

Ms. SEWELL. Today I rise to express my condolences and heartfelt wishes for the family of Reverend Fred Shuttlesworth, who passed this morning.

Reverend Fred Shuttlesworth was an icon of the civil rights movement. I know that in Birmingham, Alabama, we hold him in high esteem, and today I just wanted to make sure that my colleagues knew that Reverend Shuttlesworth passed this morning.

I know in the days and weeks to come we will celebrate his life and memorialize him in proper form, but today I rise just to acknowledge his wonderful work and to make sure that his family knew that we as Americans truly appreciate their sacrifice and his wonderful accomplishments to making this country as great as it can be, and making sure that this country upholds its ideals of equality and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WOMACK). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Any record vote on the postponed question will be taken later.

RETURNING RECLAIMED BROADBAND STIMULUS FUNDS TO U.S. TREASURY

Mr. WALDEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1343) to return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1343

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

SECTION 1. ACCOUNTABILITY FOR BROADBAND STIMULUS FUNDS.

(a) *IN GENERAL.*—Notwithstanding any other provision of law, the Administrator of the Rural Utilities Service or the Assistant Secretary of Commerce for Communications and Information shall take prompt and appropriate action to terminate for cause any award made under the Broadband Initiatives Program or the Broadband Technology Opportunities Program, respectively, established pursuant to the American Recovery and Reinvestment Act of 2009, if the Administrator or Assistant Secretary determines that cause exists to terminate the award. Such cause may include an insufficient level of performance, wasteful spending, or fraudulent spending.

(b) *DEOBLIGATION AND RETURN OF FUNDS TO TREASURY.*—

(1) *DEOBLIGATION.*—Upon terminating an award under subsection (a), the Administrator or the Assistant Secretary shall immediately deobligate an amount equivalent to such award, less allowable costs, to the extent funds with re-

spect to such award are available in the account relating to the Broadband Initiatives Program or the Broadband Technology Opportunities Program, respectively. If the Administrator or the Assistant Secretary subsequently recovers any additional amounts from such award, the Administrator or the Assistant Secretary shall deobligate such additional amounts immediately upon receipt.

(2) *RETURN TO TREASURY.*—Not later than 30 days after deobligating an amount under paragraph (1), the Administrator or the Assistant Secretary shall, without exception, return such amount to the general fund of the Treasury of the United States.

(3) *NO EXPENDITURES DURING TERMINATION PROCESS.*—The Administrator or the Assistant Secretary shall promptly pursue available corrective measures to ensure that funds received through an award terminated under subsection (a) are not expended during the termination process.

(4) *ACCOUNTING BY AWARD RECIPIENT.*—The Administrator or the Assistant Secretary shall direct the recipient of an award terminated under subsection (a) to provide to the Administrator or the Assistant Secretary a complete and accurate accounting, which may include an independent accounting, for any award funds that, as of the date of termination, the recipient has received but has not expended on allowable costs.

SEC. 2. DISPOSITION OF UNUSED FUNDS.

The Administrator of the Rural Utilities Service or the Assistant Secretary of Commerce for Communications and Information shall return to the general fund of the Treasury of the United States an amount equivalent to any award, less allowable costs, made under the Broadband Initiatives Program or the Broadband Technology Opportunities Program, respectively, established pursuant to the American Recovery and Reinvestment Act of 2009, if such award has been returned to the Administrator or Assistant Secretary or disclaimed by the award recipient at any time after the date of enactment of such Act.

SEC. 3. OVERSIGHT AND REPORTING REQUIREMENTS.

(a) *ACTION ON INFORMATION FROM OIG OR GAO.*—If the Administrator of the Rural Utilities Service or the Assistant Secretary of Commerce for Communications and Information receives information from an official described in subsection (b) with respect to an award made under the Broadband Initiatives Program or the Broadband Technology Opportunities Program, respectively, established pursuant to the American Recovery and Reinvestment Act of 2009, and such information pertains to material non-compliance with the award terms or provisions or improper usage of award funds, the Administrator or the Assistant Secretary shall—

(1) immediately review such information; and
(2) not later than 30 days after receiving such information, determine whether cause exists to terminate such award under section 1(a), unless the official who provided such information recommends that the Administrator or the Assistant Secretary limit or not make such a determination.

