reduce the amount of the reduction required under subparagraph (A) based on the degree of noncompliance of the State.

“(C) STATE NOT RESPONSIBLE FOR INDIVIDUAL VIOLATIONS.—Fraudulent activity by any individual in an attempt to circumvent the policies and practices required by section 408(a)(12) shall not trigger a State penalty under subparagraph (A).”.

(c) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 402(a)(1)(A) of such Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

“(vii) Implement policies and procedures as necessary to prevent access to assistance provided under the State program funded under this part through any electronic fund transaction in an automated teller machine or point-of-sale device located in a place described in section 408(a)(12), including a plan to ensure that recipients of the assistance have adequate access to their cash assistance.

“(viii) Ensure that recipients of assistance provided under the State program funded under this part have access to using or withdrawing assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges, and are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance, and that such information is made publicly available.”.

(d) CONFORMING AMENDMENT.—Section 409(c)(4) of such Act (42 U.S.C. 609(c)(4)) is amended by striking “or (13)” and inserting “(13), or (16)”.

**SEC. 4005. TECHNICAL CORRECTIONS.**

(a) Section 404(d)(1)(A) of the Social Security Act (42 U.S.C. 604(d)(1)(A)) is amended by striking “subtitle 1 of Title” and inserting “Subtitle A of title”.

(b) Sections 407(c)(2)(A)(i) and 409(a)(3)(C) of such Act (42 U.S.C. 607(c)(2)(A)(i) and 609(a)(3)(C)) are each amended by striking “403(b)(6)” and inserting “403(b)(5)”.

(c) Section 409(a)(2)(A) of such Act (42 U.S.C. 609(a)(2)(A)) is amended by moving clauses (i) and (ii) 2 ems to the right.

(d) Section 409(c)(2) of such Act (42 U.S.C. 609(c)(2)) is amended by inserting a comma after “appropriate”.

(e) Section 411(a)(1)(A)(ii)(III) of such Act (42 U.S.C. 611(a)(1)(A)(ii)(III)) is amended by striking the last close parenthesis.

## TITLE V—FEDERAL EMPLOYEES RETIREMENT

### SEC. 5001. INCREASE IN CONTRIBUTIONS TO FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR NEW EMPLOYEES.

(a) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(1) in paragraph (35), by striking “and” at the end;

(2) in paragraph (36), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(37) the term ‘revised annuity employee’ means any individual who—

“(A) on December 31, 2012—

“(i) is not an employee or Member covered under this chapter;

“(ii) is not performing civilian service which is creditable service under section 8411; and

“(iii) has less than 5 years of creditable civilian service under section 8411; and

“(B) after December 31, 2012, becomes employed as an employee or becomes a Member covered under this chapter performing service which is creditable service under section 8411.”

(b) INCREASE IN CONTRIBUTIONS.—Section 8422(a)(3) of title 5, United States Code, is amended—

(1) by striking “The applicable percentage under this paragraph for civilian service” and inserting “(A) The applicable percentage under this paragraph for civilian service by employees or Members other than revised annuity employees”; and

(2) by adding at the end the following:

“(B) The applicable percentage under this paragraph for civilian service by revised annuity employees shall be as follows:

“Employee	9.3	After December 31, 2012.
Congressional employee	9.3	After December 31, 2012.
Member	9.3	After December 31, 2012.
Law enforcement officer, fire-fighter, member of the Capitol Police, member of the Supreme Court Police, or air traffic controller	9.8	After December 31, 2012.
Nuclear materials courier	9.8	After December 31, 2012.
Customs and border protection officer	9.8	After December 31, 2012.”.

(c) REDUCTION IN CONGRESSIONAL ANNUITIES.—

(1) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (d) through (m) as subsections (e) through (n), respectively; and

(B) by inserting after subsection (c) the following:

“(d) Notwithstanding any other provision of law, the annuity of an individual described in subsection (b) or (c) who is a revised annuity employee shall be computed in the same manner as in the case of an individual described in subsection (a).”

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking “section 8415(l)” and inserting “section 8415(m)”.

(B) Section 8452(d)(1) of title 5, United States Code, is amended by striking “subsection (g)” and inserting “subsection (h)”.

(C) Section 8468(b)(1)(A) of title 5, United States Code, is amended by striking “section 8415(a) through (h)” and inserting “section 8415(a) through (i)”.

(D) Section 805(a)(2)(B) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)(B)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

(E) Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended by striking “section 8415(d)” each place it appears and inserting “section 8415(e)”.

(F) Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(b)) is amended—

(i) in paragraph (2)(A), by striking “section 8415(d)(1)” and inserting “section 8415(e)(1)”; and

(ii) in paragraph (5), by striking “section 8415(f)(1)” and inserting “section 8415(g)(1)”.

(G) Section 303(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153(b)(1)) is amended by striking “section 8415(d)” and inserting “section 8415(e)”.

**SEC. 5002. FOREIGN SERVICE PENSION SYSTEM.**

(a) DEFINITION.—Section 852 of the Foreign Service Act of 1980 (22 U.S.C. 4071a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) the term ‘revised annuity participant’ means any individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing service which is creditable service under section 854; and

“(iii) has less than 5 years creditable service under section 854; and

“(B) after December 31, 2012, becomes a participant performing service which is creditable service under section 854.”.

(b) DEDUCTIONS AND WITHHOLDINGS FROM PAY.—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended—

(1) by striking “The applicable percentage under this subsection” and inserting “(A) The applicable percentage for a participant other than a revised annuity participant”; and

(2) by adding at the end the following:

“(B) The applicable percentage for a revised annuity participant shall be as follows:

“9.85 ..... After December 31, 2012”.

**SEC. 5003. CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.**

Section 211(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2021(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and  
 (2) by striking paragraphs (1) and (2) and inserting the following:

“(1) DEFINITION.—In this subsection, the term ‘revised annuity participant’ means an individual who—

“(A) on December 31, 2012—

“(i) is not a participant;

“(ii) is not performing qualifying service; and

“(iii) has less than 5 years of qualifying service;

and

“(B) after December 31, 2012, becomes a participant performing qualifying service.

“(2) CONTRIBUTIONS.—

“(A) IN GENERAL.—Except as provided in subsection (d), 7 percent of the basic pay received by a participant other than a revised annuity participant for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

“(B) REVISED ANNUITY PARTICIPANTS.—Except as provided in subsection (d), 9.3 percent of the basic pay received by a revised annuity participant for any pay period shall be deducted and withheld from the pay of that revised annuity participant and contributed to the fund.

“(3) AGENCY CONTRIBUTIONS.—

“(A) IN GENERAL.—An amount equal to 7 percent of the basic pay received by a participant other than a revised annuity participant shall be contributed to the fund for a pay period for the participant from the appropriation or fund which is used for payment of the participant’s basic pay.

“(B) REVISED ANNUITY PARTICIPANTS.—An amount equal to 4.7 percent of the basic pay received by a revised annuity participant shall be contributed to the fund for a pay period for the revised annuity participant from the appropriation or fund which is used for payment of the revised annuity participant’s basic pay.”.

## TITLE VI—PUBLIC SAFETY COMMUNICATIONS AND ELECTROMAGNETIC SPECTRUM AUCTIONS

### SEC. 6001. DEFINITIONS.

47 USC 1401.

In this title:

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

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

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

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

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

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

(5) BOARD.—The term “Board” means the Board of the First Responder Network Authority established under section 6204(b).

(6) BROADCAST TELEVISION LICENSEE.—The term “broadcast television licensee” means the licensee of—

(A) a full-power television station; or

(B) a low-power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(7) BROADCAST TELEVISION SPECTRUM.—The term “broadcast television spectrum” means the portions of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, from 174 megahertz to 216 megahertz, and from 470 megahertz to 698 megahertz.

(8) COMMERCIAL MOBILE DATA SERVICE.—The term “commercial mobile data service” means any mobile service (as defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)) that is—

(A) a data service;

(B) provided for profit; and

(C) available to the public or such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission.

(9) COMMERCIAL MOBILE SERVICE.—The term “commercial mobile service” has the meaning given such term in section 332 of the Communications Act of 1934 (47 U.S.C. 332).

(10) COMMERCIAL STANDARDS.—The term “commercial standards” means the technical standards followed by the commercial mobile service and commercial mobile data service industries for network, device, and Internet Protocol connectivity. Such term includes standards developed by the Third Generation Partnership Project (3GPP), the Institute of Electrical and Electronics Engineers (IEEE), the Alliance for Telecommunications Industry Solutions (ATIS), the Internet Engineering Task Force (IETF), and the International Telecommunication Union (ITU).

(11) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(12) CORE NETWORK.—The term “core network” means the core network described in section 6202(b)(1).

(13) EMERGENCY CALL.—The term “emergency call” means any real-time communication with a public safety answering point or other emergency management or response agency, including—

(A) through voice, text, or video and related data; and

(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

(14) **EXISTING PUBLIC SAFETY BROADBAND SPECTRUM.**—The term “existing public safety broadband spectrum” means the portion of the electromagnetic spectrum between the frequencies—

- (A) from 763 megahertz to 768 megahertz;
- (B) from 793 megahertz to 798 megahertz;
- (C) from 768 megahertz to 769 megahertz; and
- (D) from 798 megahertz to 799 megahertz.

(15) **FIRST RESPONDER NETWORK AUTHORITY.**—The term “First Responder Network Authority” means the First Responder Network Authority established under section 6204.

(16) **FORWARD AUCTION.**—The term “forward auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(c).

(17) **INCENTIVE AUCTION.**—The term “incentive auction” means a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

(18) **INTEROPERABILITY BOARD.**—The term “Interoperability Board” means the Technical Advisory Board for First Responder Interoperability established under section 6203.

(19) **MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTOR.**—The term “multichannel video programming distributor” has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

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

(21) **NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—The term “nationwide public safety broadband network” means the nationwide, interoperable public safety broadband network described in section 6202.

(22) **NEXT GENERATION 9–1–1 SERVICES.**—The term “Next Generation 9–1–1 services” means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

- (A) provides standardized interfaces from emergency call and message services to support emergency communications;
- (B) processes all types of emergency calls, including voice, text, data, and multimedia information;
- (C) acquires and integrates additional emergency call data useful to call routing and handling;
- (D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;
- (E) supports data or video communications needs for coordinated incident response and management; and
- (F) provides broadband service to public safety answering points or other first responder entities.

(23) **NIST.**—The term “NIST” means the National Institute of Standards and Technology.

(24) **NTIA.**—The term “NTIA” means the National Telecommunications and Information Administration.

(25) **PUBLIC SAFETY ANSWERING POINT.**—The term “public safety answering point” has the meaning given such term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

(26) **PUBLIC SAFETY ENTITY.**—The term “public safety entity” means an entity that provides public safety services.

(27) **PUBLIC SAFETY SERVICES.**—The term “public safety services”—

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

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

(28) **PUBLIC SAFETY TRUST FUND.**—The term “Public Safety Trust Fund” means the trust fund established under section 6413(a)(1).

(29) **RADIO ACCESS NETWORK.**—The term “radio access network” means the radio access network described in section 6202(b)(2).

(30) **REVERSE AUCTION.**—The term “reverse auction” means the portion of an incentive auction of broadcast television spectrum under section 6403(a), in which a broadcast television licensee may submit bids stating the amount it would accept for voluntarily relinquishing some or all of its broadcast television spectrum usage rights.

(31) **STATE.**—The term “State” has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(32) **ULTRA HIGH FREQUENCY.**—The term “ultra high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 470 megahertz to 698 megahertz.

(33) **VERY HIGH FREQUENCY.**—The term “very high frequency” means, with respect to a television channel, that the channel is located in the portion of the electromagnetic spectrum between the frequencies from 54 megahertz to 72 megahertz, from 76 megahertz to 88 megahertz, or from 174 megahertz to 216 megahertz.

47 USC 1402.

**SEC. 6002. RULE OF CONSTRUCTION.**

Each range of frequencies described in this title shall be construed to be inclusive of the upper and lower frequencies in the range.

47 USC 1403.

**SEC. 6003. ENFORCEMENT.**

(a) **IN GENERAL.**—The Commission shall implement and enforce this title as if this title is a part of the Communications Act of 1934 (47 U.S.C. 151 et seq.). A violation of this title, or a regulation promulgated under this title, shall be considered to be a violation of the Communications Act of 1934, or a regulation promulgated under such Act, respectively.

(b) **EXCEPTIONS.**—

(1) **OTHER AGENCIES.**—Subsection (a) does not apply in the case of a provision of this title that is expressly required to be carried out by an agency (as defined in section 551 of title 5, United States Code) other than the Commission.

(2) **NTIA REGULATIONS.**—The Assistant Secretary may promulgate such regulations as are necessary to implement and enforce any provision of this title that is expressly required to be carried out by the Assistant Secretary.

**SEC. 6004. NATIONAL SECURITY RESTRICTIONS ON USE OF FUNDS AND AUCTION PARTICIPATION.** 47 USC 1404.

(a) **USE OF FUNDS.**—No funds made available by subtitle B or C may be used to make payments under a contract to a person described in subsection (c).

(b) **AUCTION PARTICIPATION.**—A person described in subsection (c) may not participate in a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j))—

(1) that is required to be conducted by this title; or

(2) in which any spectrum usage rights for which licenses are being assigned were made available under clause (i) of subparagraph (G) of paragraph (8) of such section, as added by section 6402.

(c) **PERSON DESCRIBED.**—A person described in this subsection is a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant.

## **Subtitle A—Reallocation of Public Safety Spectrum**

**SEC. 6101. REALLOCATION OF D BLOCK TO PUBLIC SAFETY.** 47 USC 1411.

(a) **IN GENERAL.**—The Commission shall reallocate the 700 MHz D block spectrum for use by public safety entities in accordance with the provisions of this Act.

