Section-by-Section Analysis and Explanation of the "American Jobs Act of 2011"

Section 1 – Short Title; Table of Contents. This section provides that the bill may be cited as the "American Jobs Act of 2011" and includes a table of contents for the bill.

Section 2 – References. This section specifies that generally any reference to "this Act" contained in any subtitle of the bill refers only to the provisions of that subtitle.

Section 3 – Severability. This section specifies that, if any provision of the bill is held invalid, the remainder of the bill is not affected.

Section 4 – Buy American – Use of American Iron, Steel, and Manufactured Goods. This section provides for the use of American iron, steel and manufactured goods, except in certain instances.

Section 5 – Wage Rate Requirements. This section provides for specific wage rate requirements. All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal government pursuant to the American Jobs Act of 2011 would have to be paid not less than the wages prevailing in the locality for similar projects as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

Title I – Tax Relief for Workers and Businesses

Subtitle A – Payroll Tax Relief

Section 101 – Temporary Payroll Tax Cut for Employers, Employees, and the Self-Employed. This section extends and expands the existing temporary reduction in payroll taxes. For calendar year 2012, it: (a) further reduces the Old Age, Survivors and Disability Insurance (social security) portion of the payroll tax that was paid by employees during 2011 from 4.2 percent (reflecting the existing 2 percent temporary reduction from the permanent rate) to 3.1 percent; and (b) adds a new reduction in the portion of this tax that is paid by employers from 6.2 percent to 3.1 percent. The employer reduction applies to up to $5 million of wages that are paid by the employer. With limited exceptions, the reduction in amounts paid by employers is available to all employers, whether private businesses or tax-exempt organizations. The employer reduction is not available, however, to Federal, State and local government employers (other than State colleges and universities) or with respect to household workers. This section contains equivalent reductions for individuals subject to self-employment taxes. Transfers from general revenues are provided to protect the social security trust fund.

Section 102 – Temporary Tax Credit for Increased Payroll. For the last quarter of 2011 and for calendar year 2012, the proposal provides a payroll tax credit that fully offsets the employer social security tax that otherwise would apply to increases in wages from the corresponding period of the prior year. For example, if an employer paid wages subject to social security tax of

$5 million in 2011 and $6 million in 2012, the credit to which the employer would be entitled would eliminate the employer's portion of social security taxes on the $1 million of increased wages. The credit would be available on up to $50 million of an employer's increased wages. Generally, the credit is available to all employers, whether private businesses or tax-exempt organizations, but would not be available to Federal, State and local government employers (other than State colleges and universities) or with respect to household workers. Transfers from general revenues are provided to protect the social security trust fund.

Subtitle B – Other Relief for Businesses

Section 111 – Extension of Temporary 100 Percent Bonus Depreciation for Certain Business Assets. Under current law, businesses generally are allowed to immediately deduct 100 percent of the cost of qualified property placed in service in 2011 and 50 percent of the cost of such property placed in service in 2012. To encourage additional capital investment, this section extends the ability of businesses to deduct 100 percent of the cost of qualified property through the end of 2012.

Section 112 – Surety Bonds. Subsection (a) temporarily increases the size of contract surety bond that the Small Business Administration (SBA) can guarantee from $2,000,000 to $5,000,000. This will make it easier for small businesses to take advantage of contracting opportunities generated by the American Jobs Act's proposed infrastructure investments. Subsection (b) amends the section of the Small Business Investment Act that limits liability for surety bond guarantees in situations when the guarantee was obtained by fraud or material misrepresentation, the surety has breached a material item of the guarantee agreement, or the surety has violated SBA's surety bond regulations, in order to make that section consistent with the higher surety bond guarantee limit. Subsection (c) provides that the increased surety loan size will sunset at the end of fiscal year 2012. Subsection (d) provides $3,000,000 in mandatory funding to the Surety Bond Guarantees Revolving Fund to cover the estimated cost of this section.

Section 113 – Delay in Application of Withholding on Government Contractors. This section would delay the effective date of the requirement that governmental entities withhold at a 3 percent rate from payments to persons providing certain property or services. Under this section, this withholding requirement would apply to payments made after December 31, 2013.

Title II – Putting Workers Back on the Job While Rebuilding and Modernizing America

Subtitle A – Veterans Hiring Preferences

Section 201 – Returning Heroes and Wounded Warriors Work Opportunity Tax Credits. Under current law, employers that hire veterans who have been unemployed for at least 6 months and have a service-connected disability are eligible for a maximum tax credit of $4,800. This section increases the amount of that credit to $9,600. This section also creates two new hiring credits for veterans. The first is a credit of $2,400 for employers that hire veterans who have been unemployed for at least 4 weeks. The second is credit of $5,600 for veterans who have been unemployed for at least 6 months. Under this section, these credits are also available to tax-exempt entities and public universities. Finally, this section authorizes the Secretary of the treasury to provide alternative methods for certifying a veteran's unemployed status.

Subtitle B – Teacher Stabilization

Section 202 – Purpose. This section establishes the purpose of this subtitle as the prevention of teacher layoffs and creation of additional jobs in public early childhood, elementary, and secondary education.

Section 203 – Grants for the Outlying Areas and the Secretary of the Interior; Availability of Funds. This section reserves, from the amount provided in section 212, up to one-half of one percent for outlying areas and up to one-half of one percent for Bureau of Indian Education (BIE) schools, and allow the Secretary to reserve up to $2,000,000 for administration and oversight. Under subsection (b), funds provided in section 212 would be made available to the Secretary until September 30, 2012.

Section 204 – State Allocation. This section allocates the remaining funds to the States based on population, through a grant to the Governor of each State who submits an approvable application. Under subsection (c), if a Governor does not submit an approvable application, the Secretary of Education would distribute those funds to other entities in the State, provided the Governor assures maintenance of effort for fiscal years 2012 and 2013. Under subsection (d), the Secretary would reallocate funds to the remaining States if a State does not receive funding or receives only 50 percent of its allocation.

Section 205 – State Application. This section allows Governors 30 days from the enactment of the Act to submit an application for a grant.

Section 206 – State Reservation and Responsibilities. This section authorizes States to reserve 10 percent of their grants for State-funded preschool programs and to reserve 2 percent for administrative costs. Subsection (b) would require States to support early, elementary, and secondary education by distributing the remaining grant funds to local educational agencies (LEAs) no later than 100 days after receiving a grant. Subsection (c) prohibits a State from using the funds to support a rainy-day fund or reduce debt obligations.

Section 207 – Local Educational Agencies. This section limits the use of funds by local educational agencies to those necessary to retain existing employees, rehire former employees, or hire new employees to provide early, elementary, or secondary educational and related services and excludes the use of funds for general administrative expenses. It also requires the funds to be obligated by September 30, 2013.

Section 208 – Early Learning. This section limits the use of funds by State-funded preschool programs to those necessary to retain early childhood educators, recall or rehire former early childhood educators, or hire new early childhood educators to provide early learning services, and requires the funds to be obligated by September 30, 2013.

Section 209 – Maintenance of Effort. This section of the bill requires a State to provide an assurance to the Secretary that, for fiscal years 2012 and 2013, the State will maintain State support for early childhood, elementary, and secondary education and public institutions of higher education at the same level of support as the previous fiscal year or higher. Subsection (b) allows the Secretary to waive this maintenance of effort requirement in the event of exceptional or uncontrollable circumstances, or a precipitous decline in the financial resources of the State.

Section 210 – Reporting. This section requires each State that receives a grant under this part to submit, on an annual basis, a report to the Secretary that contains a description of how funds received were expended or obligated, and an estimate of the number of jobs supported by the State using funds received under this subtitle.

Section 211 – Definitions. This section defines the terms used in Subtitle B.

Section 212 – Authorization of Appropriations. This section authorizes and appropriates $30,000,000,000 to carry out this subtitle for fiscal year 2012.

Subtitle C – First Responder Stabilization

Section 213 – Purpose. This section indicates that the purpose of this subtitle is to provide funding to States and localities to prevent layoffs and support the creation of additional jobs for law enforcement officers and other first responders.

Section 214 – Grant Program. This section provides authority for the Attorney General to carry out a competitive grant program as authorized by section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) to support hiring, rehiring, and retention of career law enforcement officers. This section further waives the requirements of subsections (g) and (i) of section 1701 and section 1704 of such Act (42 U.S.C. 3796dd–3(c)), which limit the Federal contribution for grants to 75 percent, terminate the authority to hire and rehire law enforcement officers after September 13, 2000, and limit annual salaries and benefits paid for by the grants to $75,000.