(b) *OFFICIALS DESCRIBED.*—The officials described in this subsection are the following:

(1) With respect to the Broadband Initiatives Program, the Inspector General of the Department of Agriculture.
(2) With respect to the Broadband Technology Opportunities Program, the Inspector General of the Department of Commerce.
(3) The Comptroller General of the United States.

(c) *CONGRESSIONAL NOTIFICATION.*—

(1) *IN GENERAL.*—Not later than 3 days after making a determination described in subsection (a)(2), the Administrator or the Assistant Secretary shall provide a notification of such determination to—

(A) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture of the Senate or the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, respectively; and

(B) the official who provided the information described in subsection (a).

(2) *CONTENTS OF NOTIFICATION.*—The notification required by paragraph (1) shall include an explanation of—

(A) the determination described in subsection (a)(2); and

(B) any action taken as a result of the determination or why no action was necessary.

(3) *CONFIDENTIAL NOTIFICATION UNDER CERTAIN CIRCUMSTANCES.*—In the case of a determination by the Administrator or the Assistant Secretary under subsection (a)(2) that cause does not exist to terminate the award, the Administrator or the Assistant Secretary may make the congressional notification required by paragraph (1)(A) on a confidential basis, if the Administrator or the Assistant Secretary determines, after consultation with the official who provided the information described in subsection (a), that—

(A) there is no merit to such information; and
(B) notification on a public basis would cause irreparable harm to any person the information is regarding.

SEC. 4. CONFORMING AMENDMENTS.

Section 6001(i)(4) of the American Recovery and Reinvestment Act of 2009 (47 U.S.C. 1305(i)(4)) is amended—

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

(2) by striking “, and award these funds competitively to new or existing applicants consistent with this section”.

SEC. 5. AWARD DEFINED.

In this Act, the term “award” includes grants and loans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. WALDEN) and the gentleman from California (Mrs. CAPPS) each will control 20 minutes.

The Chair recognizes the gentleman from Oregon.

GENERAL LEAVE

Mr. WALDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous materials in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WALDEN. Mr. Speaker, I yield myself such time as I may consume.

First of all, I want to thank my colleague from New Hampshire, CHARLIE BASS, who has really worked hard on this issue to bring about greater accountability and oversight of how American taxpayer dollars are being allocated under the American Recovery and Reinvestment Act, especially to make sure that when the money comes back that it's really clear with these agencies that it goes back to pay down the deficit and doesn't end up in some sort of slush fund, and my colleague Mr. BASS has played a real leadership role in both crafting this legislation and making sure it comes to the House at this time.

Mr. Speaker, the American Recovery and Reinvestment Act allocated approximately \$7 billion in taxpayer

money to two broadband-related grant and loan programs. One was administered by the National Telecommunications and Information Administration and the other by the Rural Utility Service. The wisdom of creating these programs and whether the money should have been better targeted to unserved households has been the subject of ongoing debate. There is, however, general consensus on the importance of oversight, as evidenced by the bill, H.R. 1343, unanimously passed out of subcommittee and the full Energy and Commerce Committee by voice vote. I, for one, want to make sure these programs do not produce some sort of Solyndra problem. I want to thank our ranking members, WAXMAN and ESHOO, and their staffs for working with us on this bill. We incorporated a number of their suggestions, and the bill is better because of it.

Because the NTIA and RUS have already awarded all \$7 billion, the bill does not automatically revoke any money. To do so would not only be unfair to the grant and loan recipients that are abiding by their award terms, it would also likely cost the government more in legal fees than it would save.