(b) **SPECTRUM ALLOCATION.**—Section 337(a) of the Communications Act of 1934 (47 U.S.C. 337(a)) is amended—

(1) by striking “24” in paragraph (1) and inserting “34”; and

(2) by striking “36” in paragraph (2) and inserting “26”.

**SEC. 6102. FLEXIBLE USE OF NARROWBAND SPECTRUM.** 47 USC 1412.

The Commission may allow the narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require.

**SEC. 6103. 470–512 MHZ PUBLIC SAFETY SPECTRUM.** 47 USC 1413.

(a) **IN GENERAL.**—Not later than 9 years after the date of enactment of this title, the Commission shall—

(1) reallocate the spectrum in the 470–512 MHz band (referred to in this section as the “T-Band spectrum”) currently used by public safety eligibles as identified in section 90.303 of title 47, Code of Federal Regulations; and

(2) begin a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum described in paragraph (1).

(b) **AUCTION PROCEEDS.**—Proceeds (including deposits and upfront payments from successful bidders) from the competitive bidding system described in subsection (a)(2) shall be available Grants.

to the Assistant Secretary to make grants in such sums as necessary to cover relocation costs for the relocation of public safety entities from the T-Band spectrum.

Deadline.

(c) RELOCATION.—Relocation shall be completed not later than 2 years after the date on which the system of competitive bidding described in subsection (a)(2) is completed.

## **Subtitle B—Governance of Public Safety Spectrum**

47 USC 1421.

### **SEC. 6201. SINGLE PUBLIC SAFETY WIRELESS NETWORK LICENSEE.**

(a) REALLOCATION AND GRANT OF LICENSE.—Notwithstanding any other provision of law, and subject to the provisions of this Act, the Commission shall reallocate and grant a license to the First Responder Network Authority for the use of the 700 MHz D block spectrum and existing public safety broadband spectrum.

(b) TERM OF LICENSE.—

(1) INITIAL LICENSE.—The license granted under subsection (a) shall be for an initial term of 10 years from the date of the initial issuance of the license.

(2) RENEWAL OF LICENSE.—Prior to expiration of the term of the initial license granted under subsection (a) or the expiration of any subsequent renewal of such license, the First Responder Network Authority shall submit to the Commission an application for the renewal of such license. Such renewal application shall demonstrate that, during the preceding license term, the First Responder Network Authority has met the duties and obligations set forth under this Act. A renewal license granted under this paragraph shall be for a term of not to exceed 10 years.

(c) FACILITATION OF TRANSITION.—The Commission shall take all actions necessary to facilitate the transition of the existing public safety broadband spectrum to the First Responder Network Authority.

47 USC 1422.

### **SEC. 6202. PUBLIC SAFETY BROADBAND NETWORK.**

(a) ESTABLISHMENT.—The First Responder Network Authority shall ensure the establishment of a nationwide, interoperable public safety broadband network.

(b) NETWORK COMPONENTS.—The nationwide public safety broadband network shall be based on a single, national network architecture that evolves with technological advancements and initially consists of—

(1) a core network that—

(A) consists of national and regional data centers, and other elements and functions that may be distributed geographically, all of which shall be based on commercial standards; and

(B) provides the connectivity between—

(i) the radio access network; and

(ii) the public Internet or the public switched network, or both; and

(2) a radio access network that—

(A) consists of all cell site equipment, antennas, and backhaul equipment, based on commercial standards, that

are required to enable wireless communications with devices using the public safety broadband spectrum; and

(B) shall be developed, constructed, managed, maintained, and operated taking into account the plans developed in the State, local, and tribal planning and implementation grant program under section 6302(a).

**SEC. 6203. PUBLIC SAFETY INTEROPERABILITY BOARD.**

47 USC 1423.

(a) **ESTABLISHMENT.**—There is established within the Commission an advisory board to be known as the “Technical Advisory Board for First Responder Interoperability”.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—

(A) **VOTING MEMBERS.**—Not later than 30 days after the date of enactment of this title, the Chairman of the Commission shall appoint 14 voting members to the Interoperability Board, of which—

(i) 4 members shall be representatives of wireless providers, of which—

(I) 2 members shall be representatives of national wireless providers;

(II) 1 member shall be a representative of regional wireless providers; and

(III) 1 member shall be a representative of rural wireless providers;

(ii) 3 members shall be representatives of equipment manufacturers;

(iii) 4 members shall be representatives of public safety entities, of which—

(I) not less than 1 member shall be a representative of management level employees of public safety entities; and

(II) not less than 1 member shall be a representative of employees of public safety entities;

(iv) 3 members shall be representatives of State and local governments, chosen to reflect geographic and population density differences across the United States; and

(v) all members shall have specific expertise necessary to developing technical requirements under this section, such as technical expertise, public safety communications expertise, and commercial network experience.

(B) **NON-VOTING MEMBER.**—The Assistant Secretary shall appoint 1 non-voting member to the Interoperability Board.

(2) **PERIOD OF APPOINTMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph

(B), members of the Interoperability Board shall be appointed for the life of the Interoperability Board.

(B) **REMOVAL FOR CAUSE.**—A member of the Interoperability Board may be removed for cause upon the determination of the Chairman of the Commission.

(3) **VACANCIES.**—Any vacancy in the Interoperability Board shall not affect the powers of the Interoperability Board, and shall be filled in the same manner as the original appointment.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Interoperability Board shall select a Chairperson and Vice Chairperson from among the members of the Interoperability Board.

(5) QUORUM.—A majority of the members of the Interoperability Board shall constitute a quorum.

(c) DUTIES OF THE INTEROPERABILITY BOARD.—

Deadline.

(1) DEVELOPMENT OF TECHNICAL REQUIREMENTS.—Not later than 90 days after the date of enactment of this Act, the Interoperability Board, in consultation with the NTIA, NIST, and the Office of Emergency Communications of the Department of Homeland Security, shall—

(A) develop recommended minimum technical requirements to ensure a nationwide level of interoperability for the nationwide public safety broadband network; and

(B) submit to the Commission for review in accordance with paragraph (3) recommended minimum technical requirements described in subparagraph (A).

(2) CONSIDERATION.—In developing recommended minimum technical requirements under paragraph (1), the Interoperability Board shall base the recommended minimum technical requirements on the commercial standards for Long Term Evolution (LTE) service.

(3) APPROVAL OF RECOMMENDATIONS.—

Deadline.

(A) IN GENERAL.—Not later than 30 days after the date on which the Interoperability Board submits recommended minimum technical requirements under paragraph (1)(B), the Commission shall approve the recommendations, with any revisions it deems necessary, and transmit such recommendations to the First Responder Network Authority.

(B) REVIEW.—Any actions taken under subparagraph (A) shall not be reviewable as a final agency action.

(d) TRAVEL EXPENSES.—The members of the Interoperability Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Interoperability Board.

(e) EXEMPTION FROM FACCA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Interoperability Board.

(f) TERMINATION OF AUTHORITY.—The Interoperability Board shall terminate 15 days after the date on which the Commission transmits the recommendations to the First Responder Network Authority under subsection (c)(3)(A).

47 USC 1424.

**SEC. 6204. ESTABLISHMENT OF THE FIRST RESPONDER NETWORK AUTHORITY.**

(a) ESTABLISHMENT.—There is established as an independent authority within the NTIA the “First Responder Network Authority” or “FirstNet”.

(b) BOARD.—

(1) IN GENERAL.—The First Responder Network Authority shall be headed by a Board, which shall consist of—

(A) the Secretary of Homeland Security;

(B) the Attorney General of the United States;

(C) the Director of the Office of Management and Budget; and

(D) 12 individuals appointed by the Secretary of Commerce in accordance with paragraph (2).

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall—

(i) appoint not fewer than 3 individuals to represent the collective interests of the States, localities, tribes, and territories;

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

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

(iv) appoint not fewer than 3 individuals who have served as public safety professionals.

(B) REQUIRED QUALIFICATIONS.—

(i) IN GENERAL.—Each member appointed under paragraph (1)(D) should meet not less than 1 of the following criteria:

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

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

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

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

(ii) EXPERTISE TO BE REPRESENTED.—In making appointments under paragraph (1)(D), the Secretary of Commerce shall appoint—

(I) not fewer than 1 individual who satisfies the requirement under subclause (II) of clause (i);

(II) not fewer than 1 individual who satisfies the requirement under subclause (III) of clause (i); and

(III) not fewer than 1 individual who satisfies the requirement under subclause (IV) of clause (i).

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

(c) TERMS OF APPOINTMENT.—

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

(2) TERMS.—

(A) LENGTH.—

(i) IN GENERAL.—Each member of the Board described in subparagraphs (A) through (C) of subsection (b)(1) shall serve as a member of the Board for the life of the First Responder Network Authority.

(ii) APPOINTED INDIVIDUALS.—The term of office of each individual appointed to be a member of the Board under subsection (b)(1)(D) shall be 3 years. No

member described in this clause may serve more than 2 consecutive full 3-year terms.

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

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

(D) STAGGERED TERMS.—With respect to the initial members of the Board appointed under subsection (b)(1)(D)—

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

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

and

(iii) 4 members shall serve for a term of 1 year.

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

(d) CHAIR.—

(1) SELECTION.—The Secretary of Commerce shall select, from among the members of the Board appointed under subsection (b)(1)(D), an individual to serve for a 2-year term as Chair of the Board.

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

(e) MEETINGS.—

(1) FREQUENCY.—The Board shall meet—

(A) at the call of the Chair; and

(B) not less frequently than once each quarter.

(2) TRANSPARENCY.—Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the First Responder Network Authority, including pending or potential litigation.

(f) QUORUM.—Eight members of the Board shall constitute a quorum, including at least 6 of the members appointed under subsection (b)(1)(D).

(g) COMPENSATION.—

(1) IN GENERAL.—The members of the Board appointed under subsection (b)(1)(D) shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such members are engaged in performing a function of the Board.

(2) PROHIBITION ON COMPENSATION.—A member of the Board appointed under subparagraphs (A) through (C) of subsection (b)(1) shall serve without additional pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the First Responder Network Authority, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away

from the home or regular place of business of the member in the performance of the duties of the First Responder Network Authority.

**SEC. 6205. ADVISORY COMMITTEES OF THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1425.

(a) **ADVISORY COMMITTEES.**—The First Responder Network Authority—

(1) shall establish a standing public safety advisory committee to assist the First Responder Network Authority in carrying out its duties and responsibilities under this subtitle; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the First Responder Network Authority determines are necessary.

(b) **SELECTION OF AGENTS, CONSULTANTS, AND EXPERTS.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall select parties to serve as its agents, consultants, or experts in a fair, transparent, and objective manner, and such agents may include a program manager to carry out certain of the duties and responsibilities of deploying and operating the nationwide public safety broadband network described in subsections (b) and (c) of section 6206.

(2) **BINDING AND FINAL.**—If the selection of an agent, consultant, or expert satisfies the requirements under paragraph (1), the selection of that agent, consultant, or expert shall be final and binding.

**SEC. 6206. POWERS, DUTIES, AND RESPONSIBILITIES OF THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1426.

(a) **GENERAL POWERS.**—The First Responder Network Authority shall have the authority to do the following:

(1) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this subtitle, and such incidental powers as shall be necessary.

(2) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the First Responder Network Authority considers necessary to carry out its responsibilities and duties.

(3) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies.

(4) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the First Responder Network Authority.

(5) To spend funds under paragraph (3) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this title.

(6) To take such other actions as the First Responder Network Authority (through the Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this title.

(b) **DUTY AND RESPONSIBILITY TO DEPLOY AND OPERATE A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**—

(1) **IN GENERAL.**—The First Responder Network Authority shall hold the single public safety wireless license granted

under section 6201 and take all actions necessary to ensure the building, deployment, and operation of the nationwide public safety broadband network, in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 6205(a), including by, at a minimum—

(A) ensuring nationwide standards for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network that use, without materially changing, the minimum technical requirements developed under section 6203;

(C) encouraging that such requests leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and

(D) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network.

(2) REQUIREMENTS.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the First Responder Network Authority shall—

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyberattack;

(B) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment for use on the network be—

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band; and

(iii) backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable;

(C) promote integration of the network with public safety answering points or their equivalent; and

(D) address special considerations for areas or regions with unique homeland security or national security needs.

(3) RURAL COVERAGE.—In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the nationwide, interoperable public safety broadband network, consistent with the license granted under section 6201, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network. To the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployment in rural areas.

(4) EXECUTION OF AUTHORITY.—In carrying out the duties and responsibilities of this subsection, the First Responder Network Authority may—

(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the First Responder Network Authority in carrying out such duties and responsibilities;

(C) receive payment for use of—

(i) network capacity licensed to the First Responder Network Authority; and

(ii) network infrastructure constructed, owned, or operated by the First Responder Network Authority; and

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) OTHER SPECIFIC DUTIES AND RESPONSIBILITIES.—

(1) ESTABLISHMENT OF NETWORK POLICIES.—In carrying out the requirements under subsection (b), the First Responder Network Authority shall develop—

(A) requests for proposals with appropriate—

(i) timetables for construction, including by taking into consideration the time needed to build out to rural areas and the advantages offered through partnerships with existing commercial providers under paragraph (3);

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical and operational requirements of the network;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ongoing compliance review and monitoring of the—

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network; and

(iii) necessary training needs of network operators and users.

(2) STATE AND LOCAL PLANNING.—

(A) REQUIRED CONSULTATION.—In developing requests for proposals and otherwise carrying out its responsibilities under this Act, the First Responder Network Authority shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the—

(i) construction of a core network and any radio access network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

(iv) adequacy of hardening, security, reliability, and resiliency requirements;

(v) assignment of priority to local users;

(vi) assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network established under subsection (b); and

(vii) training needs of local users.