Section 215 – Appropriations. This section makes available $5,000,000,000 to carry out the program identified in section 214 for fiscal year 2012, permitting funds to remain available through September 30, 2012. This section further authorizes the transfer of $1,000,000,000 of this funding to the Department of Homeland Security to provide for competitive grants to support the hiring of first responder personnel, as authorized by 15 U.S.C. 2201 et seq., and to carry out section 34 of that Act (15 U.S.C. 2229a). This section also permits the Secretary to waive the requirements of subsections (a)(1)(A), (a)(1)(B), (a)(1)(E), (c)(1), (c)(2), and (c)(4)(A) of section 34, which, among other requirements, would limit the use of the funds as well as the duration of availability and funding amounts of grants. This section further permits that up to $8,000,000 of the amounts made available to the Department of Justice to be used for program administration, and up to $2,000,000 of amounts made available to the Department of Homeland Security may be used for program administration.

Subtitle D – School Modernization

Part I – Elementary and Secondary Schools

Section 221 – Purpose. This section states that the purpose of Subtitle D is to provide assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts across America, in order to support the achievement of improved educational outcomes in those schools.

Section 222 – Authorization of Appropriations. This section authorizes and appropriates $25,000,000,000, which would be available for obligation until September 30, 2012, to carry out this part.

Section 223 – Allocation of Funds. This section reserves one-half of one percent of the appropriated funds for BIE schools and outlying areas. It also permits funds to be reserved for a National Center for Education Statistics (NCES) survey on public school modernization, renovation, and repair needs. This section also allocates funds to the 100 LEAs with the largest numbers of children living in poverty, and provides for the remainder of funds to be allocated to States in proportion to their respective allocations under Part A of Title I of the Elementary and Secondary Education Act (ESEA) for fiscal year 2011.

Section 224 – State Use of Funds. This section allows a State to reserve no more than 1 percent (with a maximum of $750,000) for grant administration. It would also require States to allocate at least 50 percent of their funds to LEAs (other than those 100 LEAs described in section 1203(b)) based on their respective allocations under Part A of Title I of the ESEA for FY2011, with a minimum grant of $10,000. This section also authorizes States to use any remaining funds for grants to LEAs as needed, with priority to rural LEAs.

Section 225 – State and Local Applications. This section describes State and local application requirements.

Section 226 – Use of Funds. This section provides for the use of funds under this part.

Section 227 – Private Schools. This section allows certain private, nonprofit elementary or secondary schools to be eligible to receive program services for limited purposes, including meeting requirements of the Americans with Disabilities Act and the Rehabilitation Act.

Section 228 – Additional Provisions. This section makes funds appropriated under this Part available to LEAs for obligation for 24 months, and allows LEAs to obligate funds for 36 months from the date of enactment. It also states that section 439 of the General Education Provisions Act (GEPA) applies to this Part and clarifies that Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico are not LEAs for the purpose of receiving direct grants from the Secretary under subsection 223(b)(1).

Part II – Community College Modernization

Section 229 – Federal Assistance for Community College Modernization. This section authorizes the Secretary of Education to award grants to States to modernize, renovate, or repair existing facilities at community colleges. This section also reserves up to 0.25 percent for grants to Tribally Controlled Universities and outlying areas and provides for the Secretary's allocation to each State. It also: (1) allows the Secretary to reallocate any remaining funds proportionately; (2) allows a State to reserve 1 percent (up to $750,000) for grant administration; (3) requires that funds be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to modernize, renovate, or repair existing community college facilities; (4) lists the application requirements for States; (5) prohibits the use of funds under this Part for the payment of routine maintenance costs, or for construction, modernization, renovation, or repair of stadiums or facilities used for religious instruction or worship; (6) requires States to consider "green projects" in their funding of subgrants; (7) establishes that section 439 GEPA applies to this part; (8) requires States to report on their use of funds and job creation; (9) requires the Secretary of Education to report on grants made; and (10) authorizes and appropriates $5,000,000,000 for fiscal year 2012, available for obligation only during the period that ends 36 months after the date of enactment of this Act.

Part III – General Provisions

Section 230 – Definitions. This section defines several applicable terms used in this subtitle.

Section 231 – Buy American. This section establishes that Section 1605 of Division A of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) applies to funds made available under this subtitle.

Subtitle E – Immediate Transportation Infrastructure Investments

Section 241 – Immediate Transportation Infrastructure Investments. Subsection (a) of this section makes available $2 billion for airport development grants. Grants made available under the section would have a 100 percent Federal share. Additionally, this subsection permits 0.3 percent of the available funds to be used for administrative expenses.

Subsection (b) makes $1 billion available to conduct research and development and demonstrations and to acquire, establish, and improve FAA air navigation facilities, systems, and procedures to advance NextGen.

Subsection (c) provides $27 billion for highway restoration, repair, and construction projects, as well as passenger and freight rail transportation projects, distributed via traditional formulas that were also utilized in the Recovery Act. A portion of the funds within each State would be sub-allocated by population areas. To speed project delivery, the Federal share of project costs would be 100 percent. In addition, set asides are specifically provided for: (1) Puerto Rico and territorial highways; (2) Indian reservation roads; (3) park roads and parkways; (4) forest highways; (5) refuge roads; and (6) management and oversight, including funding for State Departments of Transportation planning activities. Competitive funding is also provided for transportation training programs, particularly focused on workforce skill gaps, and disadvantaged business enterprise training assistance.

Subsection (d) makes available $4 billion for projects to improve the Nation's existing intercity passenger rail network and develop new high speed rail corridors. Grants made available under the section would have a 100 percent Federal share. The Secretary would be required to issue interim guidance to applicants detailing the application process and eligibility criteria, and not less than 85 percent of the funds awarded shall be for projects supporting the development of intercity or high speed passenger rail corridors.

Subsection (e) makes available $2 billion to Amtrak for the repair, rehabilitation, and upgrade of Amtrak's assets and infrastructure, including rolling stock.

Subsection (f) makes available $3 billion for transit capital projects, particularly for the purchase of new buses and for the repair and rehabilitation of existing rail and bus systems, including rolling stock. To speed project delivery, the Federal share of project costs would be 100 percent. Of the funds provided, 80 percent would be apportioned to urbanized areas with a population of at least 50,000, 10 percent shall be apportioned to "Growing States and High Density States" as provided in Section 5340 of title 49, and 10 percent shall be apportioned to non-urbanized areas with populations below 50,000. In addition, within the amount made available for apportionment to non-urbanized areas, 2.5 percent would be made available for tribal transit programs as provided in Section 5311(c)(1) of title 49. Funds apportioned to urbanized areas with a population of at least 50,000, but not more than 200,000 may are eligible for both capital and operating assistance. Funds apportioned to non-urbanized areas are also eligible for operating assistance.

Subsection (g) makes available $6 billion for capital projects to modernize existing fixed guideway systems and to replace and rehabilitate buses and bus facilities. To speed project delivery, the Federal share of project costs would be 100 percent. To target fixed guideway modernization funding to the transit systems with the highest need for state of good repair upgrades, 75 percent of the funds provided will be apportioned based on fixed guideway revenue vehicle miles and passenger miles, as provided in Section 5336(b) of Title 49. The remaining 25 percent shall be available for bus and bus facilities and shall be apportioned based on formula in Section 5336 other than subsection (b).

Subsection (h) provides $5 billion to award grants on a competitive basis for projects across all surface transportation modes that will have a significant impact on the Nation, a metropolitan area or a region. Provisions require the Secretary to publish criteria on which to base competition for the grants within 90 days of enactment, with priority for distribution of funds given to projects expected to be completed within three years of the date of enactment of the Act. This subsection also provides the Secretary the flexibility to provide other forms of federal credit assistance for capital investments in surface transportation infrastructure.

Subsection (i) authorizes the Secretary to establish standards under which a contract for construction funded under subsections (a) through (h) of this section may be advertised that contains "local hiring" requirements in some limited circumstances.

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

Section 242 – Short Title; Table of Contents. The Act is entitled the Building and Upgrading Infrastructure for Long-Term Development (BUILD) Act.

Section 243 – Findings and Purpose. This section sets forth findings concerning, among other things, the importance of infrastructure and investing in infrastructure, the status of U.S. infrastructure as compared to other nations, and the issues surrounding our current funding mechanisms. It also sets forth the purpose of the Act, which is to create an institution that will mobilize significant private investment in economically viable infrastructure projects of regional or national significance in order to create jobs, reduce our infrastructure deficit, and support U.S. competitiveness.

Section 244 – Definitions. In this section-by-section, the definitions of significant terms are discussed in the sections below in which they appear.