The vast majority of the money is yet to be spent by the awardees, however. So, what H.R. 1343 does is clarify the responsibility of the NTIA and the RUS going forward to terminate failed or failing grants and loans and to return to the U.S. Treasury any rescinded or relinquished funds. The bill also improves oversight of the broadband programs. Among other things, the bill requires the NTIA and the RUS either to terminate an award within 30 days of receiving information from their respective Inspectors General or the Comptroller General regarding material in noncompliance with award terms, or to explain to Congress why they don't. It would require the NTIA and RUS to deobligate and return to the Treasury funds from terminated awards as well as return unused funds from any relinquished awards. Finally, it would require award recipients to provide an accounting of funds received but not yet expended, if the NTIA or RUS terminate those awards.

The number of NTIA and RUS awards that have already been returned, and the fact that more than 90 percent of the money the ARRA allocated for broadband still remains obligated but unspent, makes this legislation all the more important. Of 233 NTIA awards worth approximately \$3.94 billion, recipients had only spent \$480 million through June of this year, despite claims that the stimulus act generally would focus on "shovel ready" projects. Clearly, that hasn't happened here. Four of the 233 awards worth approximately \$40 million have already been rescinded or returned. The RUS has issued 320 awards, consisting of \$2.3 billion in grants and \$87 million leveraged for \$1.2 billion in loans. Yet recipients had only spent \$250 million by

the middle of July, and 28 of the 320 awards, worth \$123 million in grants and \$35 million in loans, had already been returned or rescinded.

Some of my colleagues, as they did in committee, may say that the legislation is really unnecessary. I would disagree. The Department of Commerce Inspector General, the Department of Agriculture Inspector General, and the Government Accountability Office have all flagged concerns with the programs and identified them as high risk, including in testimony at the Communications and Technology Subcommittee's February 10, 2011, hearing.

A number of statutory shortcomings further demonstrate the need for this legislation. For example, existing law leaves the NTIA and the RUS too much discretion in deciding whether to deobligate and return funds from failed or failing awards. Section 6001(i)(4) of the stimulus law establishing the NTIA program stipulates only that the Assistant Secretary "may" deobligate awards in cases of waste, fraud, or insufficient performance. The statutory language provides even less guidance to the RUS, remaining silent on the issue of deobligation and return of funds. Commerce Assistant Secretary Strickling agreed in an April 2011 hearing that the bill would create more certainty. That was our effort.

While Dodd-Frank added rescission provisions to the ARRA, it is unclear whether the terms "withdraw" and "recapture" in Dodd-Frank have the same meaning as "deobligate" in section 6001 of the ARRA, leaving unclear how the Dodd-Frank provisions would be interpreted and applied to the broadband grants.

When Congress uses billions of dollars to subsidize broadband in competition with the private sector, especially when 95 percent of the country already has access, it bears all the more responsibility to police those dollars. For this and all the reasons that I have mentioned, I thank the gentleman from New Hampshire for his leadership on this issue, and I urge my colleagues to vote for the bill.

I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 30, 2011.

Hon. FRED UPTON,
Chairman, Committee on Energy and Commerce,
Washington, DC.

DEAR CHAIRMAN UPTON: Thank you for the opportunity to review the text of H.R. 1343, to return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States, for provisions of the bill that fall within the jurisdiction of this Committee.

Knowing of your interest in expediting this legislation and in maintaining the continued consultation between our Committees on these matters, I agree to discharge H.R. 1343 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim over this or similar matters. In addition, in the event a

conference with the Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if it should become necessary.

I ask that you insert a copy of our exchange of letters into the Congressional Record during consideration of this measure on the House floor.

Thank you for your courtesy in this matter and I look forward to continued cooperation between our respective committees.

Sincerely,

FRANK D. LUCAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 30, 2011.

Hon. FRANK D. LUCAS,
Chairman, Committee on Agriculture, Washington, DC.

DEAR CHAIRMAN LUCAS: Thank you for your letter regarding H.R. 1343, to return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States. As you noted, there are provisions of the bill that fall within the rule X jurisdiction of the Committee on Agriculture.