(B) METHOD OF CONSULTATION.—The consultation required under subparagraph (A) shall occur between the First Responder Network Authority and the single officer or governmental body designated under section 6302(d).

Contracts.

(3) LEVERAGING EXISTING INFRASTRUCTURE.—In carrying out the requirement under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing—

(A) commercial or other communications infrastructure; and

(B) Federal, State, tribal, or local infrastructure.

(4) MAINTENANCE AND UPGRADES.—The First Responder Network Authority shall ensure the maintenance, operation, and improvement of the nationwide public safety broadband network, including by ensuring that the First Responder Network Authority updates and revises any policies established under paragraph (1) to take into account new and evolving technologies.

(5) ROAMING AGREEMENTS.—The First Responder Network Authority shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety broadband network to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

Lists.

(6) NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.—The Director of NIST, in consultation with the First Responder Network Authority and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols and standards for public safety entities and commercial vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety broadband network.

(7) REPRESENTATION BEFORE STANDARD SETTING ENTITIES.—The First Responder Network Authority, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 6205(a), shall represent the interests of public safety users of the nationwide public safety broadband network before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity addresses the development of standards relating to interoperability.

(8) PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.—The First Responder Network Authority shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

(d) **EXEMPTION FROM CERTAIN LAWS.**—Any action taken or decisions made by the First Responder Network Authority shall be exempt from the requirements of—

(1) section 3506 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act);

(2) chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act); and

(3) chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act).

(e) **NETWORK CONSTRUCTION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “Network Construction Fund”.

(2) **USE OF FUND.**—Amounts deposited into the Network Construction Fund shall be used by the—

(A) First Responder Network Authority to carry out this section, except for administrative expenses; and

(B) NTIA to make grants to States under section 6302(e)(3)(C)(iii)(I).

(f) **TERMINATION OF AUTHORITY.**—The authority of the First Responder Network Authority shall terminate on the date that is 15 years after the date of enactment of this title.

(g) **GAO REPORT.**—Not later than 10 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on what action Congress should take regarding the 15-year sunset of authority under subsection (f).

**SEC. 6207. INITIAL FUNDING FOR THE FIRST RESPONDER NETWORK AUTHORITY.** 47 USC 1427.

(a) **BORROWING AUTHORITY.**—Prior to the deposit of proceeds into the Public Safety Trust Fund from the incentive auctions to be carried out under section 309(j)(8)(G) of the Communications Act of 1934 or the auction of spectrum pursuant to section 6401, the NTIA may borrow from the Treasury such sums as may be necessary, but not to exceed \$2,000,000,000, to implement this subtitle. The NTIA shall reimburse the Treasury, without interest, from funds deposited into the Public Safety Trust Fund.

Reimbursement.

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—Administrative expenses of the First Responder Network Authority may not exceed \$100,000,000 during the 10-year period beginning on the date of enactment of this title.

Time period.

(2) **DEFINITION.**—For purposes of this subsection, the term “administrative expenses” does not include the costs incurred by the First Responder Network Authority for oversight and audits to protect against waste, fraud, and abuse.

**SEC. 6208. PERMANENT SELF-FUNDING; DUTY TO ASSESS AND COLLECT FEES FOR NETWORK USE.** 47 USC 1428.

(a) **IN GENERAL.**—Notwithstanding section 337 of the Communications Act of 1934 (47 U.S.C. 337), the First Responder Network Authority is authorized to assess and collect the following fees:

(1) **NETWORK USER FEE.**—A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety broadband network.

(2) **LEASE FEES RELATED TO NETWORK CAPACITY.**—

- (A) **IN GENERAL.**—A fee from any entity that seeks to enter into a covered leasing agreement.
- Definition. (B) **COVERED LEASING AGREEMENT.**—For purposes of subparagraph (A), a “covered leasing agreement” means a written agreement resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network between the First Responder Network Authority and secondary user to permit—
- (i) access to network capacity on a secondary basis for non-public safety services; and
  - (ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.
- (3) **LEASE FEES RELATED TO NETWORK EQUIPMENT AND INFRASTRUCTURE.**—A fee from any entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the First Responder Network Authority resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network.
- (b) **ESTABLISHMENT OF FEE AMOUNTS; PERMANENT SELF-FUNDING.**—The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the First Responder Network Authority in carrying out its duties and responsibilities described under this subtitle for the fiscal year involved.
- Review. (c) **ANNUAL APPROVAL.**—The NTIA shall review the fees assessed under this section on an annual basis, and such fees may only be assessed if approved by the NTIA.
- (d) **REQUIRED REINVESTMENT OF FUNDS.**—The First Responder Network Authority shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable broadband network by using such funds only for constructing, maintaining, operating, or improving the network.
- 47 USC 1429. **SEC. 6209. AUDIT AND REPORT.**
- (a) **AUDIT.**—
- (1) **IN GENERAL.**—The Secretary of Commerce shall enter into a contract with an independent auditor to conduct an audit, on an annual basis, of the First Responder Network Authority in accordance with general accounting principles and procedures applicable to commercial corporate transactions. Each audit conducted under this paragraph shall be made available to the appropriate committees of Congress.
  - (2) **LOCATION.**—Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the First Responder Network Authority are normally kept.
  - (3) **ACCESS TO FIRST RESPONDER NETWORK AUTHORITY BOOKS AND DOCUMENTS.**—
    - (A) **IN GENERAL.**—For purposes of an audit conducted under paragraph (1), the representatives of the independent auditor shall—
      - (i) have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the First Responder Network

Authority that pertain to the financial transactions of the First Responder Network Authority and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) REQUIREMENT.—All books, accounts, records, reports, files, papers, and property of the First Responder Network Authority shall remain in the possession and custody of the First Responder Network Authority.

(b) REPORT.—

(1) IN GENERAL.—The independent auditor selected to conduct an audit under this section shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the First Responder Network Authority.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain—

(A) such comments and information as the independent auditor determines necessary to inform Congress of the financial operations and condition of the First Responder Network Authority;

(B) any recommendations of the independent auditor relating to the financial operations and condition of the First Responder Network Authority; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the First Responder Network Authority that was observed during the course of the audit, which, in the opinion of the independent auditor, has been carried on or made without the authority of law.

**SEC. 6210. ANNUAL REPORT TO CONGRESS.**

47 USC 1430.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the First Responder Network Authority shall submit an annual report covering the preceding fiscal year to the appropriate committees of Congress.

(b) REQUIRED CONTENT.—The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the First Responder Network Authority under this section; and

(2) such recommendations or proposals for legislative or administrative action as the First Responder Network Authority deems appropriate.

(c) AVAILABILITY TO TESTIFY.—The members of the Board and employees of the First Responder Network Authority shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit conducted under section 6210;

or

(3) any other matter which such committees may determine appropriate.

47 USC 1431.

**SEC. 6211. PUBLIC SAFETY ROAMING AND PRIORITY ACCESS.**

The Commission may adopt rules, if necessary in the public interest, to improve the ability of public safety networks to roam onto commercial networks and to gain priority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

47 USC 1432.

**SEC. 6212. PROHIBITION ON DIRECT OFFERING OF COMMERCIAL TELECOMMUNICATIONS SERVICE DIRECTLY TO CONSUMERS.**

(a) **IN GENERAL.**—The First Responder Network Authority shall not offer, provide, or market commercial telecommunications or information services directly to consumers.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the First Responder Network Authority and a secondary user from entering into a covered leasing agreement pursuant to section 6208(a)(2)(B). Nothing in this section shall be construed to limit the First Responder Network Authority from collecting lease fees related to network equipment and infrastructure pursuant to section 6208(a)(3).

47 USC 1433.

**SEC. 6213. PROVISION OF TECHNICAL ASSISTANCE.**

The Commission may provide technical assistance to the First Responder Network Authority and may take any action necessary to assist the First Responder Network Authority in effectuating its duties and responsibilities under this subtitle.

## Subtitle C—Public Safety Commitments

47 USC 1441.

**SEC. 6301. STATE AND LOCAL IMPLEMENTATION FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the State and Local Implementation Fund.

(b) **AMOUNTS AVAILABLE FOR STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.**—Any amounts borrowed under subsection (c)(1) and any amounts in the State and Local Implementation Fund that are not necessary to reimburse the general fund of the Treasury for such borrowed amounts shall be available to the Assistant Secretary to implement section 6302.

(c) **BORROWING AUTHORITY.**—

(1) **IN GENERAL.**—Prior to the end of fiscal year 2022, the Assistant Secretary may borrow from the general fund of the Treasury such sums as may be necessary, but not to exceed \$135,000,000, to implement section 6302.

(2) **REIMBURSEMENT.**—The Assistant Secretary shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under paragraph (1) as funds are deposited into the State and Local Implementation Fund.

(d) **TRANSFER OF UNUSED FUNDS.**—If there is a balance remaining in the State and Local Implementation Fund on September 30, 2022, the Secretary of the Treasury shall transfer such balance to the general fund of the Treasury, where such balance shall be dedicated for the sole purpose of deficit reduction.

**SEC. 6302. STATE AND LOCAL IMPLEMENTATION.**

47 USC 1442.

(a) **ESTABLISHMENT OF STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.**—The Assistant Secretary, in consultation with the First Responder Network Authority, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, and other needs.

(b) **MATCHING REQUIREMENTS; FEDERAL SHARE.**—

(1) **IN GENERAL.**—The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the First Responder Network Authority.

(2) **WAIVER.**—The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) **PROGRAMMATIC REQUIREMENTS.**—Not later than 6 months after the date of enactment of this Act, the Assistant Secretary, in consultation with the First Responder Network Authority, shall establish requirements relating to the grant program to be carried out under this section, including the following:

Deadline.

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) **CERTIFICATION AND DESIGNATION OF OFFICER OR GOVERNMENTAL BODY.**—In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

(e) **STATE NETWORK.**—

(1) **NOTICE.**—Upon the completion of the request for proposal process conducted by the First Responder Network Authority for the construction, operation, maintenance, and improvement of the nationwide public safety broadband network, the First Responder Network Authority shall provide to the Governor of each State, or his designee—

(A) notice of the completion of the request for proposal process;

(B) details of the proposed plan for buildout of the nationwide, interoperable broadband network in such State; and

(C) the funding level for the State as determined by the NTIA.

(2) **STATE DECISION.**—Not later than 90 days after the date on which the Governor of a State receives notice under paragraph (1), the Governor shall choose whether to—

Deadline.

(A) participate in the deployment of the nationwide, interoperable broadband network as proposed by the First Responder Network Authority; or

(B) conduct its own deployment of a radio access network in such State.

(3) PROCESS.—

Notification.

(A) IN GENERAL.—Upon making a decision to opt-out under paragraph (2)(B), the Governor shall notify the First Responder Network Authority, the NTIA, and the Commission of such decision.

Deadline.

(B) STATE REQUEST FOR PROPOSALS.—Not later than 180 days after the date on which a Governor provides notice under subparagraph (A), the Governor shall develop and complete requests for proposals for the construction, maintenance, and operation of the radio access network within the State.

(C) SUBMISSION AND APPROVAL OF ALTERNATIVE PLAN.—

(i) IN GENERAL.—The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission, and such plan shall demonstrate—

(I) that the State will be in compliance with the minimum technical interoperability requirements developed under section 6203; and

(II) interoperability with the nationwide public safety broadband network.

(ii) COMMISSION APPROVAL OR DISAPPROVAL.—Upon submission of a State plan under clause (i), the Commission shall either approve or disapprove the plan.

(iii) APPROVAL.—If the Commission approves a plan under this subparagraph, the State—

(I) may apply to the NTIA for a grant to construct the radio access network within the State that includes the showing described in subparagraph (D); and

(II) shall apply to the NTIA to lease spectrum capacity from the First Responder Network Authority.

(iv) DISAPPROVAL.—If the Commission disapproves a plan under this subparagraph, the construction, maintenance, operation, and improvements of the network within the State shall proceed in accordance with the plan proposed by the First Responder Network Authority.

(D) FUNDING REQUIREMENTS.—In order to obtain grant funds and spectrum capacity leasing rights under subparagraph (C)(iii), a State shall demonstrate—

(i) that the State has—

(I) the technical capabilities to operate, and the funding to support, the State radio access network;

(II) has the ability to maintain ongoing interoperability with the nationwide public safety broadband network; and

(III) the ability to complete the project within specified comparable timelines specific to the State;

(ii) the cost-effectiveness of the State plan submitted under subparagraph (C)(i); and

(iii) comparable security, coverage, and quality of service to that of the nationwide public safety broadband network.

(f) **USER FEES.**—If a State chooses to build its own radio access network, the State shall pay any user fees associated with State use of elements of the core network.

(g) **PROHIBITION.**—

(1) **IN GENERAL.**—A State that chooses to build its own radio access network shall not provide commercial service to consumers or offer wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit the State and a secondary user from entering into a covered leasing agreement. Any revenue gained by the State from such a leasing agreement shall be used only for constructing, maintaining, operating, or improving the radio access network of the State.

(h) **JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—The United States District Court for the District of Columbia shall have exclusive jurisdiction to review a decision of the Commission made under subsection (e)(3)(C)(iv).

(2) **STANDARD OF REVIEW.**—The court shall affirm the decision of the Commission unless—

(A) the decision was procured by corruption, fraud, or undue means;

(B) there was actual partiality or corruption in the Commission; or

(C) the Commission was guilty of misconduct in refusing to hear evidence pertinent and material to the decision or of any other misbehavior by which the rights of any party have been prejudiced.