Part I – American Infrastructure Financing Authority

Section 245– Establishment and General Authority of AIFA. This section establishes the American Infrastructure Financing Authority (AIFA) as a wholly-owned government corporation that will provide direct loans and loan guarantees to facilitate investment in economically-viable infrastructure projects of regional or national significance. As set forth in the ―Definitions section of the Act, the term ―infrastructure project includes projects from the transportation, water, and energy sectors. These sectors, in turn, include highways, roads, bridges, mass transit, inland waterways, commercial ports, airports, air traffic control systems, passenger rail, freight rail, water-waste treatment facilities, storm-water management systems, dams, solid-waste disposal facilities, levees, open-space management systems, pollution-reduced energy generation, transmission and distribution of energy, storage of energy, and energy-efficiency enhancements for buildings. The Board of Directors may make changes at its discretion to the subsectors by a vote of at least five of the voting members of the Board. This section further provides that AIFA shall be incorporated on the date of the first meeting of the Board of Directors, shall maintain and be considered a resident of Washington, D.C., and shall be exempt from the requirements set forth in chapter 91 of title 31 related to government corporations. Finally, this section requires the Secretary of the Treasury to take such action as may be necessary to assist AIFA in carrying out the purposes of this Act.

Section 246 – Voting Members of the Board of Directors. AIFA's Board of Directors will consist of seven voting members, each of whom will have an equal vote and all of whom will be appointed by the President with the advice and consent of the Senate. The President will also designate the Chairperson of the Board. Congressional Leadership (the Majority and Minority Leaders of the Senate, and the Speaker and Minority Leader of the House) will submit recommendations to the President after consulting with the appropriate Congressional committees. No more than four of the voting members can be from the same political party. Further, to be eligible to serve on the Board, the person must be a U.S. citizen and have significant expertise either in the management and administration of a relevant financial institution or in the financing, development, or operation of infrastructure projects. Voting members will serve a term of four years, except that the initial terms will be staggered for a subset of the Board. Voting members will be compensated at the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of Title 5 for each day during which the member is engaged in the performance of Board duties. A board member will not participate in decisions regarding any AIFA project in which the member has a financial interest.

Section 247 – Chief Executive Officer of AIFA. This section provides that the President will appoint, with the advice and consent of the Senate, a Chief Executive Officer of AIFA for a term of six years. The CEO will be a nonvoting member of the Board of Directors. To be eligible to serve as CEO, the person must be a U.S. citizen and have significant expertise in the management or administration of a financial institution or the financing and development of infrastructure projects. Additionally, to be eligible, the candidate must not hold any other public office or have any interest in an infrastructure project that is being considered by the Board (unless that interest is placed in a blind trust). The CEO will be responsible for all activities of AIFA, including responsibility for the development of AIFA's internal policies and responsibility for managing and overseeing AIFA's daily activities and personnel. More specifically, the CEO will be responsible for appointing senior management (subject to Board approval), hiring and terminating all other AIFA personnel, overseeing AIFA's involvement in the funded projects, and assessing and recommending in the first instance (subject to ultimate approval or disapproval by the Board) the compensation of all AIFA personnel. Although the Board is responsible for ultimately approving or disapproving loans and loan guarantees for applying projects, the CEO is responsible, in consultation with his or her staff, for developing eligible projects for AIFA support, for preparing the financial assistance packages for Board approval, and for monitoring any projects that receive funding. The CEO's compensation recommendations will be without regard to chapter 51 or subchapter III of chapter 53 of title 5.

Section 248 – Powers and Duties of the Board of Directors. This section lays out the powers and duties of the Board. It provides that the Board will be responsible for the ultimate review and approval of the eligible project applications and financial packages that are submitted by the CEO and senior management. The Board will also be responsible for, among other things, approving or disapproving any senior management appointed by the CEO, approving CEO-submitted documents concerning application and lending procedures, approving the compensation of AIFA personnel, approving business plans, strategies, and budgets, developing bylaws and conflict of interest policies, establishing subcommittees of the Board (including an audit committee), and ensuring that AIFA is operated in compliance with the Act. In setting and approving the compensation for the CEO and other AIFA personnel, the Board will consult with the Office of Personnel Management and seek to maintain comparability with other comparable federal personnel. The Board will also have the general authority to execute and oversee AIFA's contractual agreements, to determine appropriate expenses and obligations of AIFA, to approve other forms of credit enhancement that AIFA may provide to eligible projects consistent with the Act, to sue and be sued in AIFA's corporate capacity, and to exercise all other lawful powers that are necessary to carry out AIFA's purposes.

Section 249 – Senior Management. Senior management will be appointed by the CEO, subject to approval by the Board of Directors, and will serve at the pleasure of the CEO and the Board. Members of senior management include the Chief Financial Officer, Chief Risk Officer, Chief

Compliance Officer, General Counsel, Chief Operations Officer, and Chief Lending Officer – each of whom will report directly to the CEO except for the Chief Risk Officer, who will report directly to the Board. The primary function of senior management will be to provide professional support to the CEO in the discharge of his or her duties. The section provides that: (1) the Chief Financial Officer will be responsible for all financial functions of AIFA except those functions that the Board delegates externally; (2) the Chief Risk Officer will be responsible for the creation of financial, credit, and operational risk management guidelines, the establishment of guidelines to ensure diversification of lending activities, the monitoring of the financial, credit, and operational exposure of AIFA, and the development of risk-management actions; (3) the Chief Compliance Officer will be responsible for AIFA functions relating to audits and accounting safeguards; that the General Counsel will be responsible for legal matters; (4) the Chief Operations Officer will be responsible for all AIFA operational functions, including those related to operations generally and human resources; and (5) the Chief Lending Officer will be responsible for all functions relating to the development of project pipelines, the financial structuring of projects, the selection of infrastructure projects to be reviewed by the Board, and related functions. The Chief Lending Officer will also be responsible for creating and managing both a Center for Excellence to provide technical assistance to public-sector borrowers and an Office of Rural Assistance to provide technical assistance for rural infrastructure projects. Finally, this section prevents members of senior management from holding any other public office and from having a financial interest in projects being considered (unless that interest is placed in a blind trust).

Section 250 – Special Inspector General for AIFA. This section provides that an Inspector General will oversee AIFA's operations. For the first five years of AIFA's existence, oversight responsibility will fall to the Inspector General of the Department of the Treasury. Beginning five years after enactment of the Act, an Office of the Special Inspector General for AIFA will be created. The Special IG for AIFA will be appointed by the President, with the advice and consent of the Senate. The primary duties of this office will be to conduct, supervise, and coordinate audits and investigations of AIFA's business activities. The Inspector General Act of 1978 will apply to the Special IG of AIFA, and the Special IG may appoint and employ personnel in accordance with Title 5. Other federal entities, departments, and agencies are obliged to comply with requests for information from the Special IG of AIFA. Not later than one year after the confirmation of the Special IG of AIFA, and every calendar year thereafter, the Special IG will submit to the President a report of his or her activities during the previous year.

Section 251 – Other Personnel. Except as otherwise provided in the bylaws of AIFA, the CEO (in consultation with the Board) shall appoint, remove, and define the duties of such qualified personnel as are necessary to carry out the duties and purposes of AIFA. Members of senior management are excluded from this section, as they are addressed in section 295.

Section 252 – Compliance. This section provides that the provision of financial assistance to projects under this Act shall not be construed as superseding any provision of State law or any regulation that is otherwise applicable to an infrastructure project.

Part II—Terms and Limitations on Direct Loans and Loan Guarantees

Section 253 – Eligibility Criteria for Assistance from AIFA and Terms and Limitations of Loans. Financial assistance under this Act shall not be provided for any project whose purpose is private and for which no public benefit is created. Nor will financial assistance be provided for the refinancing of an existing project. Applicants are required to demonstrate to the satisfaction of the Board of Directors that the non-Federal project meets any pertinent requirements of this Act, any criteria established by the Board of Directors or CEO of AIFA, and the definition of a transportation and transportation-related infrastructure project, water infrastructure project, or energy infrastructure project as defined by this Act. The criteria established by the Board of Directors shall provide adequate consideration of the economic, financial, technical, environmental, and public costs of each infrastructure project under consideration for financial assistance under this Act. The criteria established by the Board of Directors shall also provide adequate consideration of: (1) the means by which an infrastructure project is being financed; (2) the likelihood that assistance from AIFA will accelerate the development of the project and lower the overall costs; (3) the extent to which assistance from AIFA maximizes private investment or supports a public-private partnership; (4) the extent to which the support mobilizes other financing; (5) the technical and operational viability of the infrastructure project; (6) the proportions of financial assistance from AIFA; (7) the geographic location of the project (in an effort to have geographic diversity); (8) the size of the project and its impact on the resources of AIFA; and (9) the infrastructure sector of the project (in an effort to have projects from more than one sector financed by AIFA). Entities seeking assistance from AIFA for an eligible infrastructure project shall submit an application to AIFA. The CEO, working with the senior management of AIFA, will prepare eligible infrastructure projects for review and approval by the Board of Directors. Applications are reviewed on an ongoing basis. An eligible project has a cost that is reasonably anticipated to equal or exceed $100 million, with the exception of rural projects. An eligible rural project has a cost that is reasonably anticipated to equal or exceed $25 million. Once selected for financing, the amount of any direct loan or loan guarantee shall not exceed the lesser of 50 percent of the reasonably anticipated eligible infrastructure project costs or – if the direct loan or loan guarantee does not receive an investment grade rating – the amount of the senior project obligations. The maximum amount of new direct loans and loan guarantees in AIFA's first two fiscal years is limited to $10 billion each year. This increases to $20 billion per year after the second year of operations and through the ninth year, and increases to $50 billion per year after the ninth year of operations.