I appreciate your willingness to forgo action on H.R. 1343. I agree that your decision should not prejudice the Committee on Agriculture with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 1343 on the House floor.

Sincerely,

FRED UPTON,
Chairman.

□ 1240

Mrs. CAPPS. I yield myself such time as I may consume.

Mr. Speaker, I rise today also in support of H.R. 1343. This legislation directs the Department of Commerce's National Telecommunications and Information Administration and the Agriculture Department's Rural Utility Service to do what they are already, to a great degree, doing—returning deobligated broadband Recovery Act funds to the U.S. Treasury.

As Mr. WALDEN just said, H.R. 1343 was reported by the Energy and Commerce Committee with broad bipartisan support, and we should always take every step possible to improve oversight and ensure that U.S. tax dollars are spent wisely. So that is a good reason to support this bill, but I think it's also important today not to lose sight of the fact that the Recovery Act has been a true success for broadband deployment.

The \$7 billion in allocated broadband spending is bringing real economic, educational, and civic benefits to communities throughout the country. It's bridging the middle-mile gap, bringing high-speed Internet to small businesses and rural entrepreneurs. For businesses to grow, they need to expand their markets and enhance their realtime capabilities.

Broadband enables these successes. Broadband also connects patients with health care specialists thousands of miles away, and it enables doctors to monitor the vital signs of a heart patient while the patient sits at home.

Importantly, broadband brings the world's reference materials to the fingertips of our students in classrooms in big urban cities and in rural communities alike.

Simply put, broadband is no longer a luxury; it is a real necessity. That's why so many of my colleagues advocated for broadband applicants in our congressional districts. From coast to coast, Mr. Speaker, our colleagues joined us in understanding the necessity of broadband deployment, and there were tremendous success stories.

In my home State of California, for example, the Digital 395 Broadband Project is deploying broadband in rural communities up and down the eastern edge of the State. We're seeing community colleges expand their learning centers to provide outreach, training, and learning support services to increase the digital literacy skills of low-income residents. They are learning the critical skills needed to be full participants in our digital economy.

Across the country, the large-scale public-private Internet2 project is working to connect 121,000 community anchor institutions to a dedicated national fiber backbone. Colleges, universities, libraries, major veterans and other health care facilities, as well as public safety entities, are all benefiting from this Recovery Act broadband project.

As I said earlier, we must make sure that taxpayer dollars are always spent wisely; and that's why, to counter waste, fraud and abuse, the Recovery Act built oversight directly into the structure of the law. The two agencies overseeing the broadband programs, the Department of Commerce and the Department of Agriculture, were provided \$16 million and \$22.5 million respectively to oversee audit programs, grants, and activities funded by the Recovery Act.

To further enhance oversight, the Pay It Back Act was passed as part of the Dodd-Frank Wall Street reform. It makes clear, in no uncertain terms, that all returned or deobligated funds must be promptly transferred back to the Treasury. In fact, the Energy and Commerce Committee heard testimony from Assistant Secretary Strickling and Administrator Adelstein that they were already promptly returning deobligated funds to the Treasury, and they saw no ambiguity in current law that would prevent them from continuing to return deobligated funds. Current law is clear: deobligated funds must be returned to the Treasury.

So while I do support the bill before us, I must be honest and say that I think it is a little redundant. Oversight was built into the Recovery Act, into the broadband programs, and was reaffirmed with Dodd-Frank. This bill simply reiterates what the NTIA and the RUS are already doing—vigorously overseeing broadband projects and returning all deobligated funds to the Treasury.

While this bill is not necessarily needed, I do not oppose it, and I en-

courage my colleagues to join me in supporting this bill.

I reserve the balance of my time.

Mr. WALDEN. Mr. Speaker, I now yield such time as he may consume to the author of the legislation, a very valuable member of our Subcommittee on Communications and Technology, the gentleman from New Hampshire (Mr. BASS).