**SEC. 6303. PUBLIC SAFETY WIRELESS COMMUNICATIONS RESEARCH AND DEVELOPMENT.** 47 USC 1443.

(a) **NIST DIRECTED RESEARCH AND DEVELOPMENT PROGRAM.**—From amounts made available from the Public Safety Trust Fund, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) **REQUIRED ACTIVITIES.**—In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the First Responder Network Authority and the public safety advisory committee established under section 6205(a), shall—

(1) document public safety wireless communications technical requirements;

(2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety broadband network;

(3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;

(4) accelerate the development of mission critical voice, including device-to-device “talkaround” capability over broadband networks, public safety prioritization, authentication capabilities, and standard application programming interfaces for the nationwide public safety broadband network, if necessary and practical;

(5) accelerate the development of communications technology and equipment that can facilitate the eventual migration of public safety narrowband communications to the nationwide public safety broadband network; and

(6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

## Subtitle D—Spectrum Auction Authority

47 USC 1451.

### SEC. 6401. DEADLINES FOR AUCTION OF CERTAIN SPECTRUM.

(a) CLEARING CERTAIN FEDERAL SPECTRUM.—

President.

(1) IN GENERAL.—The President shall—

(A) not later than 3 years after the date of the enactment of this Act, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum described in paragraph (2); and

Notification.

(B) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

(2) SPECTRUM DESCRIBED.—The electromagnetic spectrum described in this paragraph is the 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz identified under paragraph (3).

Reports.

(3) IDENTIFICATION BY SECRETARY OF COMMERCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the President a report identifying 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz for reallocation from Federal use to non-Federal use.

(b) REALLOCATION AND AUCTION.—

(1) IN GENERAL.—Notwithstanding paragraph (15)(A) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)), not later than 3 years after the date of the enactment of this Act, the Commission shall, except as provided in paragraph (4)—

(A) allocate the spectrum described in paragraph (2) for commercial use; and

(B) through a system of competitive bidding under such section, grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

(2) SPECTRUM DESCRIBED.—The spectrum described in this paragraph is the following:

(A) The frequencies between 1915 megahertz and 1920 megahertz.

(B) The frequencies between 1995 megahertz and 2000 megahertz.

(C) The frequencies described in subsection (a)(2).

(D) The frequencies between 2155 megahertz and 2180 megahertz.

(E) Fifteen megahertz of contiguous spectrum to be identified by the Commission.

(3) PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(4) DETERMINATION BY COMMISSION.—If the Commission determines that the band of frequencies described in paragraph (2)(A) or the band of frequencies described in paragraph (2)(B) cannot be used without causing harmful interference to commercial mobile service licensees in the frequencies between 1930 megahertz and 1995 megahertz, the Commission may not—

(A) allocate such band for commercial use under paragraph (1)(A); or

(B) grant licenses under paragraph (1)(B) for the use of such band.

(c) AUCTION PROCEEDS.—Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) in subparagraph (A), by striking “(D), and (E),” and inserting “(D), (E), (F), and (G),”;

(2) in subparagraph (C)(i), by striking “subparagraph (E)(ii)” and inserting “subparagraphs (D)(ii), (E)(ii), (F), and (G);”;

(3) in subparagraph (D)—

(A) by striking the heading and inserting “PROCEEDS FROM REALLOCATED FEDERAL SPECTRUM.—”;

(B) by striking “Cash” and inserting the following:  
“(i) IN GENERAL.—Except as provided in clause (ii), cash”; and

(C) by adding at the end the following:

“(ii) CERTAIN OTHER PROCEEDS.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), in the case of proceeds (including deposits and upfront payments from successful bidders) attributable to the auction of eligible frequencies described in paragraph (2) of section 113(g) of the National Telecommunications and Information Administration Organization Act that are required to be auctioned by section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012, such portion of such proceeds as is necessary to cover the relocation or sharing costs (as defined in paragraph (3) of such section 113(g)) of Federal entities relocated from such eligible frequencies shall be deposited in the Spectrum Relocation Fund. The remainder of such proceeds shall

be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of the Middle Class Tax Relief and Job Creation Act of 2012.”; and

(4) by adding at the end the following:

“(F) CERTAIN PROCEEDS DESIGNATED FOR PUBLIC SAFETY TRUST FUND.—Notwithstanding subparagraph (A) and except as provided in subparagraphs (B) and (D)(ii), the proceeds (including deposits and upfront payments from successful bidders) from the use of a system of competitive bidding under this subsection pursuant to section 6401(b)(1)(B) of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the Public Safety Trust Fund established by section 6413(a)(1) of such Act.”.

**SEC. 6402. GENERAL AUTHORITY FOR INCENTIVE AUCTIONS.**

Section 309(j)(8) of the Communications Act of 1934, as amended by section 6401(c), is further amended by adding at the end the following:

“(G) INCENTIVE AUCTIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the Commission may encourage a licensee to relinquish voluntarily some or all of its licensed spectrum usage rights in order to permit the assignment of new initial licenses subject to flexible-use service rules by sharing with such licensee a portion, based on the value of the relinquished rights as determined in the reverse auction required by clause (ii)(I), of the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection.

“(ii) LIMITATIONS.—The Commission may not enter into an agreement for a licensee to relinquish spectrum usage rights in exchange for a share of auction proceeds under clause (i) unless—

“(I) the Commission conducts a reverse auction to determine the amount of compensation that licensees would accept in return for voluntarily relinquishing spectrum usage rights; and

“(II) at least two competing licensees participate in the reverse auction.

“(iii) TREATMENT OF REVENUES.—Notwithstanding subparagraph (A) and except as provided in subparagraph (B), the proceeds (including deposits and upfront payments from successful bidders) from any auction, prior to the end of fiscal year 2022, of spectrum usage rights made available under clause (i) that are not shared with licensees under such clause shall be deposited as follows:

“(I) \$1,750,000,000 of the proceeds from the incentive auction of broadcast television spectrum required by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 shall be deposited in the TV Broadcaster Relocation Fund established by subsection (d)(1) of such section.

“(II) All other proceeds shall be deposited—

“(aa) prior to the end of fiscal year 2022, in the Public Safety Trust Fund established by section 6413(a)(1) of such Act; and

“(bb) after the end of fiscal year 2022, in the general fund of the Treasury, where such proceeds shall be dedicated for the sole purpose of deficit reduction.

“(iv) CONGRESSIONAL NOTIFICATION.—At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission, in consultation with the Director of the Office of Management and Budget, shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).

“(v) DEFINITION.—In this subparagraph, the term ‘appropriate committees of Congress’ means—

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

“(II) the Committee on Appropriations of the Senate;

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

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

**SEC. 6403. SPECIAL REQUIREMENTS FOR INCENTIVE AUCTION OF BROADCAST TV SPECTRUM.** 47 USC 1452.

(a) REVERSE AUCTION TO IDENTIFY INCENTIVE AMOUNT.—

(1) IN GENERAL.—The Commission shall conduct a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402.

Determination.

(2) ELIGIBLE RELINQUISHMENTS.—A relinquishment of usage rights for purposes of paragraph (1) shall include the following:

(A) Relinquishing all usage rights with respect to a particular television channel without receiving in return any usage rights with respect to another television channel.

(B) Relinquishing all usage rights with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel.

(C) Relinquishing usage rights in order to share a television channel with another licensee.

(3) CONFIDENTIALITY.—The Commission shall take all reasonable steps necessary to protect the confidentiality of Commission-held data of a licensee participating in the reverse auction under paragraph (1), including withholding the identity of such licensee until the reassignments and reallocations (if any) under subsection (b)(1)(B) become effective, as described in subsection (f)(2).

(4) PROTECTION OF CARRIAGE RIGHTS OF LICENSEES SHARING A CHANNEL.—A broadcast television station that voluntarily relinquishes spectrum usage rights under this subsection in order to share a television channel and that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at such location if it were not sharing a channel.

(b) REORGANIZATION OF BROADCAST TV SPECTRUM.—

(1) IN GENERAL.—For purposes of making available spectrum to carry out the forward auction under subsection (c)(1), the Commission—

(A) shall evaluate the broadcast television spectrum (including spectrum made available through the reverse auction under subsection (a)(1)); and

(B) may, subject to international coordination along the border with Mexico and Canada—

(i) make such reassignments of television channels as the Commission considers appropriate; and

(ii) reallocate such portions of such spectrum as the Commission determines are available for reallocation.

(2) FACTORS FOR CONSIDERATION.—In making any reassignments or reallocations under paragraph (1)(B), the Commission shall make all reasonable efforts to preserve, as of the date of the enactment of this Act, the coverage area and population served of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.

(3) NO INVOLUNTARY RELOCATION FROM UHF TO VHF.—In making any reassignments under paragraph (1)(B)(i), the Commission may not involuntarily reassign a broadcast television licensee—

(A) from an ultra high frequency television channel to a very high frequency television channel; or

(B) from a television channel between the frequencies from 174 megahertz to 216 megahertz to a television channel between the frequencies from 54 megahertz to 88 megahertz.

(4) PAYMENT OF RELOCATION COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from amounts made available under subsection (d)(2), the Commission shall reimburse costs reasonably incurred by—

(i) a broadcast television licensee that was reassigned under paragraph (1)(B)(i) from one ultra high frequency television channel to a different ultra high frequency television channel, from one very high frequency television channel to a different very high frequency television channel, or, in accordance with subsection (g)(1)(B), from a very high frequency television channel to an ultra high frequency television channel, in order for the licensee to relocate its television service from one channel to the other;

(ii) a multichannel video programming distributor in order to continue to carry the signal of a broadcast television licensee that—

(I) is described in clause (i);

(II) voluntarily relinquishes spectrum usage rights under subsection (a) with respect to an ultra high frequency television channel in return for receiving usage rights with respect to a very high frequency television channel; or

(III) voluntarily relinquishes spectrum usage rights under subsection (a) to share a television channel with another licensee; or

(iii) a channel 37 incumbent user, in order to relocate to other suitable spectrum, provided that all such users can be relocated and that the total relocation costs of such users do not exceed \$300,000,000. For the purpose of this section, the spectrum made available through relocation of channel 37 incumbent users shall be deemed as spectrum reclaimed through a reverse auction under section 6403(a).

(B) REGULATORY RELIEF.—In lieu of reimbursement for relocation costs under subparagraph (A), a broadcast television licensee may accept, and the Commission may grant as it considers appropriate, a waiver of the service rules of the Commission to permit the licensee, subject to interference protections, to make flexible use of the spectrum assigned to the licensee to provide services other than broadcast television services. Such waiver shall only remain in effect while the licensee provides at least 1 broadcast television program stream on such spectrum at no charge to the public. Waiver.

(C) LIMITATION.—The Commission may not make reimbursements under subparagraph (A) for lost revenues.

(D) DEADLINE.—The Commission shall make all reimbursements required by subparagraph (A) not later than the date that is 3 years after the completion of the forward auction under subsection (c)(1).

(5) LOW-POWER TELEVISION USAGE RIGHTS.—Nothing in this subsection shall be construed to alter the spectrum usage rights of low-power television stations.

(c) FORWARD AUCTION.—

(1) AUCTION REQUIRED.—The Commission shall conduct a forward auction in which—

(A) the Commission assigns licenses for the use of the spectrum that the Commission reallocates under subsection (b)(1)(B)(ii); and

(B) the amount of the proceeds that the Commission shares under clause (i) of section 309(j)(8)(G) of the Communications Act of 1934 with each licensee whose bid the Commission accepts in the reverse auction under subsection (a)(1) is not less than the amount of such bid.

(2) MINIMUM PROCEEDS.—

(A) IN GENERAL.—If the amount of the proceeds from the forward auction under paragraph (1) is not greater than the sum described in subparagraph (B), no licenses shall be assigned through such forward auction, no reassignments or reallocations under subsection (b)(1)(B)

shall become effective, and the Commission may not revoke any spectrum usage rights by reason of a bid that the Commission accepts in the reverse auction under subsection (a)(1).

(B) **SUM DESCRIBED.**—The sum described in this subparagraph is the sum of—

(i) the total amount of compensation that the Commission must pay successful bidders in the reverse auction under subsection (a)(1);

(ii) the costs of conducting such forward auction that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)); and

(iii) the estimated costs for which the Commission is required to make reimbursements under subsection (b)(4)(A).

(C) **ADMINISTRATIVE COSTS.**—The amount of the proceeds from the forward auction under paragraph (1) that the salaries and expenses account of the Commission is required to retain under section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) shall be sufficient to cover the costs incurred by the Commission in conducting the reverse auction under subsection (a)(1), conducting the evaluation of the broadcast television spectrum under subparagraph (A) of subsection (b)(1), and making any reassignments or reallocations under subparagraph (B) of such subsection, in addition to the costs incurred by the Commission in conducting such forward auction.

(3) **FACTOR FOR CONSIDERATION.**—In conducting the forward auction under paragraph (1), the Commission shall consider assigning licenses that cover geographic areas of a variety of different sizes.

(d) **TV BROADCASTER RELOCATION FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the TV Broadcaster Relocation Fund.

(2) **PAYMENT OF RELOCATION COSTS.**—Any amounts borrowed under paragraph (3)(A) and any amounts in the TV Broadcaster Relocation Fund that are not necessary for reimbursement of the general fund of the Treasury for such borrowed amounts shall be available to the Commission to make the payments required by subsection (b)(4)(A).

(3) **BORROWING AUTHORITY.**—

(A) **IN GENERAL.**—Beginning on the date when any reassignments or reallocations under subsection (b)(1)(B) become effective, as provided in subsection (f)(2), and ending when \$1,000,000,000 has been deposited in the TV Broadcaster Relocation Fund, the Commission may borrow from the Treasury of the United States an amount not to exceed \$1,000,000,000 to use toward the payments required by subsection (b)(4)(A).

(B) **REIMBURSEMENT.**—The Commission shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under subparagraph (A) as funds are deposited into the TV Broadcaster Relocation Fund.