Section 254 – Loan Terms and Repayment. A direct loan or loan guarantee under this Act shall be on such terms and subject to such conditions as the CEO of AIFA determines appropriate, but there are certain threshold terms that will apply. First, a direct loan or loan guarantee under this Act shall be payable (in whole or part) from tolls, user fees, or other dedicated revenue sources that secure the senior payment obligations and shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations. Second, the base interest rate on a direct loan shall not be less than the yield on United States Treasury obligations of a similar maturity to the maturity of the direct loan. Third, the CEO of AIFA (in consultation with the Director of the Office of Management and Budget) shall estimate an appropriate federal credit subsidy amount for each direct loan and loan guarantee before entering an agreement for assistance. The final credit subsidy cost will be determined consistent with the Federal Credit Reform Act. The CEO of AIFA may charge a credit fee to the borrower to pay for all or a portion of the Federal credit subsidy. Fourth, the final maturity date of a direct loan or loan guarantee by AIFA shall be no later than 35 years after the date of substantial completion of the project (as determined by the CEO of AIFA). The CEO of AIFA will also require each applicant to provide an opinion letter from at least one rating agency. An opinion letter is not required for rural projects, as these projects will receive an internal rating score. The execution of loan and loan guarantees under this Act will be contingent on the senior obligations of the infrastructure project receiving an investment grade rating. The CEO of AIFA will establish a repayment schedule for each direct loan, with the repayment commencing no later than five years after the date of substantial completion. After the first five years of AIFA operations, the average rating of AIFA's overall portfolio must be investment grade. The terms for loan guarantees are consistent with the terms set forth in this section for direct loans, except that a rate on the guaranteed loan and any payment, pre-payment, or refinancing features will be negotiated between the obligor and the lenders with the consent of the CEO of AIFA. Direct loans and loan guarantees under this Act are subject to the Federal Credit Reform Act.

Section 255 – Compliance and Enforcement. Entities that receive assistance from AIFA are required to enter into a credit agreement promising compliance with all policies and procedures of AIFA. The Board of Directors may take action to cancel utilized loan amounts or to accelerate the repayment terms of any outstanding obligations if a recipient of assistance is materially out of compliance with the loan agreement or any applicable procedure of AIFA.

Section 256 – Audits; reports to the President and Congress. The books of AIFA shall be maintained with generally accepted accounting principles and shall be subject to an annual audit by public accountants appointed by the Board of Directors. Ninety days after the last day of each fiscal year, the Board of Directors will be required to submit to the President and Congress an annual report that provides a detailed assessment of the preceding fiscal year. The Government Accountability Office (GAO) is required to conduct an evaluation and to submit a report to Congress on the activities of AIFA no later than five years after the date of enactment. AIFA is required to maintain appropriate records to support AIFA's financial transactions. The AIFA records are at all times open to inspection by the Secretary of the Treasury, the Special Inspector General, and the Comptroller General of the United States.

Part III—Funding of AIFA

Section 257 – Administrative Fees. The CEO of AIFA shall establish fees that are sufficient to cover all or a portion of the administrative costs of AIFA.

Section 258 – Efficiency of AIFA. The CEO of AIFA shall make efforts to minimize the risk and cost to the taxpayer of AIFA activities while supporting the program's objectives, in establishing fees and risk premiums on loans and loan guarantees.

Section 259 – Funding. This section authorizes and appropriates $10 billion, which is to remain available until expended. Portions of these funds are set aside in the early years for administrative costs. No more than five percent will be used to offset subsidy costs associated with rural infrastructure projects.

Part IV—Extension of Exemption from Alternative Minimum Tax Treatment for Certain Tax-Exempt Bonds

Section 260 – Extension of Exemption from Alternative Minimum Tax Treatment for Certain Tax-Exempt Bonds. This section excludes from the alternative minimum tax (AMT) interest on tax-exempt private activity bonds for bonds issued in 2011 or 2012.

Subtitle G – Project Rebuild

This subtitle authorizes $15 billion in investments to put construction workers on the job rehabilitating and refurbishing hundreds of thousands of vacant and foreclosed homes and businesses. Building on proven approaches to stabilizing neighborhoods with high concentrations of foreclosures, Project Rebuild will bring in expertise and capital from the private sector, focus on commercial and residential property improvements, and expand innovative property solutions like land banks. The goals of this subtitle are to create jobs, as well as stabilize neighborhoods, reverse vacancy reduction, and increase or stabilize residential and commercial property values.

Section 261 – Project Rebuild. Subsection (a) includes $15 billion in direct appropriations and enumerates the eligible entities, including units of general local government, states, nonprofits, for-profits, and consortia. This section makes for-profits eligible to be a potential direct grant recipients and not only as partners with a local government or non-profit entity. This addition is consistent with the added emphasis on job creation, innovation, and capacity to carry out real property acquisition. To offset potential new risks inherent in direct grants to for-profit entities, HUD will implement the enforcement policies and procedures as described at the end of the subtitle.

Subsection (b)(1) describes the allocation of funds, with two-thirds allocated by formula to States and local governments and one-third allocated competitively to all types of eligible entity. This split allows the program both to use the speed of a formula and to use the more policy-driven competitive process to bring new players with capacity into the program, spurring leverage and innovation. The formula mandated by subsections (b)(2) and (b)(3) will be developed and allocations made within 30 days of enactment. Entities eligible to receive formula allocations are States and units of general local government. The formula criteria subsection includes factors such as home foreclosures, mortgage defaults and delinquencies, and other criteria determined by the Secretary. As the nature of the causes of neighborhood de-stabilizing foreclosures has shifted over time, the formula factors are designed to capture greatest need areas and high capacity grantees. These factors will allow HUD to prepare a formula that will target effectively. Subsection (b)(4) describes the eligible entities for the competitively distributed funds and the competition factors. For-profit entities are included as possible direct grantees and factors have been added to identify applicant capacity to acquire foreclosed residential and commercial property and to demonstrate their knowledge of market conditions and appropriate responses. Capacity to undertake acquisition and stabilization activities is the most critical factor, so eligible entities will include consortia. The subsection requires publication of the competition NOFA within 60 days of enactment and submission of applications within 120 days.

Under subsection (c), all funding must be obligated by HUD within 150 days, and eligible entities will have ambitious expenditure goals: 100 percent of funds expended within 3 years of receipt by the grantee, and the Secretary shall, by notice, establish expenditure benchmarks at the one- and two-year milestones. This ensures the program leverages experience and begins generating benefits sooner for targeted high need neighborhoods. Subsection (c) also requires each grantee to address how the use of funds will prioritize job creation. Other goals that must be addressed include neighborhood stabilization, vacancy rates, and stabilization of property values. This subsection also governs grantee targeting of resources. It requires grantees to target funds to needy geographical areas based on foreclosure-related factors. In addition, commercial foreclosures and higher than average unemployment will be considered in targeting. Grantees will be required to describe how their proposed use of funds will leverage private funds.

Eligible uses of these funds include financing mechanisms, property acquisition/rehabilitation, land banks, demolition, and redevelopment. In addition, other eligible activities are property acquisition, direct homeownership assistance, homebuyer rehabilitation, property maintenance and disposition, and public improvements of public facilities. Eligible property types include foreclosed, abandoned, blighted, demolished, and vacant residential and commercial property. Commercial properties may be used for job generating activities, providing another employment and neighborhood stabilization tool. Another eligible use will allow the Secretary to support innovative uses of funds that support program goals, especially job creation through special economic development or modernization of public facilities.

Subsection (d)(1) requires that grantees not purchase properties at a price in excess of current market value. Subsection (d)(2) requires quality rehabilitation that brings properties to applicable codes and permits use of renewable energy sources. Subsection (d)(3) requires the sale of homes at an amount less than or equal to the acquisition or rehabilitation cost to ensure housing affordability. Subsection (d)(4) prohibits using the funds to demolish public housing. This is an important safeguard to ensure that funds are not used to decrease affordable housing. Subsection (d)(5) limits the use of funds for demolition of other types of housing unless the Secretary determines that more demolition is an appropriate response to market conditions. This helps focus grantees on appropriate responses to market conditions and ensures that the vast majority of funds are used in ways that increase job opportunities and affordable housing. Subsection (d)(6) limits the use of funds under certain eligible uses for commercial purposes to 30 percent of each grant. The majority of properties in foreclosure nationally are residential, not commercial. This limitation will help maintain an appropriate focus on each property type. The limitation will not apply to properties in land banks. Land banks are frequently used in areas of very high unemployment where a focus on commercial uses is appropriate. Further, the Secretary will be able to provide exceptions to this limitation where appropriate to address local market conditions.