Mr. BASS of New Hampshire. I want to thank my friend and colleague from Oregon for yielding me time. I also want to thank my friend from California for supporting this legislation and for speaking in support of it.

Mr. Speaker, as the representative of a rural district, I understand the challenges of increasing access to broadband Internet service. We have many, many communities that suffer economically, as well as culturally, due to the lack of access to broadband; and any effort that's undertaken to improve that access is a good effort. At the same time, however, Congress must act to protect the taxpayer and provide oversight for the nearly \$7.2 billion in funds appropriated by the 2009 American Recovery and Reinvestment Act.

I would only note that a significant percentage of the obligated funds are being expended by recipients who have little or no experience in the business of designing and building broadband Internet and that that, in and of itself, justifies the passage of this legislation, which would provide much needed oversight for the broadband stimulus funds and would ensure that the law is definitive and would be quick to reclaim funds if there is reason to terminate an award for reasons of waste, fraud, or insufficient performance. As my friend from Oregon and my friend from California mentioned, it does not revoke any award that has already been granted.

The GAO and Inspectors General have testified that the size and complexity of the programs and the short turnaround time provided to the NTIA and RUS to award the money has created substantial risk in these programs. Thus far, nearly 30 awards for grants and loans worth about \$200 million have been returned to the Treasury. Many have returned the awards because they've recognized that they won't be successful. In those cases, we want to ensure that taxpayer exposure is minimized, and we want to prevent throwing good money after bad for projects that should be terminated for waste, fraud, or insufficient performance.

During committee hearings, the administrators testified that the decision to deobligate funds for awards that give rise to reason to terminate is discretionary, according to the Recovery Act language. I emphasize "discretionary." The Inspectors General said the stimulus bill does not make clear whether or when the NTIA and the RUS must deobligate funds for troubled projects. This legislation removes that ambiguity and makes clear that

such problem awards must be terminated and deobligated.

Moreover, the Inspectors General said current law does not ensure the NTIA and RUS will be responsive to their oversight recommendations. H.R. 1343 will provide important sunlight by requiring the administrators to act on recommendations made by the IG or to respond with their reasons for not acting.

While I wasn't in Congress for the Recovery Act's passage, now that the funds have been awarded, I think it's common sense that Congress should require an accounting of how these funds are being spent and what the American taxpayer is getting for these expenditures.

Mr. Speaker, I urge the Congress to pass this important piece of legislation.

Mrs. CAPPS. I reserve the balance of my time.

Mr. WALDEN. Mr. Speaker, I now yield such time as he may consume to the gentleman from Florida (Mr. STEARNS), who chairs our very important Oversight Subcommittee and who has done extraordinary work in looking into some of these programs, not necessarily on the broadband side here, but certainly on the energy loan side, where there has been a problem.

Mr. STEARNS. First of all, let me say to my colleague from New Hampshire that you weren't here when it was passed. I am sure glad as heck that you're here today to provide this legislation and give respectful oversight to the taxpayers and help them out with trying to save money and being accountable. So it is a credit to you and your initiative to get this bill on the floor.

I also want to thank the chairman of the Telecommunications Subcommittee for his initiative in getting this on the floor. It's something that, I think, we've wanted to do for a while; and between the leadership of Mr. BASS and the leadership of Mr. WALDEN, we've got this today.

□ 1250

I obviously support this bill, this so-called stimulus package. We hear this all the time: We are going to have a stimulus package. It said to the National Telecommunications and Information Administration, which is NTIA. They said, You have the responsibility for overseeing almost \$5 billion of broadband technology opportunities, giving out this money. They tasked the Rural Utilities Service with overseeing about \$2.5 billion of broadband initiative. Altogether, that's a whole lot of money, and all the awards were made by September 30, 2010.

But my colleagues, the nationwide broadband map was not launched until February 17, 2011. Think of that. They gave out all this money, but they didn't even have the map in place until October, November, December, January, almost 5 months later. It seems to