Effective date.  
Termination  
date.

(4) TRANSFER OF UNUSED FUNDS.—If any amounts remain in the TV Broadcaster Relocation Fund after the date that is 3 years after the completion of the forward auction under subsection (c)(1), the Secretary of the Treasury shall—

(A) prior to the end of fiscal year 2022, transfer such amounts to the Public Safety Trust Fund established by section 6413(a)(1); and

(B) after the end of fiscal year 2022, transfer such amounts to the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(e) NUMERICAL LIMITATION ON AUCTIONS AND REORGANIZATION.—The Commission may not complete more than one reverse auction under subsection (a)(1) or more than one reorganization of the broadcast television spectrum under subsection (b).

(f) TIMING.—

(1) CONTEMPORANEOUS AUCTIONS AND REORGANIZATION PERMITTED.—The Commission may conduct the reverse auction under subsection (a)(1), any reassignments or reallocations under subsection (b)(1)(B), and the forward auction under subsection (c)(1) on a contemporaneous basis.

(2) EFFECTIVENESS OF REASSIGNMENTS AND REALLOCATIONS.—Notwithstanding paragraph (1), no reassignments or reallocations under subsection (b)(1)(B) shall become effective until the completion of the reverse auction under subsection (a)(1) and the forward auction under subsection (c)(1), and, to the extent practicable, all such reassignments and reallocations shall become effective simultaneously.

(3) DEADLINE.—The Commission may not conduct the reverse auction under subsection (a)(1) or the forward auction under subsection (c)(1) after the end of fiscal year 2022.

(4) LIMIT ON DISCRETION REGARDING AUCTION TIMING.—Section 309(j)(15)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(15)(A)) shall not apply in the case of an auction conducted under this section.

(g) LIMITATION ON REORGANIZATION AUTHORITY.—

(1) IN GENERAL.—During the period described in paragraph (2), the Commission may not—

(A) involuntarily modify the spectrum usage rights of a broadcast television licensee or reassign such a licensee to another television channel except—

(i) in accordance with this section; or

(ii) in the case of a violation by such licensee of the terms of its license or a specific provision of a statute administered by the Commission, or a regulation of the Commission promulgated under any such provision; or

(B) reassign a broadcast television licensee from a very high frequency television channel to an ultra high frequency television channel, unless—

(i) such a reassignment will not decrease the total amount of ultra high frequency spectrum made available for reallocation under this section; or

(ii) a request from such licensee for the reassignment was pending at the Commission on May 31, 2011.

(2) PERIOD DESCRIBED.—The period described in this paragraph is the period beginning on the date of the enactment of this Act and ending on the earliest of—

(A) the first date when the reverse auction under subsection (a)(1), the reassignments and reallocations (if any) under subsection (b)(1)(B), and the forward auction under subsection (c)(1) have been completed;

(B) the date of a determination by the Commission that the amount of the proceeds from the forward auction under subsection (c)(1) is not greater than the sum described in subsection (c)(2)(B); or

(C) September 30, 2022.

(h) PROTEST RIGHT INAPPLICABLE.—The right of a licensee to protest a proposed order of modification of its license under section 316 of the Communications Act of 1934 (47 U.S.C. 316) shall not apply in the case of a modification made under this section.

(i) COMMISSION AUTHORITY.—Nothing in subsection (b) shall be construed to—

(1) expand or contract the authority of the Commission, except as otherwise expressly provided; or

(2) prevent the implementation of the Commission’s “White Spaces” Second Report and Order and Memorandum Opinion and Order (FCC 08–260, adopted November 4, 2008) in the spectrum that remains allocated for broadcast television use after the reorganization required by such subsection.

**SEC. 6404. CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.**

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

“(17) CERTAIN CONDITIONS ON AUCTION PARTICIPATION PROHIBITED.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Commission may not prevent a person from participating in a system of competitive bidding under this subsection if such person—

“(i) complies with all the auction procedures and other requirements to protect the auction process established by the Commission; and

“(ii) either—

“(I) meets the technical, financial, character, and citizenship qualifications that the Commission may require under section 303(l)(1), 308(b), or 310 to hold a license; or

“(II) would meet such license qualifications by means approved by the Commission prior to the grant of the license.

“(B) CLARIFICATION OF AUTHORITY.—Nothing in subparagraph (A) affects any authority the Commission has to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition.”.

**SEC. 6405. EXTENSION OF AUCTION AUTHORITY.**

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking “2012” and inserting “2022”.

**SEC. 6406. UNLICENSED USE IN THE 5 GHZ BAND.**

47 USC 1453.

**(a) MODIFICATION OF COMMISSION REGULATIONS TO ALLOW CERTAIN UNLICENSED USE.—**

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 1 year after the date of the enactment of this Act, the Commission shall begin a proceeding to modify part 15 of title 47, Code of Federal Regulations, to allow unlicensed U–NII devices to operate in the 5350–5470 MHz band.

Deadline.

(2) **REQUIRED DETERMINATIONS.**—The Commission may make the modification described in paragraph (1) only if the Commission, in consultation with the Assistant Secretary, determines that—

(A) licensed users will be protected by technical solutions, including use of existing, modified, or new spectrum-sharing technologies and solutions, such as dynamic frequency selection; and

(B) the primary mission of Federal spectrum users in the 5350–5470 MHz band will not be compromised by the introduction of unlicensed devices.

**(b) STUDY BY NTIA.—**

(1) **IN GENERAL.**—The Assistant Secretary, in consultation with the Department of Defense and other impacted agencies, shall conduct a study evaluating known and proposed spectrum-sharing technologies and the risk to Federal users if unlicensed U–NII devices were allowed to operate in the 5350–5470 MHz band and in the 5850–5925 MHz band.

(2) **SUBMISSION.**—The Assistant Secretary shall submit to the Commission and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

Reports.  
Deadlines.

(A) not later than 8 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5350–5470 MHz band; and

(B) not later than 18 months after the date of the enactment of this Act, a report on the portion of the study required by paragraph (1) with respect to the 5850–5925 MHz band.

**(c) DEFINITIONS.—In this section:**

(1) **5350–5470 MHZ BAND.**—The term “5350–5470 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5350 megahertz to 5470 megahertz.

(2) **5850–5925 MHZ BAND.**—The term “5850–5925 MHz band” means the portion of the electromagnetic spectrum between the frequencies from 5850 megahertz to 5925 megahertz.

**SEC. 6407. GUARD BANDS AND UNLICENSED USE.**

47 USC 1454.

(a) **IN GENERAL.**—Nothing in subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402, or in section 6403 shall be construed to prevent the Commission from using relinquished or other spectrum to implement band plans with guard bands.

(b) **SIZE OF GUARD BANDS.**—Such guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands.

- Determination.
- (c) UNLICENSED USE IN GUARD BANDS.—The Commission may permit the use of such guard bands for unlicensed use.
- (d) DATABASE.—Unlicensed use shall rely on a database or subsequent methodology as determined by the Commission.
- (e) PROTECTIONS AGAINST HARMFUL INTERFERENCE.—The Commission may not permit any use of a guard band that the Commission determines would cause harmful interference to licensed services.

**SEC. 6408. STUDY ON RECEIVER PERFORMANCE AND SPECTRUM EFFICIENCY.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to consider efforts to ensure that each transmission system is designed and operated so that reasonable use of adjacent spectrum does not excessively impair the functioning of such system.

(b) REQUIRED CONSIDERATIONS.—In conducting the study required by subsection (a), the Comptroller General shall consider—

(1) the value of—

(A) improving receiver performance as it relates to increasing spectral efficiency;

(B) improving the operation of services that are located in adjacent spectrum; and

(C) narrowing the guard bands between adjacent spectrum use;

(2) the role of manufacturers, commercial licensees, and government users with respect to their transmission systems and the use of adjacent spectrum;

(3) the feasibility of industry self-compliance with respect to the design and operational requirements of transmission systems and the reasonable use of adjacent spectrum; and

(4) the value of action by the Commission and the Assistant Secretary to establish, by rule, technical requirements or standards for non-Federal and Federal use, respectively, with respect to the reasonable use of portions of the radio spectrum that are adjacent to each other.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) TRANSMISSION SYSTEM DEFINED.—In this section, the term “transmission system” means any telecommunications, broadcast, satellite, commercial mobile service, or other communications system that employs radio spectrum.

47 USC 1455.

**SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.**

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

Definition.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any

request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS.—Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY.—

(1) GRANT.—If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) APPLICATION.—The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) FEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) EXCEPTIONS.—The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)—

- (i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and
- (ii) in the interest of expanding wireless and broadband coverage.

(4) USE OF FEES COLLECTED.—Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall—

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on

Deadline.

rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) **APPLICABILITY.**—The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) **APPLICATION.**—The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) **EXECUTIVE AGENCY DEFINED.**—In this section, the term “executive agency” has the meaning given such term in section 102 of title 40, United States Code.

**SEC. 6410. FUNCTIONAL RESPONSIBILITY OF NTIA TO ENSURE EFFICIENT USE OF SPECTRUM.**

Section 103(b)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(2)) is amended by adding at the end the following:

“(U) The responsibility to promote the best possible and most efficient use of electromagnetic spectrum resources across the Federal Government, subject to and consistent with the needs and missions of Federal agencies.”.

47 USC 1456.

Deadline.

**SEC. 6411. SYSTEM CERTIFICATION.**

Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall update and revise section 33.4 of OMB Circular A–11 to reflect the recommendations regarding such Circular made in the Commerce Spectrum Management Advisory Committee Incentive Subcommittee report, adopted January 11, 2011.

**SEC. 6412. DEPLOYMENT OF 11 GHZ, 18 GHZ, AND 23 GHZ MICROWAVE BANDS.**

(a) **FCC REPORT ON REJECTION RATE.**—Not later than 9 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the rejection rate for the spectrum described in subsection (c).

(b) **GAO STUDY ON DEPLOYMENT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to assess whether the spectrum described in subsection (c) is being deployed in such a manner that, in areas with high demand for common carrier licenses for the use of such spectrum, market forces—

(A) provide adequate incentive for the efficient use of such spectrum; and

(B) ensure that the Federal Government receives maximum revenue for such spectrum through competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(2) FACTORS FOR CONSIDERATION.—In conducting the study required by paragraph (1), the Comptroller General shall take into consideration—

(A) spectrum that is adjacent to the spectrum described in subsection (c) and that was assigned through competitive bidding under section 309(j) of the Communications Act of 1934; and

(B) the rejection rate for the spectrum described in subsection (c), current as of the time of the assessment and as projected for the future, in markets in which there is a high demand for common carrier licenses for the use of such spectrum.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study required by paragraph (1) to—

(A) the Commission; and

(B) the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) SPECTRUM DESCRIBED.—The spectrum described in this subsection is the portions of the electromagnetic spectrum between the frequencies from 10,700 megahertz to 11,700 megahertz, from 17,700 megahertz to 19,700 megahertz, and from 21,200 megahertz to 23,600 megahertz.

(d) REJECTION RATE DEFINED.—In this section, the term “rejection rate” means the number and percent of applications (whether made to the Commission or to a third-party coordinator) for common carrier use of spectrum that were not granted because of lack of availability of such spectrum or interference concerns of existing licensees.

(e) NO ADDITIONAL FUNDS AUTHORIZED.—Funds necessary to carry out this section shall be derived from funds otherwise authorized to be appropriated.

**SEC. 6413. PUBLIC SAFETY TRUST FUND.**

47 USC 1457.

(a) ESTABLISHMENT OF PUBLIC SAFETY TRUST FUND.—

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

(2) AVAILABILITY.—Amounts deposited in the Public Safety Trust Fund shall remain available through fiscal year 2022. Any amounts remaining in the Fund after the end of such fiscal year shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(b) USE OF FUND.—As amounts are deposited in the Public Safety Trust Fund, such amounts shall be used to make the following deposits or payments in the following order of priority:

(1) REPAYMENT OF AMOUNT BORROWED FOR FIRST RESPONDER NETWORK AUTHORITY.—An amount not to exceed \$2,000,000,000 shall be available to the NTIA to reimburse the general fund of the Treasury for any amounts borrowed under section 6207.

(2) STATE AND LOCAL IMPLEMENTATION FUND.—\$135,000,000 shall be deposited in the State and Local Implementation Fund established by section 6301.

(3) BUILDOUT BY FIRST RESPONDER NETWORK AUTHORITY.—\$7,000,000,000, reduced by the amount borrowed under section 6207, shall be deposited in the Network Construction Fund established by section 6206.

(4) PUBLIC SAFETY RESEARCH.—\$100,000,000 shall be available to the Director of NIST to carry out section 6303.

(5) DEFICIT REDUCTION.—\$20,400,000,000 shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.

(6) 9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION GRANTS.—\$115,000,000 shall be available to the Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration to carry out the grant program under section 158 of the National Telecommunications and Information Administration Organization Act, as amended by section 6503 of this title.

(7) ADDITIONAL PUBLIC SAFETY RESEARCH.—\$200,000,000 shall be available to the Director of NIST to carry out section 6303.

(8) ADDITIONAL DEFICIT REDUCTION.—Any remaining amounts deposited in the Public Safety Trust Fund shall be deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction.

(c) INVESTMENT.—Amounts in the Public Safety Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be credited to, and become a part of, the Fund.

**SEC. 6414. STUDY ON EMERGENCY COMMUNICATIONS BY AMATEUR RADIO AND IMPEDIMENTS TO AMATEUR RADIO COMMUNICATIONS.**

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commission, in consultation with the Office of Emergency Communications in the Department of Homeland Security, shall—

(1) complete a study on the uses and capabilities of amateur radio service communications in emergencies and disaster relief; and

Reports.

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of such study.