Subsection (e)(1) establishes the program within the frameworks of the Housing and Community Development Act of 1974 and title I of the Cranston-Gonzalez National Affordable Housing Act of 1990, which ensure strong financial management accountability, citizen participation, environmental review delegations, and other time-tested established requirements. Subsection (e)(2) states that no match will be required. Subsection (e)(3) references the tenant protections requirements in prior enacted language to be applicable in this Act. The provisions require grantees to extend certain protections to legal tenants of foreclosed property acquired with funds. Subsection (e)(4) includes vicinity hiring requirements to emphasize local hiring preferences. Subsection (e)(5) applies the Buy American provisions that was in the American Recovery and Reinvestment Act of 2009 to this program.

Subsection (f)(1) permits the Secretary to specify waivers and alternative requirements for provisions that underlie the Housing and Community Development Act of 1974 and the National Affordable Housing Act, to expedite and facilitate use of funds. However, the Secretary may not specify alternative requirements to fair housing, nondiscrimination, labor standards or environmental provisions under these laws. Subsection (f)(2) provides for the Secretary to provide written notice of intent to exercise the authority to specify alternative requirements. This is consistent with the policy goal of increasing transparency. Subsection (f)(3) provides that the beneficiaries of the program are individuals and families whose income are 120 percent or less of the area median with 25 percent of the funds set aside for uses that provide housing for persons whose incomes are 50 percent or less of area median. This allows Project Rebuild to address the employment and housing needs of families with a wider range of incomes, but still ensuring assistance to lower income families. The Recurrent Requirement under subsection (f)(3)(B) directs the Secretary to take action to ensure long term affordability of residential property treated with Project Rebuild funds. Through notice, HUD will prescribe different affordability periods for different investment amounts, with greater investment resulting in longer affordability periods. Resale or recapture provisions are used for homeowner properties.

Subsection (g) assures nationwide distribution of formula funds by providing a minimum of $20 million for each state.

Subsection (h) limits the use of eminent domain so that it may not be used for purposes of economic development that primarily benefits private entities.

Subsection (i) Limitation on distribution of funds does not allow grants to an organization that is itself or has employees that have been indicted for a violation under Federal law relating to election for Federal office.

Subsection (j) requires every formula grantee to establish procedures related to the development of affordable rental housing. Many Project Rebuild grantees will be working in markets in which more rental housing is needed and this provision requires grantees to consider how to address these needs.

Subsection (k) provides a 10 percent cap on the amount of funds in any grant that may be used to support a job-creating property maintenance program. This allows grantees to create short-term jobs on an interim basis while taking other actions to stabilize the neighborhood for the longer term.

Subsection (l) allows 0.75 percent of the funds to be directed by HUD for grantee capacity building assistance and HUD expenses including, enforcement and program evaluation. With these funds, HUD will carry out its role in launching, overseeing, and closing out these grants.

HUD's use of the grantee capacity building funds will support continued improvements and operations of the online reporting system used to track financial and activity progress.

Subsection (m) requires the Secretary to establish and implement procedures to prevent fraud, waste, and abuse of funds. Further, grantees will be required to have an internal auditor and to provide performance reports to HUD on a quarterly basis. This subsection also specifies that the sanction for failure to meet expenditure requirements, as determined by the Secretary, shall be recapture of funds and reallocation. The Secretary will only be able to take an alternative sanction if the action is necessary to achieve program goals in a timely manner.

Subtitle H – National Wireless Initiative

Section 271 – Definitions. This section defines several applicable terms used in this subtitle.

Part I – Auctions of Spectrum and Spectrum Management

Section 272 – Clarification of Authorities to Repurpose Federal Spectrum for Commercial Purposes. Subsections (a) and (b) permit Federal agencies to be fully reimbursed through the Spectrum Relocation Fund (SRF) for relocation costs (including planning costs that occur before an auction), to better enable agencies to evaluate the cost and scheduling implications of relocation activities, and thereby facilitate both an improved auction and relocation process while ensuring the continuity of agency missions. Also, subsection (b) allows for support of costs incurred by Federal agencies to allow shared and unlicensed use of spectrum assigned to agencies.

Subsection (c) permits Federal agencies to be reimbursed for costs incurred in accommodating additional non-Federal access to their frequencies, as well as for studies related to sharing bands among Federal users. Reimbursable costs to enable sharing are consistent with system modifications made in the context of relocation.

In addition, subsection (c) clarifies that the agencies are permitted to acquire state of the art replacement systems under the current-law standard of comparable capability of systems. Section 101(c) also permits agencies to hire term-limited civil servant and contractor support staff to implement relocation projects, and provides further authority for expenditures related to planning in advance of an auction. Subsection (c) furthermore clarifies that the SRF can be used to reimburse agencies for the cost of using commercial services, if these services are the most cost effective way of vacating Federal frequencies while maintaining agency missions. Subsection (d) allows Federal agencies to enter into sharing arrangements with non-Federal entities, upon approval of NTIA and the Office of Management and Budget (OMB). Subsection (e) provides authority to the Director of OMB to transfer amounts from the SRF for the costs of activities (including planning) directly attributable to relocation of Federal systems. This section also extends the period of funds availability in the SRF from 8 to 15 years, and provides additional flexibility beyond that period upon notification of the Congress. Furthermore, subsection (e) provides that up to 20 percent of the revenue from the auction of licenses associated with frequencies vacated by Federal agencies, or made available through sharing, may be used to enhance agency communications, radar and other spectrum using capabilities; this funding availability for enhancements would be in addition to the relocation costs covered under the current authorities, which provide for maintaining comparable capability for agencies. Use of funds for enhancements, like current authorities for relocation cost reimbursement, would be subject to notification of the appropriate Congressional committees. Subsection (f) clarifies that proceeds from non-federal spectrum auctioned and paired with spectrum from federal inventories is available to support relocation activities after retention of revenues by the Federal Communications Commission to support its auctions program. Subsection (g) provides for a classified annex, if required, for any reports and notifications arising from the requirements of Sections 923 and 928 of Title 47, including the provisions of the bill.

<u>Section 273 – Incentive Auction Authority</u>. Subsection (a) authorizes the FCC to hold incentive auctions, where non-government holders of spectrum will be reimbursed for its value from a portion of auction proceeds in return for voluntarily relinquishing their spectrum rights. The method of determining the portion paid to licensees would be subject to review prior to implementation. This section would require the FCC to assign at least the first 84 megahertz from certain specified bands through a competitive bidding process.

<u>Section 274 – Requirements When Repurposing Mobile Satellite Services Spectrum for Terrestrial Broadband Use</u>. This section would require the FCC to recover a significant portion of the value of new terrestrial broadband deployment rights in certain spectrum frequencies that were originally set aside for satellite services either through competitive bidding procedures or spectrum fee authority.

<u>Section 275 – Permanent Extension of Auction Authority</u>. This section would make permanent FCC's authority to auction spectrum, which expires on September 30, 2012, under current law.

<u>Section 276 – Authority to Auction Licenses for Domestic Satellite Services</u>. This section would clarify FCC's authority to auction certain spectrum that is solely or predominantly used for domestic satellite communications.

<u>Section 277 – Directed Auction of Certain Spectrum</u>. This section requires certain spectrum assigned to Federal agencies or in FCC inventories to be identified by NTIA and auctioned by the Commission. The section provides procedures for the President to not auction certain Federal spectrum if the President determines that it is not in the public interest to do so and provided that alternative spectrum is identified.

<u>Section 278 – Authority to Establish Spectrum License User Fees</u>. This section creates a new subsection (m) under section 309 of the Communications Act of 1934, which provides the FCC with authority to establish, assess, and collect fees for initial spectrum licenses and construction permits that were not assigned by auction (competitive bidding) under section 309(j) and for modifications or renewals of initial licenses and other authorizations, whether granted through competitive bidding or not, based upon public interest principles (for example, if a modification increases the value of a license). Fee authority will assist the FCC in managing the spectrum efficiently in cases in which auctions are prohibited or may not be an appropriate assignment tool but in which it is important to ensure that license holders pay the opportunity costs of their

spectrum use, such as mobile satellite spectrum that is also licensed for ancillary terrestrial services.