(b) CONTENTS.—The study required by subsection (a) shall include—

(1)(A) a review of the importance of emergency amateur radio service communications relating to disasters, severe weather, and other threats to lives and property in the United States; and

(B) recommendations for—

(i) enhancements in the voluntary deployment of amateur radio operators in disaster and emergency communications and disaster relief efforts; and

- (ii) improved integration of amateur radio operators in the planning and furtherance of initiatives of the Federal Government; and
- (2)(A) an identification of impediments to enhanced amateur radio service communications, such as the effects of unreasonable or unnecessary private land use restrictions on residential antenna installations; and
- (B) recommendations regarding the removal of such impediments.
- (c) EXPERTISE.—In conducting the study required by subsection (a), the Commission shall use the expertise of stakeholder entities and organizations, including the amateur radio, emergency response, and disaster communications communities.

## Subtitle E—Next Generation 9-1-1 Advancement Act of 2012

Next Generation  
9-1-1  
Advancement Act  
of 2012.

### SEC. 6501. SHORT TITLE.

This subtitle may be cited as the “Next Generation 9-1-1 Advancement Act of 2012”.

47 USC 1401  
note.

### SEC. 6502. DEFINITIONS.

In this subtitle, the following definitions shall apply:

(1) 9-1-1 SERVICES AND E9-1-1 SERVICES.—The terms “9-1-1 services” and “E9-1-1 services” shall have the meaning given those terms in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

(2) MULTI-LINE TELEPHONE SYSTEM.—The term “multi-line telephone system” or “MLTS” means a system comprised of common control units, telephone sets, control hardware and software and adjunct systems, including network and premises based systems, such as Centrex and VoIP, as well as PBX, Hybrid, and Key Telephone Systems (as classified by the Commission under part 68 of title 47, Code of Federal Regulations), and includes systems owned or leased by governmental agencies and non-profit entities, as well as for profit businesses.

(3) OFFICE.—The term “Office” means the 9-1-1 Implementation Coordination Office established under section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), as amended by this subtitle.

47 USC 1471.

### SEC. 6503. COORDINATION OF 9-1-1 IMPLEMENTATION.

Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended to read as follows:

#### “SEC. 158. COORDINATION OF 9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION.

“(a) 9-1-1 IMPLEMENTATION COORDINATION OFFICE.—

“(1) ESTABLISHMENT AND CONTINUATION.—The Assistant Secretary and the Administrator of the National Highway Traffic Safety Administration shall—

“(A) establish and further a program to facilitate coordination and communication between Federal, State,

and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of 9-1-1 services; and

“(B) establish a 9-1-1 Implementation Coordination Office to implement the provisions of this section.

“(2) MANAGEMENT PLAN.—

“(A) DEVELOPMENT.—The Assistant Secretary and the Administrator shall develop a management plan for the grant program established under this section, including by developing—

“(i) plans related to the organizational structure of such program; and

“(ii) funding profiles for each fiscal year of the duration of such program.

Deadline.

“(B) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of the Next Generation 9-1-1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall submit the management plan developed under subparagraph (A) to—

“(i) the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

“(ii) the Committees on Energy and Commerce and Appropriations of the House of Representatives.

“(3) PURPOSE OF OFFICE.—The Office shall—

“(A) take actions, in concert with coordinators designated in accordance with subsection (b)(3)(A)(ii), to improve coordination and communication with respect to the implementation of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services;

“(B) develop, collect, and disseminate information concerning practices, procedures, and technology used in the implementation of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services;

“(C) advise and assist eligible entities in the preparation of implementation plans required under subsection (b)(3)(A)(iii);

“(D) receive, review, and recommend the approval or disapproval of applications for grants under subsection (b); and

“(E) oversee the use of funds provided by such grants in fulfilling such implementation plans.

“(4) REPORTS.—The Assistant Secretary and the Administrator shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services.

“(b) 9-1-1, E9-1-1, AND NEXT GENERATION 9-1-1 IMPLEMENTATION GRANTS.—

“(1) MATCHING GRANTS.—The Assistant Secretary and the Administrator, acting through the Office, shall provide grants to eligible entities for—

“(A) the implementation and operation of 9-1-1 services, E9-1-1 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 9-1-1 services and applications;

“(B) the implementation of IP-enabled emergency services and applications enabled by Next Generation 9-1-1 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and

“(C) training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 9-1-1 services.

“(2) MATCHING REQUIREMENT.—The Federal share of the cost of a project eligible for a grant under this section shall not exceed 60 percent.

“(3) COORDINATION REQUIRED.—In providing grants under paragraph (1), the Assistant Secretary and the Administrator shall require an eligible entity to certify in its application that—

Certification.

“(A) in the case of an eligible entity that is a State government, the entity—

“(i) has coordinated its application with the public safety answering points located within the jurisdiction of such entity;

“(ii) has designated a single officer or governmental body of the entity to serve as the coordinator of implementation of 9-1-1 services, except that such designation need not vest such coordinator with direct legal authority to implement 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services or to manage emergency communications operations;

“(iii) has established a plan for the coordination and implementation of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services; and

“(iv) has integrated telecommunications services involved in the implementation and delivery of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services; or

“(B) in the case of an eligible entity that is not a State, the entity has complied with clauses (i), (iii), and (iv) of subparagraph (A), and the State in which it is located has complied with clause (ii) of such subparagraph.

“(4) CRITERIA.—Not later than 120 days after the date of enactment of the Next Generation 9-1-1 Advancement Act of 2012, the Assistant Secretary and the Administrator shall issue regulations, after providing the public with notice and an opportunity to comment, prescribing the criteria for selection for grants under this section. The criteria shall include performance requirements and a timeline for completion of any project to be financed by a grant under this section. The Assistant Secretary and the Administrator shall update such regulations as necessary.

Deadline.  
Regulations.  
Public comments.

“(c) DIVERSION OF 9-1-1 CHARGES.—

“(1) DESIGNATED 9-1-1 CHARGES.—For the purposes of this subsection, the term ‘designated 9-1-1 charges’ means any

Definition.

taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

Time period.

“(2) CERTIFICATION.—Each applicant for a matching grant under this section shall certify to the Assistant Secretary and the Administrator at the time of application, and each applicant that receives such a grant shall certify to the Assistant Secretary and the Administrator annually thereafter during any period of time during which the funds from the grant are available to the applicant, that no portion of any designated 9-1-1 charges imposed by a State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented during the period beginning 180 days immediately preceding the date of the application and continuing through the period of time during which the funds from the grant are available to the applicant.

“(3) CONDITION OF GRANT.—Each applicant for a grant under this section shall agree, as a condition of receipt of the grant, that if the State or other taxing jurisdiction within which the applicant is located, during any period of time during which the funds from the grant are available to the applicant, obligates or expends designated 9-1-1 charges for any purpose other than the purposes for which such charges are designated or presented, eliminates such charges, or redesignates such charges for purposes other than the implementation or operation of 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services, all of the funds from such grant shall be returned to the Office.

“(4) PENALTY FOR PROVIDING FALSE INFORMATION.—Any applicant that provides a certification under paragraph (2) knowing that the information provided in the certification was false shall—

“(A) not be eligible to receive the grant under subsection (b);

“(B) return any grant awarded under subsection (b) during the time that the certification was not valid; and

“(C) not be eligible to receive any subsequent grants under subsection (b).

“(d) FUNDING AND TERMINATION.—

“(1) IN GENERAL.—From the amounts made available to the Assistant Secretary and the Administrator under section 6413(b)(6) of the Middle Class Tax Relief and Job Creation Act of 2012, the Assistant Secretary and the Administrator are authorized to provide grants under this section through the end of fiscal year 2022. Not more than 5 percent of such amounts may be obligated or expended to cover the administrative costs of carrying out this section.

“(2) TERMINATION.—Effective on October 1, 2022, the authority provided by this section terminates and this section shall have no effect.

Applicability.

“(e) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) 9-1-1 SERVICES.—The term ‘9-1-1 services’ includes both E9-1-1 services and Next Generation 9-1-1 services.

“(2) E9-1-1 SERVICES.—The term ‘E9-1-1 services’ means both phase I and phase II enhanced 9-1-1 services, as described in section 20.18 of the Commission’s regulations (47 C.F.R. 20.18), as in effect on the date of enactment of the Next Generation 9-1-1 Advancement Act of 2012, or as subsequently revised by the Commission.

“(3) ELIGIBLE ENTITY.—

“(A) IN GENERAL.—The term ‘eligible entity’ means a State or local government or a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1))).

“(B) INSTRUMENTALITIES.—The term ‘eligible entity’ includes public authorities, boards, commissions, and similar bodies created by one or more eligible entities described in subparagraph (A) to provide 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

“(C) EXCEPTION.—The term ‘eligible entity’ does not include any entity that has failed to submit the most recently required certification under subsection (c) within 30 days after the date on which such certification is due.

“(4) EMERGENCY CALL.—The term ‘emergency call’ refers to any real-time communication with a public safety answering point or other emergency management or response agency, including—

“(A) through voice, text, or video and related data; and

“(B) nonhuman-initiated automatic event alerts, such as alarms, telematics, or sensor data, which may also include real-time voice, text, or video communications.

“(5) NEXT GENERATION 9-1-1 SERVICES.—The term ‘Next Generation 9-1-1 services’ means an IP-based system comprised of hardware, software, data, and operational policies and procedures that—

“(A) provides standardized interfaces from emergency call and message services to support emergency communications;

“(B) processes all types of emergency calls, including voice, data, and multimedia information;

“(C) acquires and integrates additional emergency call data useful to call routing and handling;

“(D) delivers the emergency calls, messages, and data to the appropriate public safety answering point and other appropriate emergency entities;

“(E) supports data or video communications needs for coordinated incident response and management; and

“(F) provides broadband service to public safety answering points or other first responder entities.

“(6) OFFICE.—The term ‘Office’ means the 9-1-1 Implementation Coordination Office.

“(7) PUBLIC SAFETY ANSWERING POINT.—The term ‘public safety answering point’ has the meaning given the term in section 222 of the Communications Act of 1934 (47 U.S.C. 222).

“(8) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the United States Virgin Islands, the Northern

Mariana Islands, and any other territory or possession of the United States.”.

Deadlines. **SEC. 6504. REQUIREMENTS FOR MULTI-LINE TELEPHONE SYSTEMS.**

Reports. (a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Administrator of General Services, in conjunction with the Office, shall issue a report to Congress identifying the 9-1-1 capabilities of the multi-line telephone system in use by all Federal agencies in all Federal buildings and properties.

Notice. (b) COMMISSION ACTION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall issue a public notice seeking comment on the feasibility of MLTS manufacturers including within all such systems manufactured or sold after a date certain, to be determined by the Commission, one or more mechanisms to provide a sufficiently precise indication of a 9-1-1 caller’s location, while avoiding the imposition of undue burdens on MLTS manufacturers, providers, and operators.

(2) SPECIFIC REQUIREMENT.—The public notice under paragraph (1) shall seek comment on the National Emergency Number Association’s “Technical Requirements Document On Model Legislation E9-1-1 for Multi-Line Telephone Systems” (NENA 06-750, Version 2).

**SEC. 6505. GAO STUDY OF STATE AND LOCAL USE OF 9-1-1 SERVICE CHARGES.**

Deadline. (a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study of—

(1) the imposition of taxes, fees, or other charges imposed by States or political subdivisions of States that are designated or presented as dedicated to improve emergency communications services, including 9-1-1 services or enhanced 9-1-1 services, or related to emergency communications services operations or improvements; and

(2) the use of revenues derived from such taxes, fees, or charges.

(b) REPORT.—Not later than 18 months after initiating the study required by subsection (a), the Comptroller General shall prepare and submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives setting forth the findings, conclusions, and recommendations, if any, of the study, including—

(1) the identity of each State or political subdivision that imposes such taxes, fees, or other charges; and

(2) the amount of revenues obligated or expended by that State or political subdivision for any purpose other than the purposes for which such taxes, fees, or charges were designated or presented.

47 USC 1472. **SEC. 6506. PARITY OF PROTECTION FOR PROVISION OR USE OF NEXT GENERATION 9-1-1 SERVICES.**

(a) IMMUNITY.—A provider or user of Next Generation 9-1-1 services, a public safety answering point, and the officers, directors, employees, vendors, agents, and authorizing government entity

(if any) of such provider, user, or public safety answering point, shall have immunity and protection from liability under Federal and State law to the extent provided in subsection (b) with respect to—

(1) the release of subscriber information related to emergency calls or emergency services;

(2) the use or provision of 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services; and

(3) other matters related to 9-1-1 services, E9-1-1 services, or Next Generation 9-1-1 services.

(b) **SCOPE OF IMMUNITY AND PROTECTION FROM LIABILITY.**—The scope and extent of the immunity and protection from liability afforded under subsection (a) shall be the same as that provided under section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) to wireless carriers, public safety answering points, and users of wireless 9-1-1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.

**SEC. 6507. COMMISSION PROCEEDING ON AUTODIALING.**

47 USC 1473.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to create a specialized Do-Not-Call registry for public safety answering points.

Deadline.

(b) **FEATURES OF THE REGISTRY.**—The Commission shall issue regulations, after providing the public with notice and an opportunity to comment, that—

Regulations.  
Notice.

(1) permit verified public safety answering point administrators or managers to register the telephone numbers of all 9-1-1 trunks and other lines used for the provision of emergency services to the public or for communications between public safety agencies;

(2) provide a process for verifying, no less frequently than once every 7 years, that registered numbers should continue to appear upon the registry;

(3) provide a process for granting and tracking access to the registry by the operators of automatic dialing equipment;

(4) protect the list of registered numbers from disclosure or dissemination by parties granted access to the registry; and

(5) prohibit the use of automatic dialing or “robocall” equipment to establish contact with registered numbers.

(c) **ENFORCEMENT.**—The Commission shall—

Penalties.  
Fines.

(1) establish monetary penalties for violations of the protective regulations established pursuant to subsection (b)(4) of not less than \$100,000 per incident nor more than \$1,000,000 per incident;

(2) establish monetary penalties for violations of the prohibition on automatically dialing registered numbers established pursuant to subsection (b)(5) of not less than \$10,000 per call nor more than \$100,000 per call; and

(3) provide for the imposition of fines under paragraphs (1) or (2) that vary depending upon whether the conduct leading to the violation was negligent, grossly negligent, reckless, or willful, and depending on whether the violation was a first or subsequent offence.

**SEC. 6508. REPORT ON COSTS FOR REQUIREMENTS AND SPECIFICATIONS OF NEXT GENERATION 9-1-1 SERVICES.**

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Office, in consultation with the Administrator of the National Highway Traffic Safety Administration, the Commission, and the Secretary of Homeland Security, shall prepare and submit a report to Congress that analyzes and determines detailed costs for specific Next Generation 9-1-1 service requirements and specifications.

(b) **PURPOSE OF REPORT.**—The purpose of the report required under subsection (a) is to serve as a resource for Congress as it considers creating a coordinated, long-term funding mechanism for the deployment and operation, accessibility, application development, equipment procurement, and training of personnel for Next Generation 9-1-1 services.

(c) **REQUIRED INCLUSIONS.**—The report required under subsection (a) shall include the following:

(1) How costs would be broken out geographically and allocated among public safety answering points, broadband service providers, and third-party providers of Next Generation 9-1-1 services.

(2) An assessment of the current state of Next Generation 9-1-1 service readiness among public safety answering points.

(3) How differences in public safety answering points' access to broadband across the United States may affect costs.

(4) A technical analysis and cost study of different delivery platforms, such as wireline, wireless, and satellite.

(5) An assessment of the architectural characteristics, feasibility, and limitations of Next Generation 9-1-1 service delivery.

(6) An analysis of the needs for Next Generation 9-1-1 services of persons with disabilities.

(7) Standards and protocols for Next Generation 9-1-1 services and for incorporating Voice over Internet Protocol and "Real-Time Text" standards.

**SEC. 6509. COMMISSION RECOMMENDATIONS FOR LEGAL AND STATUTORY FRAMEWORK FOR NEXT GENERATION 9-1-1 SERVICES.**

Deadline.  
Reports.

Not later than 1 year after the date of the enactment of this Act, the Commission, in coordination with the Secretary of Homeland Security, the Administrator of the National Highway Traffic Safety Administration, and the Office, shall prepare and submit a report to Congress that contains recommendations for the legal and statutory framework for Next Generation 9-1-1 services, consistent with recommendations in the National Broadband Plan developed by the Commission pursuant to the American Recovery and Reinvestment Act of 2009, including the following:

(1) A legal and regulatory framework for the development of Next Generation 9-1-1 services and the transition from legacy 9-1-1 to Next Generation 9-1-1 networks.

(2) Legal mechanisms to ensure efficient and accurate transmission of 9-1-1 caller information to emergency response agencies.

(3) Recommendations for removing jurisdictional barriers and inconsistent legacy regulations including—

(A) proposals that would require States to remove regulatory roadblocks to Next Generation 9–1–1 services development, while recognizing existing State authority over 9–1–1 services;

(B) eliminating outdated 9–1–1 regulations at the Federal level; and

(C) preempting inconsistent State regulations.

## **Subtitle F—Telecommunications Development Fund**

### **SEC. 6601. NO ADDITIONAL FEDERAL FUNDS.**

Section 309(j)(8)(C)(iii) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(C)(iii)) is amended to read as follows:

“(iii) the interest accrued to the account shall be deposited in the general fund of the Treasury, where such amount shall be dedicated for the sole purpose of deficit reduction.”.

### **SEC. 6602. INDEPENDENCE OF THE FUND.**

Section 714 of the Communications Act of 1934 (47 U.S.C. 614) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) INDEPENDENT BOARD OF DIRECTORS.—The Fund shall have a Board of Directors consisting of 5 people with experience in areas including finance, investment banking, government banking, communications law and administrative practice, and public policy. The Board of Directors shall select annually a Chair from among the directors. A nominating committee, comprised of the Chair and 2 other directors selected by the Chair, shall appoint additional directors. The Fund’s bylaws shall regulate the other aspects of the Board of Directors, including provisions relating to meetings, quorums, committees, and other matters, all as typically contained in the bylaws of a similar private investment fund.”;

(2) in subsection (d)—

(A) by striking “(after consultation with the Commission and the Secretary of the Treasury)”;

(B) by striking paragraph (1); and

(C) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in subsection (g), by striking “subsection (d)(2)” and inserting “subsection (d)(1)”.

Deadline.  
Appointments.

## **Subtitle G—Federal Spectrum Relocation**

### **SEC. 6701. RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.**

(a) IN GENERAL.—Section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923) is amended—

(1) in subsection (g)—

(A) by striking the heading and inserting “RELOCATION OF AND SPECTRUM SHARING BY FEDERAL GOVERNMENT STATIONS.—”;

(B) by amending paragraph (1) to read as follows:

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

(C) by amending paragraph (2)(B) to read as follows:

“(B) any other band of frequencies reallocated from Federal use to non-Federal use or to shared use after January 1, 2003, that is assigned by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).”;

(D) by amending paragraph (3) to read as follows:

“(3) RELOCATION OR SHARING COSTS DEFINED.—

“(A) IN GENERAL.—For purposes of this section and section 118, the term ‘relocation or sharing costs’ means the costs incurred by a Federal entity in connection with the auction of spectrum frequencies previously assigned to such entity or the sharing of spectrum frequencies assigned to such entity (including the auction or a planned auction of the rights to use spectrum frequencies on a shared basis with such entity) in order to achieve comparable capability of systems as before the relocation or sharing arrangement. Such term includes, with respect to relocation or sharing, as the case may be—

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

“(ii) the costs of all engineering, equipment, software, site acquisition, and construction, as well as any legitimate and prudent transaction expense, including term-limited Federal civil servant and contractor staff necessary to carry out the relocation or sharing activities of a Federal entity, and reasonable additional costs incurred by the Federal entity that are attributable to relocation or sharing, including increased recurring costs associated with the replacement of facilities;

“(iii) the costs of research, engineering studies, economic analyses, or other expenses reasonably incurred in connection with—

“(I) calculating the estimated relocation or sharing costs that are provided to the Commission pursuant to paragraph (4)(A);

“(II) determining the technical or operational feasibility of relocation to 1 or more potential relocation bands; or

“(III) planning for or managing a relocation or sharing arrangement (including spectrum coordination with auction winners);

“(iv) the one-time costs of any modification of equipment reasonably necessary—

“(I) to accommodate non-Federal use of shared frequencies; or

“(II) in the case of eligible frequencies reallocated for exclusive non-Federal use and assigned through a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) but with respect to which a Federal entity retains primary allocation or protected status for a period of time after the completion of the competitive bidding process, to accommodate shared Federal and non-Federal use of such frequencies for such period; and

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

“(B) COMPARABLE CAPABILITY OF SYSTEMS.—For purposes of subparagraph (A), comparable capability of systems—

“(i) may be achieved by relocating a Federal Government station to a new frequency assignment, by relocating a Federal Government station to a different geographic location, by modifying Federal Government equipment to mitigate interference or use less spectrum, in terms of bandwidth, geography, or time, and thereby permitting spectrum sharing (including sharing among relocated Federal entities and incumbents to make spectrum available for non-Federal use) or relocation, or by utilizing an alternative technology; and

“(ii) includes the acquisition of state-of-the-art replacement systems intended to meet comparable operational scope, which may include incidental increases in functionality.”;

(E) in paragraph (4)—

(i) in the heading, by striking “RELOCATIONS COSTS” and inserting “RELOCATION OR SHARING COSTS”;

(ii) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”; and

(iii) in subparagraph (A), by inserting “or sharing” after “such relocation”;

(F) in paragraph (5)—

(i) by striking “relocation costs” and inserting “relocation or sharing costs”; and

(ii) by inserting “or sharing” after “for relocation”; and

(G) by amending paragraph (6) to read as follows:

“(6) IMPLEMENTATION OF PROCEDURES.—The NTIA shall take such actions as necessary to ensure the timely relocation

Termination. Notification.	of Federal entities' spectrum-related operations from frequencies described in paragraph (2) to frequencies or facilities of comparable capability and to ensure the timely implementation of arrangements for the sharing of frequencies described in such paragraph. Upon a finding by the NTIA that a Federal entity has achieved comparable capability of systems, the NTIA shall terminate or limit the entity's authorization and notify the Commission that the entity's relocation has been completed or sharing arrangement has been implemented. The NTIA shall also terminate such entity's authorization if the NTIA determines that the entity has unreasonably failed to comply with the timeline for relocation or sharing submitted by the Director of the Office of Management and Budget under section 118(d)(2)(C).";
Termination. Determination.	(2) by redesignating subsections (h) and (i) as subsections (k) and (l), respectively; and (3) by inserting after subsection (g) the following: “(h) DEVELOPMENT AND PUBLICATION OF RELOCATION OR SHARING TRANSITION PLANS.—
Deadline.	“(1) DEVELOPMENT OF TRANSITION PLAN BY FEDERAL ENTITY.—Not later than 240 days before the commencement of any auction of eligible frequencies described in subsection (g)(2), a Federal entity authorized to use any such frequency shall submit to the NTIA and to the Technical Panel established by paragraph (3) a transition plan for the implementation by such entity of the relocation or sharing arrangement. The NTIA shall specify, after public input, a common format for all Federal entities to follow in preparing transition plans under this paragraph.
Public input.	“(2) CONTENTS OF TRANSITION PLAN.—The transition plan required by paragraph (1) shall include the following information: “(A) The use by the Federal entity of the eligible frequencies to be auctioned, current as of the date of the submission of the plan. “(B) The geographic location of the facilities or systems of the Federal entity that use such frequencies. “(C) The frequency bands used by such facilities or systems, described by geographic location. “(D) The steps to be taken by the Federal entity to relocate its spectrum use from such frequencies or to share such frequencies, including timelines for specific geographic locations in sufficient detail to indicate when use of such frequencies at such locations will be discontinued by the Federal entity or shared between the Federal entity and non-Federal users. “(E) The specific interactions between the eligible Federal entity and the NTIA needed to implement the transition plan. “(F) The name of the officer or employee of the Federal entity who is responsible for the relocation or sharing efforts of the entity and who is authorized to meet and negotiate with non-Federal users regarding the transition. “(G) The plans and timelines of the Federal entity for— “(i) using funds received from the Spectrum Relocation Fund established by section 118;

“(ii) procuring new equipment and additional personnel needed for relocation or sharing;

“(iii) field-testing and deploying new equipment needed for relocation or sharing; and

“(iv) hiring and relying on contract personnel, if any, needed for relocation or sharing.

“(H) Factors that could hinder fulfillment of the transition plan by the Federal entity.

“(3) TECHNICAL PANEL.—

“(A) ESTABLISHMENT.—There is established within the NTIA a panel to be known as the Technical Panel.

“(B) MEMBERSHIP.—

“(i) NUMBER AND APPOINTMENT.—The Technical Panel shall be composed of 3 members, to be appointed as follows:

“(I) One member to be appointed by the Director of the Office of Management and Budget (in this subsection referred to as ‘OMB’).

“(II) One member to be appointed by the Assistant Secretary.

“(III) One member to be appointed by the Chairman of the Commission.

“(ii) QUALIFICATIONS.—Each member of the Technical Panel shall be a radio engineer or a technical expert.

“(iii) INITIAL APPOINTMENT.—The initial members of the Technical Panel shall be appointed not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(iv) TERMS.—The term of a member of the Technical Panel shall be 18 months, and no individual may serve more than 1 consecutive term.

“(v) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy shall be filled in the manner in which the original appointment was made.

“(vi) NO COMPENSATION.—The members of the Technical Panel shall not receive any compensation for service on the Technical Panel. If any such member is an employee of the agency of the official that appointed such member to the Technical Panel, compensation in the member’s capacity as such an employee shall not be considered compensation under this clause.

“(C) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the Technical Panel with the administrative support services necessary to carry out its duties under this subsection and subsection (i).

“(D) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by the Director

Deadline.

Deadline.  
Notice.  
Public comment.

of OMB, adopt regulations to govern the workings of the Technical Panel.

“(E) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) and sections 552 and 552b of title 5, United States Code, shall not apply to the Technical Panel.

Deadline.  
Reports.

“(4) REVIEW OF PLAN BY TECHNICAL PANEL.—

“(A) IN GENERAL.—Not later than 30 days after the submission of the plan under paragraph (1), the Technical Panel shall submit to the NTIA and to the Federal entity a report on the sufficiency of the plan, including whether the plan includes the information required by paragraph (2) and an assessment of the reasonableness of the proposed timelines and estimated relocation or sharing costs, including the costs of any proposed expansion of the capabilities of a Federal system in connection with relocation or sharing.

“(B) INSUFFICIENCY OF PLAN.—If the Technical Panel finds the plan insufficient, the Federal entity shall, not later than 90 days after the submission of the report by the Technical Panel under subparagraph (A), submit to the Technical Panel a revised plan. Such revised plan shall be treated as a plan submitted under paragraph (1).

Deadline.  
Public  
information.  
Web posting.

“(5) PUBLICATION OF TRANSITION PLAN.—Not later than 120 days before the commencement of the auction described in paragraph (1), the NTIA shall make the transition plan publicly available on its website.

“(6) UPDATES OF TRANSITION PLAN.—As the Federal entity implements the transition plan, it shall periodically update the plan to reflect any changed circumstances, including changes in estimated relocation or sharing costs or the timeline for relocation or sharing. The NTIA shall make the updates available on its website.