Paragraph (1) of new subsection (m) requires the FCC to collect certain amounts in fees in each fiscal year from 2012 through 2021. Paragraph (2) governs the FCC's development of regulations to implement its fee authority. Subparagraph (A) requires the FCC to conduct a rulemaking to establish a fee methodology and a fee collection schedule. The FCC is directed to develop a fee methodology consistent with the public interest, convenience, and necessity requirement, which is found throughout the Communications Act. The FCC is expected to undertake a multi-stage rulemaking during which fees for different classes of spectrum licenses or construction permits may be developed and phased-in over time, consistent with sound spectrum management principles. It is expected that fees would encourage efficient allocation and use of the radio spectrum, as the opportunity cost of spectrum resources would be reflected to commercial license holders that did not receive authorizations through competitive bidding. The proposal specifies that the FCC may take the following factors into account when developing a fee methodology: (1) the highest value use of the spectrum that is forgone by the license or class of licenses or construction permits (i.e., the opportunity cost of spectrum use); (2) the scope and type of permissible services and uses; (3) the amount of spectrum and licensed coverage area; (4) shared versus exclusive use; (5) the level of demand for spectrum licenses or construction permits within a certain spectrum band or geographic area; (6) the amount of revenue raised on comparable licenses awarded through auction; and (7) such other factors that the FCC determines, in its discretion, are necessary to promote efficient and effective spectrum use. These factors may assist the FCC in determining which classes of spectrum licenses and construction permits should be subject to user fees and in developing a methodology that addresses the relative value of the spectrum to different classes of users. The FCC may consider other factors that may be raised during the rulemaking process. The FCC may also determine that certain classes of licenses or permits should be exempt from fees.

Subparagraph (B) requires the FCC to conduct a rulemaking to establish a fee methodology and a fee collection schedule for entities holding Ancillary Terrestrial Component (ATC) authority on Mobile Satellite Service spectrum licenses. The FCC is directed to develop a fee methodology to collect an amount not less than a reasonable estimate of the value of the licenses over their term regardless of whether the spectrum is used for the ATC service. The FCC may take the same factors under subparagraph (A) into account when developing a fee methodology for the spectrum used for ATC service.

Subparagraph (C) directs the FCC to commence a rulemaking regarding fees as a spectrum management tool within 60 days of enactment of the Act. The FCC is also directed to take all actions necessary so that fees for first class or classes of spectrum licenses or construction permits can be collected by September 30, 2012.

Subparagraph (D) provides clarification that the FCC may modify the fee methodology or revise the rules implementing fees either through separate rulemakings, or as part of rulemakings or proceedings involving spectrum-based services, licenses, permits, and uses. Such modifications or revisions may add or modify classes of spectrum license or construction permit holders that must pay fees, and reflect appropriate increases or decreases in fees as a result of the addition, deletion, reclassification, or other change in a spectrum-based service or use, including changes in the nature of a spectrum-based service or use as a consequence of FCC rulemaking proceedings or changes in law. Such modifications or revisions can take effect upon the date established in the FCC's rulemaking or in the law.

Subparagraph (E) provides an exemption from spectrum licensing fees for holders of licenses for broadcast television and public safety radio services. The meaning of "emergency response providers" is derived from the definition of the term found in section 2(6) of the Homeland Security Act of 2002. Federal agencies are not FCC licensees and would not be subject to FCC fees.

Paragraph (3) directs the FCC to assess penalties for late payment of fees. Paragraph (4) provides the FCC with the authority to revoke a license or permit if the license or construction permit holder has failed to pay to the FCC the fee or penalty authorized under this subsection. Paragraph (5) requires that all proceeds collected by the FCC under this section of the legislation be deposited in the Treasury's General Fund.

Part II – Public Safety Broadband Network

Section 281 – Reallocation of D Block for Public Safety. This section would reallocate spectrum known as the D block for use by first responders and other public safety uses. Under current law, the spectrum would be auctioned.

Section 282 – Flexible Use of Narrowband Spectrum. This section would allow the FCC to authorize broadband technologies to operate in spectrum currently designated for legacy narrowband and other land mobile radio technologies used for public safety operations.

Section 283 – Single Public Safety Wireless Licensee. This section would grant the Public Safety Broadband Corporation, which is established under section 284, the license for the D block of spectrum in addition to certain spectrum held for public safety use by broadband technologies.

Section 284 – Establishment of Public Safety Broadband Corporation. This section establishes the Public Safety Broadband Corporation to promote the construction and development of a nationwide public safety network. The section designates that the Corporation is not an agency or establishment of the U.S. or District of Columbia governments.

Section 285 – Board of Directors of the Corporation. This section establishes that the Corporation shall have a board of directors comprised of Federal and non-Federal members. The section also provides procedures for the election of non-Federal members, qualifications, terms of apportionment, and other matters.

Section 286 – Officers, Employees, and Committees of the Corporation. This section describes the officers and employees of the corporation and compensation among other issues.

Section 287 – Nonprofit and Nonpolitical Nature of the Corporation. This section prohibits the Corporation from profiting on its assets, issuing stock, or supporting political parties or candidates for elective office.

Section 288 – Powers, Duties, and Responsibilities of the Corporation. This section describes the Corporation's authorities and responsibilities in deploying a nationwide public safety broadband network.

Section 289 – Initial Funding for the Corporation. This section provides up to $50 million to the National Telecommunications and Information Administration to transfer to the Corporation for expenses before proceeds from spectrum auctions authorized in this bill are realized.

Section 290 – Permanent Self-Funding; Duty to Assess and Collect Fees for Network Use. This section allows the Corporation to charge fees for the use of the public safety broadband network's capacity, whether public safety users or commercial users on a secondary basis. It also requires that fees cover the operations of the network after the initial expenditure of Federal funds and that proceeds from fees be reinvested in the network.

Section 291 – Audit and Report. This section requires that the Comptroller General have access to the Corporation's financial records in years where federal funds are available to finance operations. The section also requires the Comptroller General to submit reports to appropriate committees of Congress, the President, and the Corporation after an audit is conducted.

Section 292 – Annual Report to Congress. This section requires the Corporation to submit an annual report to Congress and the President on its activities.

Section 293 – Provision of Technical Assistance. This section allows the Commission and the Departments of Commerce, Justice and Homeland Security to provide technical assistance to the Corporation in carrying out its duties.

Section 294 – State and Local Implementation. This section authorizes a grant program to be administered by NTIA for states and localities to plan for the nationwide public safety broadband network.

Section 295 – State and Local Implementation Fund. This section creates a State and Local Implementation Fund for the grant program authorized in section 294. The fund is authorized to spend up to $100 million, and up to this amount could be borrowed from future spectrum proceeds to operate the program before proceeds from an auction are realized.

Section 296 – Public Safety Wireless Communications Research and Development. This section authorizes the program at the National Institute of Standards and Technology to develop technical requirements and standards for the public safety broadband network.

Section 297 – Public Safety Trust Fund. This section establishes the Public Safety Trust Fund, where proceeds from certain spectrum auctions are authorized to be deposited. This section provides $7 billion to build and operate the nationwide public safety broadband network as well as conduct research to develop standards for the network. Specifically, $200 million is provided to the state and local grant program to plan for and implement the network, $6.5 billion is provided for network construction (including up to $50 million of initial funding provided by NTIA) and up to $300 million is provided for the public safety communications research and development activities authorized in section 296. Funds are available until fiscal year 2016. In addition, after funds have been provided to licensees that participate in incentive auctions, the Commission may deposit $1 billion in the incentive auction relocation fund for the purpose of compensating licensees for costs incurred in repacking spectrum to make contiguous blocks available.

Section 298 – FCC Report on Efficient Use of Public Safety Spectrum. This section requires the Commission to report on use of spectrum assigned to public safety entities. This includes an examination of spectrum use, whether efficiency can be increased, and the feasibility of repurposing spectrum.

Section 299 – Public Safety Roaming and Priority Access. This section provides the Commission with authority to adopt rules that allow public safety entities to roam and have priority access on commercial networks in emergencies if certain conditions are met.

Title III – Assistance for the Unemployed and Pathways Back to Work

Subtitle A – Supporting Unemployed Workers

Section 301 – Short Title. This section provides that this subtitle may be cited as the "Supporting Unemployed Workers Act of 2011".

Part I - Extension of Emergency Unemployment Compensation and Certain Extended Benefits Provisions, and Establishment of Self-Employment Assistance Program

This part provides for the extension of emergency unemployment compensation and certain extended benefits and establishes the self-employment assistance program.

Section 311 – Extension of Emergency Unemployment Compensation Program. This section generally provides for the extension of emergency unemployment compensation benefits. Subsection (a) would extend the emergency unemployment compensation (EUC) program for individuals to enter the program (upon exhaustion of regular unemployment compensation (UC) payments) by one year to January 3, 2013. It also would extend the transition period so individuals would be permitted to continue to receive amounts remaining in their EUC accounts until June 8, 2013. Subsection (b) would continue general revenue funding of EUC benefits and related administrative costs. Subsection (c) would provide that the amendments made by this section take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2010.

Section 312 – Temporary Extension of Extended Benefit Provisions. This section generally provides for the extension of certain extended benefits. Subsection (a) would extend 100 percent Federal funding of most extended benefits (EB) by one year to January 4, 2013. It also would extend the transition period by one year so 100 percent federal funding of EB would continue until June 11, 2013 for individuals who started receiving EB before January 4, 2013. Subsection (b) would extend 100 percent Federal funding of the first week of EB by one year to June 9, 2013. Subsection (c) would extend by one year the temporary modification to EB indicators, which makes it easier for EB to remain payable in states, to December 31, 2012. Subsection (d) would provide that the amendments made by this section take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2010.

<u>Section 313 – Reemployment Services and Reemployment and Eligibility Assessment Activities</u>. This section generally provides for the establishment of requirements for States to provide reemployment services and reemployment and eligibility assessments to certain emergency unemployment compensation recipients. Subsection (a) would require, as a condition of the Federal-State agreement permitting States to pay EUC, that States provide reemployment services and reemployment and eligibility assessment activities to each individual receiving EUC who, beginning 30 days after enactment of the Act, first establishes an EUC account or who begins to receive the amounts available under tiers 2, 3, or 4 of the EUC program.

These services and activities would be provided from funds appropriated for this purpose. Staff of State agencies administering UI or the Wagner-Peyser Act would provide these services and activities, which would include: the provision of labor market and career information; an assessment of the individual's skills; orientation to services available in One-Stop centers; job search counseling and development or review of individual's reemployment plan (including participation in job search activities, workshops, or appropriate training); and review of the individual's eligibility for EUC relating to the individual's job search efforts. States also would be authorized to use the funds to provide: comprehensive and specialized assessments; career counseling; and additional reemployment services. EUC claimants would be required to participate in the services or activities to which they are referred, as a condition of continuing EUC eligibility, unless the State agency determines there is justifiable cause for the failure to participate. Finally, the Secretary of Labor would be required to issue guidance on implementation of the required services and assessments no later than 30 days after enactment of the Act.

Subsection (b) provides that the funds for such services and assessments would be appropriated from the general fund of the Treasury out of the employment security administration account. The total amount of funding appropriated would equal the number of individuals the Secretary estimates would receive such services and assessment activities multiplied by $200. Each State would then receive a distribution equal to the number of individuals who would receive the services and assessment activities multiplied by $200.

<u>Section 314 – Federal-State Agreements to Administer a Self-Employment Assistance Program</u>. This section would amend the EUC law to permit States to enter into an agreement with the Secretary of Labor to establish self-employment assistance (SEA) programs, which would permit the payment of EUC as self-employment allowances to eligible individuals. For an individual who chooses to participate in the program, the SEA allowances would be paid for up to 26 weeks from amounts remaining in such individual's EUC account, and the amounts in such account would be reduced accordingly. For purposes of this title, the term "self employment assistance

program" would mean a program as defined in section 3306(t) of the Internal Revenue Code of 1986, except as follows: participation would not be limited to individuals who were identified pursuant to a State worker profiling system as likely to exhaust regular unemployment compensation; entrepreneurial training would not be mandatory and would be available in coordination with programs of the Small Business Administration; and participation would be capped at 1 percent of the number of individuals receiving EUC. SEA allowances only would be available to individuals that the State agency reasonably expects would have at least 26 times their average weekly benefit amount in potential EUC entitlement remaining. Further, an individual who chooses to terminate his or her participation in the SEA program, or who has completed participation in the program, and who continues to meet the EUC eligibility requirements, would be permitted to receive amounts remaining in their EUC accounts with respect to subsequent weeks of unemployment.

Section 315 – Conforming Amendment On Payment Of Bridge To Work Wages. This section would authorize States that establish a bridge to work program under Part II of this Act to deduct amounts from an individual's EUC account to pay the individual's wages during participation in the program.

Section 316 – Additional Extended Unemployment Benefits Under The Railroad Unemployment Insurance Act. This section 106 would amend the Railroad Unemployment Insurance Act to extend through December 31, 2012, the temporary increase in extended unemployment benefits for employees with 10 or more years of service and for those with less than 10 years of service. This section would make pre-existing appropriated funds under such Act available to cover the cost of such extended unemployment benefits as well as the costs of current benefits.

Part II – Reemployment NOW program

This part establishes the Reemployment NOW program.

Section 321 – Establishment of Reemployment NOW Program. This section would authorize and appropriate $4 billion for fiscal year 2012 for the Secretary of Labor to establish and carry out a Reemployment NOW program, which would facilitate the reemployment of individuals receiving emergency unemployment compensation.

Section 322 – Distribution of Funds. This section provides for the distribution of funds to carry out the Reemployment NOW program. Subsection (a) provides that the Secretary of Labor may reserve up to 1 percent of the funds appropriated for the program to pay the costs of Federal administration and for rigorous evaluations of the activities that are carried out by the States under the program. The remaining 99 percent or more of the funds would be allotted among the States that receive approval of State plans. Subsection (b) provides the formula for allotting funds among the States. Two-thirds of the funds would be allotted on the basis of the relative number of unemployed individuals in each State and one-third would be allotted on the basis of the relative number of individuals who have been unemployed for 27 weeks or more in each State. Subsection (c) provides for the reallotment of funds. If a State does not submit a plan by the required date, or fails to receive approval of its plan, the State's allotment is reallotted to States with approved plans, using the allotment formula. The Secretary of Labor also is authorized, in accordance with guidance issued by the Secretary, to recapture and reobligate funds if the funds are not being obligated at a rate sufficient to meet the purposes of the program. Funds recaptured by the Secretary would be available for reobligation until December 31, 2012.

Section 323 – State Plan. This section provides the requirements for the State plan. Subsection (a) provides that for a State to be eligible to receive an allotment under the program, the State must submit a State plan in the form and containing the information the Secretary may require. At a minimum, the plan is to include: (1) a description of the activities to be carried out and an estimate of how the State intends to allocate funds among the authorized activities; (2) the performance outcomes to be achieved; (3) the coordination of activities with the activities under other Federal programs; (4) timelines for implementation; assurances that the State will participate in evaluation activities; (5) assurances that reemployment services will be provided for EUC claimants who participate in program activities; and (6) assurances that the State will report on any information required by the Secretary relating to fiscal, performance and other matters. Subsection (b) requires that a State submit plans not later than 30 days after the Secretary issues guidance. The Secretary is to approve the plans that meet the requirements of the program and are appropriate and adequate to carry out the program's purposes. Subsection (c) authorizes modifications to the State plan.

Section 324 – Bridge to Work Program. This section provides for the establishment of a bridge to work program. Subsection (a) would authorize a State to use Reemployment NOW funds to provide a bridge to work program.

Subsection (b) would provide that, under the bridge to work program, eligible individuals would have the option to engage in short-term work experiences with an eligible employer. During participation in the bridge to work program, an individual receiving EUC would: continue to receive EUC as wages for work performed for the participating employer; receive any augmented wages, if applicable, under subsection (e); and could be paid compensation by a participating employer or by a State that is in addition to EUC and augmented wages paid.

Subsection (c) establishes program and eligibility requirements. Under this provision, an individual would be paid EUC from his or her EUC account as wages during the bridge to work program. Bridge to work wages are to be paid in the same amount as EUC; however, some EUC requirements would not apply, specifically, requirements with respect to work search and disqualifying income would not apply, as long as a participating individual works at least 25 hours.

Subsection (c) further provides that State limitations or prohibitions on the work status of an EUC claimant shall not render the individual ineligible to participate in, or receive wages from, the bridge to work program. A participating individual would be permitted to accept an offer of long-term employment from a participating employer that commences after the conclusion of the bridge to work program, and this acceptance would not render such individual ineligible to participate in, or receive wages from, the program.

Subsection (c) would also require a State to structure the program so that bridge to work placements could last for up to 8 weeks and could provide an individual who voluntarily participates in the program with up to 38 hours of work experience per week with an eligible employer. Additionally, this subsection would require that the State ensure that all bridge to work participants are covered by a workers' compensation insurance program, and that the State meets other requirements as may be established by the Secretary of Labor.

Subsection (d) would establish eligibility requirements for employers wishing to participate in the program. Specifically, subsection (d) would provide that an employer is not eligible for the bridge to work program if the employer is: a Federal, State, or local government entity; would provide work relating to government contracts and grants (other than supply contracts); is delinquent on any Federal unemployment insurance tax or State contribution obligations, or related reporting requirements; is engaged in the business of supplying workers to other employers and would participate in the program to supply participating individuals to other employers; or has previously failed to meet program requirements. In addition, the employer must provide assurances that it has not displaced existing workers.