“(7) CLASSIFIED AND OTHER SENSITIVE INFORMATION.—

“(A) CLASSIFIED INFORMATION.—If any of the information required to be included in the transition plan of a Federal entity is classified information (as defined in section 798(b) of title 18, United States Code), the entity shall—

“(i) include in the plan—

“(I) an explanation of the exclusion of any such information, which shall be as specific as possible; and

“(II) all relevant non-classified information that is available; and

“(ii) discuss as a factor under paragraph (2)(H) the extent of the classified information and the effect of such information on the implementation of the relocation or sharing arrangement.

Deadlines.

“(B) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA, in consultation with the Director of OMB and the Secretary of Defense, shall adopt regulations to ensure that the information publicly released under paragraph (5) or (6) does not contain classified information or other sensitive information.

“(i) DISPUTE RESOLUTION PROCESS.—

“(1) IN GENERAL.—If a dispute arises between a Federal entity and a non-Federal user regarding the execution, timing, or cost of the transition plan submitted by the Federal entity under subsection (h)(1), the Federal entity or the non-Federal user may request that the NTIA establish a dispute resolution board to resolve the dispute.

“(2) ESTABLISHMENT OF BOARD.—

“(A) IN GENERAL.—If the NTIA receives a request under paragraph (1), it shall establish a dispute resolution board.

“(B) MEMBERSHIP AND APPOINTMENT.—The dispute resolution board shall be composed of 3 members, as follows:

“(i) A representative of the Office of Management and Budget (in this subsection referred to as ‘OMB’), to be appointed by the Director of OMB.

“(ii) A representative of the NTIA, to be appointed by the Assistant Secretary.

“(iii) A representative of the Commission, to be appointed by the Chairman of the Commission.

“(C) CHAIR.—The representative of OMB shall be the Chair of the dispute resolution board.

“(D) VACANCIES.—Any vacancy in the dispute resolution board shall be filled in the manner in which the original appointment was made.

“(E) NO COMPENSATION.—The members of the dispute resolution board shall not receive any compensation for service on the board. If any such member is an employee of the agency of the official that appointed such member to the board, compensation in the member’s capacity as such an employee shall not be considered compensation under this subparagraph.

“(F) TERMINATION OF BOARD.—The dispute resolution board shall be terminated after it rules on the dispute that it was established to resolve and the time for appeal of its decision under paragraph (7) has expired, unless an appeal has been taken under such paragraph. If such an appeal has been taken, the board shall continue to exist until the appeal process has been exhausted and the board has completed any action required by a court hearing the appeal.

“(3) PROCEDURES.—The dispute resolution board shall meet simultaneously with representatives of the Federal entity and the non-Federal user to discuss the dispute. The dispute resolution board may require the parties to make written submissions to it.

“(4) DEADLINE FOR DECISION.—The dispute resolution board shall rule on the dispute not later than 30 days after the request was made to the NTIA under paragraph (1).

“(5) ASSISTANCE FROM TECHNICAL PANEL.—The Technical Panel established under subsection (h)(3) shall provide the dispute resolution board with such technical assistance as the board requests.

“(6) ADMINISTRATIVE SUPPORT.—The NTIA shall provide the dispute resolution board with the administrative support services necessary to carry out its duties under this subsection.

“(7) APPEALS.—A decision of the dispute resolution board may be appealed to the United States Court of Appeals for

Deadline.

the District of Columbia Circuit by filing a notice of appeal with that court not later than 30 days after the date of such decision. Each party shall bear its own costs and expenses, including attorneys' fees, for any appeal under this paragraph.

Deadline.  
Notice.  
Public comments.

“(8) REGULATIONS.—Not later than 180 days after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, the NTIA shall, after public notice and comment and subject to approval by OMB, adopt regulations to govern the working of any dispute resolution boards established under paragraph (2)(A) and the role of the Technical Panel in assisting any such board.

“(9) CERTAIN REQUIREMENTS INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) and sections 552 and 552b of title 5, United States Code, shall not apply to a dispute resolution board established under paragraph (2)(A).

“(j) RELOCATION PRIORITIZED OVER SHARING.—

Determination.

“(1) IN GENERAL.—In evaluating a band of frequencies for possible reallocation for exclusive non-Federal use or shared use, the NTIA shall give priority to options involving reallocation of the band for exclusive non-Federal use and shall choose options involving shared use only when it determines, in consultation with the Director of the Office of Management and Budget, that relocation of a Federal entity from the band is not feasible because of technical or cost constraints.

“(2) NOTIFICATION OF CONGRESS WHEN SHARING CHOSEN.—If the NTIA determines under paragraph (1) that relocation of a Federal entity from the band is not feasible, the NTIA shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives of the determination, including the specific technical or cost constraints on which the determination is based.”

47 USC 309.

(b) CONFORMING AMENDMENT.—Section 309(j) of the Communications Act of 1934 is further amended by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”.

**SEC. 6702. SPECTRUM RELOCATION FUND.**

Section 118 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928) is amended—

(1) by striking “relocation costs” each place it appears and inserting “relocation or sharing costs”;

(2) by amending subsection (c) to read as follows:

“(c) USE OF FUNDS.—The amounts in the Fund from auctions of eligible frequencies are authorized to be used to pay relocation or sharing costs of an eligible Federal entity incurring such costs with respect to relocation from or sharing of those frequencies.”;

(3) in subsection (d)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “or sharing” before the semicolon;

(ii) in subparagraph (B), by inserting “or sharing” before the period at the end;

(iii) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(iv) by inserting before subparagraph (B), as so redesignated, the following:

“(A) unless the eligible Federal entity has submitted a transition plan to the NTIA as required by paragraph (1) of section 113(h), the Technical Panel has found such plan sufficient under paragraph (4) of such section, and the NTIA has made available such plan on its website as required by paragraph (5) of such section;”;

(B) by striking paragraph (3); and

(C) by adding at the end the following:

“(3) TRANSFERS FOR PRE-AUCTION COSTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Director of OMB may transfer to an eligible Federal entity, at any time (including prior to a scheduled auction), such sums as may be available in the Fund to pay relocation or sharing costs related to pre-auction estimates or research, as such costs are described in section 113(g)(3)(A)(iii).

“(B) NOTIFICATION.—No funds may be transferred pursuant to subparagraph (A) unless—

“(i) the notification provided under paragraph (2)(C) includes a certification from the Director of OMB that—

Certification.

“(I) funds transferred before an auction will likely allow for timely implementation of relocation or sharing, thereby increasing net expected auction proceeds by an amount not less than the time value of the amount of funds transferred; and

“(II) the auction is intended to occur not later than 5 years after transfer of funds; and

Deadline.

“(ii) the transition plan submitted by the eligible Federal entity under section 113(h)(1) provides—

“(I) to the fullest extent possible, for sharing and coordination of eligible frequencies with non-Federal users, including reasonable accommodation by the eligible Federal entity for the use of eligible frequencies by non-Federal users during the period that the entity is relocating its spectrum uses (in this clause referred to as the ‘transition period’);

“(II) for non-Federal users to be able to use eligible frequencies during the transition period in geographic areas where the eligible Federal entity does not use such frequencies;

“(III) that the eligible Federal entity will, during the transition period, make itself available for negotiation and discussion with non-Federal users not later than 30 days after a written request therefor; and

Deadline.

“(IV) that the eligible Federal entity will, during the transition period, make available to a non-Federal user with appropriate security clearances any classified information (as defined in section 798(b) of title 18, United States Code) regarding the relocation process, on a need-to-know basis, to assist the non-Federal user in the relocation process with such eligible Federal entity or other eligible Federal entities.

“(C) APPLICABILITY TO CERTAIN COSTS.—

Deadline.

“(i) IN GENERAL.—The Director of OMB may transfer under subparagraph (A) not more than \$10,000,000 for costs incurred after June 28, 2010, but before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

“(ii) SUPPLEMENT NOT SUPPLANT.—Any amounts transferred by the Director of OMB pursuant to clause (i) shall be in addition to any amounts that the Director of OMB may transfer for costs incurred on or after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012.

Deadline.  
Time period.  
Notification.

“(4) REVERSION OF UNUSED FUNDS.—Any amounts in the Fund that are remaining after the payment of the relocation or sharing costs that are payable from the Fund shall revert to and be deposited in the general fund of the Treasury, for the sole purpose of deficit reduction, not later than 8 years after the date of the deposit of such proceeds to the Fund, unless within 60 days in advance of the reversion of such funds, the Director of OMB, in consultation with the NTIA, notifies the congressional committees described in paragraph (2)(C) that such funds are needed to complete or to implement current or future relocation or sharing arrangements.”;

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”; and

(ii) in clause (ii), by striking “subsection (d)(2)(B)” and inserting “subsection (d)(2)(C)”; and

(B) in paragraph (2)—

(i) by striking “entity’s relocation” and inserting “relocation of the entity or implementation of the sharing arrangement by the entity”;

(ii) by inserting “or the implementation of such arrangement” after “such relocation”; and

(iii) by striking “subsection (d)(2)(A)” and inserting “subsection (d)(2)(B)”; and

(5) by adding at the end the following:

“(f) ADDITIONAL PAYMENTS FROM FUND.—

Appropriation  
authorization.

“(1) AMOUNTS AVAILABLE.—Notwithstanding subsections (c) through (e), after the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012, there are appropriated from the Fund and available to the Director of OMB for use in accordance with paragraph (2) not more than 10 percent of the amounts deposited in the Fund from auctions occurring after such date of enactment of licenses for the use of spectrum vacated by eligible Federal entities.

“(2) USE OF AMOUNTS.—

“(A) IN GENERAL.—The Director of OMB, in consultation with the NTIA, may use amounts made available under paragraph (1) to make payments to eligible Federal entities that are implementing a transition plan submitted under section 113(h)(1) in order to encourage such entities to complete the implementation more quickly, thereby encouraging timely access to the eligible frequencies that are being reallocated for exclusive non-Federal use or shared use.

“(B) CONDITIONS.—In the case of any payment by the Director of OMB under subparagraph (A)—

“(i) such payment shall be based on the market value of the eligible frequencies, the timeliness with which the eligible Federal entity clears its use of such frequencies, and the need for such frequencies in order for the entity to conduct its essential missions;

“(ii) the eligible Federal entity shall use such payment for the purposes specified in clauses (i) through (v) of section 113(g)(3)(A) to achieve comparable capability of systems affected by the reallocation of eligible frequencies from Federal use to exclusive non-Federal use or to shared use;

“(iii) such payment may not be made if the amount remaining in the Fund after such payment will be less than 10 percent of the winning bids in the auction of the spectrum with respect to which the Federal entity is incurring relocation or sharing costs; and

“(iv) such payment may not be made until 30 days after the Director of OMB has notified the congressional committees described in subsection (d)(2)(C).

Time period.  
Notification.

“(g) RESTRICTION ON USE OF FUNDS.—No amounts in the Fund on the day before the date of the enactment of the Middle Class Tax Relief and Job Creation Act of 2012 may be used for any purpose except—

“(1) to pay the relocation or sharing costs incurred by eligible Federal entities in order to relocate from the frequencies the auction of which generated such amounts; or

“(2) to pay relocation or sharing costs related to pre-auction estimates or research, in accordance with subsection (d)(3).”.

**SEC. 6703. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

Part B of title I of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) is amended by adding at the end the following:

**“SEC. 119. NATIONAL SECURITY AND OTHER SENSITIVE INFORMATION.**

47 USC 929.

“(a) DETERMINATION.—If the head of an Executive agency (as defined in section 105 of title 5, United States Code) determines that public disclosure of any information contained in a notification or report required by section 113 or 118 would reveal classified national security information, or other information for which there is a legal basis for nondisclosure and the public disclosure of which would be detrimental to national security, homeland security, or public safety or would jeopardize a law enforcement investigation, the head of the Executive agency shall notify the Assistant Secretary of that determination prior to the release of such information.

Notification.

“(b) INCLUSION IN ANNEX.—The head of the Executive agency shall place the information with respect to which a determination was made under subsection (a) in a separate annex to the notification or report required by section 113 or 118. The annex shall be provided to the subcommittee of primary jurisdiction of the congressional committee of primary jurisdiction in accordance with appropriate national security stipulations but shall not be disclosed to the public or provided to any unauthorized person through any means.”.

## TITLE VII—MISCELLANEOUS PROVISIONS

26 USC 6655  
note.

**SEC. 7001. REPEAL OF CERTAIN SHIFTS IN THE TIMING OF CORPORATE ESTIMATED TAX PAYMENTS.**

The following provisions of law (and any modification of any such provision which is contained in any other provision of law) shall not apply with respect to any installment of corporate estimated tax:

(1) Section 201(b) of the Corporate Estimated Tax Shift Act of 2009.

(2) Section 561 of the Hiring Incentives to Restore Employment Act.

(3) Section 505 of the United States-Korea Free Trade Agreement Implementation Act.

(4) Section 603 of the United States-Colombia Trade Promotion Agreement Implementation Act.

(5) Section 502 of the United States-Panama Trade Promotion Agreement Implementation Act.

**SEC. 7002. REPEAL OF REQUIREMENT RELATING TO TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.**

19 USC 58c note.

(a) REPEAL.—The Trade Adjustment Assistance Extension Act of 2011 (title II of Public Law 112–40; 125 Stat. 402) is amended by striking section 263.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking the item relating to section 263.

**SEC. 7003. TREATMENT FOR PAYGO PURPOSES.**

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

Approved February 22, 2012.

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**LEGISLATIVE HISTORY—H.R. 3630:**

HOUSE REPORTS: No. 112–399 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 157 (2011): Dec. 13, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Vol. 158 (2012): Feb. 17, House and Senate agreed to conference report.