Subsection (d) would also require that States use allotted funds to: recruit employers for participation in the program; review and certify employers identified by eligible individuals seeking to participate in the program; ensure that reemployment and counseling services are made available to program participants; establish and implement processes to monitor the progress and performance of individual participants for the duration of the program; prevent misuse of the program; and pay augmented wages under subsection (e) to eligible individuals, if necessary.

Finally, subsection (d) would permit States to use allotted funds to pay workers' compensation insurance premiums to cover all individuals participating in the program through a State administered workers' compensation program, except that a State could choose another method of providing this coverage, which the State would have to describe in the approved State plan. The State also could use allotted funds: to pay compensation to participating individuals that is in addition to EUC and augmented wages paid; to provide supportive services, such as transportation, child care, and dependent care, which would enable individuals to participate in the program; to administer and oversee the program; and to fulfill additional program requirements included in the approved State plan.

Subsection (e) would require that, to the degree EUC payments are insufficient to meet minimum wage thresholds under the Fair Labor Standards Act of 1938, or any applicable State or local laws (whichever is higher), the State would be required to augment a bridge to work participant's wages by the amount necessary to meet the applicable minimum wage.

Subsection (f) would specify that neither the emergency unemployment compensation paid as wages, nor the augmented wages received by a program participant, could be treated as income for Federal needs-based programs.

Subsection (g) would prohibit any wages or participation relating to the bridge to work program from being considered as factors that render an individual ineligible for emergency unemployment compensation.

Subsection (h) would prohibit a participating employer from: displacing current employees with a program participant. In addition, an employer could not permit a program participant to perform work activities relating to any job for which any other individual is on layoff, a current worker was terminated, there is a strike or lockout at the workplace, or for which the job would infringe on a current worker's promotional opportunities.

Subsection (i) would provide that work activities under the program also could not impair a contract for services or a collective bargaining agreement without the concurrence of the relevant labor organization.

Subsection (j) would place certain limits on employer participation. Specifically, if, after 24 weeks an employer has not provided an offer of suitable employment to any individual who has participated in the program with the employer, the State would be required to bar the employer from further participation. In addition, States would be permitted to impose additional conditions on participating employers to ensure that an appropriate number of participants receive offers of suitable long term employment.

Subsection (k) would permit a State to bar an employer from further participation if the State receives information or, through its oversight and administration of the program, determines that the employer has violated a requirement or a prohibition relating to the program. Subsection (k) also would require a participating State to establish a process whereby a participating individual may file a complaint with the State relating to any violation of a requirement or prohibition under this section.

Subsection (l) would provide that an eligible individual's participation in the program is voluntary, and may be terminated by the individual or the participating employer. If a bridge to work participant opts to discontinue participation in the program, or is terminated by the employer, the individual would potentially remain eligible for continued receipt of emergency unemployment compensation under the terms of the applicable law, as long as amounts remain available in such individual's emergency unemployment compensation account.

Subsection (m) provides that nothing in this section is to be construed to alter or affect the rights or obligations under any Federal, State, or local laws that apply to individual participants and to employer participants under the program.

Subsection (n) provides that all wages and other payments to participating individuals under this section would be treated as payments of unemployment insurance for purposes of section 209 of the Social Security Act, subtitle A of the Internal Revenue Code of 1986, and sections 3101 and 3111 of such Code.

<u>Section 325 – Wage Insurance</u>. This section generally provides for a wage insurance program. Subsection (a) would permit a State to use Reemployment NOW funds to establish a wage insurance program in the State for EUC claimants. Subsection (b) provides that the State may make payments to EUC claimants who obtain reemployment that pays less than the employment from which the claimant was separated. The amount of the payments could be up to 50 percent of the difference between the reemployment wages and the wages at separation, and such

payments could last for a period of up to 2 years. Subsection (c) provides that in order to be eligible for wage insurance payments, the EUC claimant must be at least 50 years of age, earn not more than $50,000 in wages from reemployment, be reemployed on a full-time basis, and not be reemployed by the same employer from which the claimant was laid off. Subsection (d) provides that the State is to establish a maximum amount that an eligible individual may receive under the program. Subsection (e) requires that the employer who provides the reemployment is to pay the eligible individual the same wages as regular workers in the same or substantially equivalent position.

Section 326 – Enhanced Reemployment Strategies. This section would permit a State to use allotted Reemployment NOW funds to provide EUC claimants with enhanced reemployment services. A State also could opt to provide individuals who have exhausted their right to EUC, and who remain unemployed, with such services. Subsection (a) would require that the services offered under any such program must be more intensive than the reemployment services previously provided by the State.

Subsection (b) provides that services that qualify as enhanced reemployment services include: assessments, counseling, and other intensive services that are provided by staff on a one-to-one basis and may be customized to meet the reemployment needs of the EUC claimant and individuals who have exhausted their right to EUC and who remain unemployed; comprehensive assessments designed to identify alternative career paths; case management; reemployment services that are provided more frequently and more intensively than those previously offered by the State; and services that are designed to enhance communication skills, interviewing skills, and other skills that would assist in obtaining reemployment.

Section 327 – Self-Employment Programs. This section would authorize a State to use allotted Reemployment NOW funds for administrative costs related to the start-up of a self-employment assistance program. The amount of any funds a State intends to use for such costs must be specified in the State's approved State plan.

Section 328 – Additional Innovative Programs. Subsection (a) would permit the Secretary of Labor to authorize a State to use allotted Reemployment NOW funds for other innovative activities designed to facilitate the reemployment of EUC claimants. The State also could opt to provide such activities to individuals who have exhausted their right to EUC and who remain unemployed.

Subsection (b) would require that innovative activities directly benefit EUC claimants. In addition, subsection (b) provides that approved innovative activities shall not: (1) result in a reduction in the duration or amount of emergency unemployment compensation for which EUC claimants would otherwise be eligible; (2) include a reduction in the duration, amount of or eligibility for regular compensation or extended benefits; (3) be used to displace any currently employed employee; (4) allow a program participant to perform work activities related to any job that meets certain enumerated criteria; or (5) violate of any state, local or federal law.

Section 329 – Guidance and Additional Requirements. This section would grant the Secretary of Labor the authority to issue guidance establishing such additional requirements as the Secretary determines to be necessary to ensure fiscal integrity, effective monitoring, and appropriate and prompt implementation of the activities under the Act. The guidance may include reporting requirements on employment outcomes.

Section 330 – Report of Information And Evaluations to Congress and the Public. This section would require the Secretary of Labor to provide the appropriate Congressional Committees with information reported pursuant to section 209 and the evaluations of activities carried out pursuant to the funds reserved under section 202(a)(1). This section would also require that the Secretary of Labor make the information and evaluations available to the public.

Section 331 – State. This section defines the term State for purposes of this part.

Part III – Short-Time Compensation Program

This subtitle provides clarification for short-time compensation programs.

Section 341 – Treatment of Short-Time Compensation Programs. This section would generally make clear that the requirements relating to short-time compensation (STC or "worksharing") programs under the Internal Revenue Code and the Social Security Act. Under STC programs, employers reduce the workweek of their employees in lieu of temporary layoffs and the affected employees receive a pro-rated share of their weekly benefit amount for the period not worked.

Section 342 – Temporary Financing of Short-Time Compensation Payments in States With Programs in Law. This section provides States with temporary Federal financing of 100 percent of STC benefits paid to individual workers for up to 26 weeks Payments are available to the State for no more than 156 weeks (3 years) under either Section 302 or 303.

Section 343 – Temporary Financing of Short-Time Compensation Agreements. This section provides that any State without an STC program may enter into an agreement with the Secretary of Labor and receive one-half of the STC paid by the State. States may receive payments for a total of not more than 104 weeks (2 years). Under a special rule, if a State enacts a law providing for payment of STC, the State shall be eligible to receive payments for 100 percent of the costs after the effective date of the state law.

Section 344 – Grants for Short-Time Compensation Programs. This section requires the Secretary to award grants to States that enact STC programs. One-third of each State's grant shall be available for the purposes of implementation and improved administration, and two-thirds shall be available for promotion of the programs and enrollment of employers. The maximum amount of all grants is $700 million.

Section 345 – Assistance and Guidance in Implementing Programs. This section requires the Secretary to develop for State's use model legislative language for STC, provide technical assistance to the States, and establish reporting requirements, including the number of averted layoffs, the number of participating employers and workers, and other items the Secretary determines are appropriate. The section also would require the Secretary to consult with employers, labor organizations, state workforce agencies and other experts in developing model STC legislative language.

Section 346 – Reports. This section requires the Secretary to submit to Congress and to the President reports on the implementation of the Act, including a description of best practices, analysis of significant challenges, and surveys of employers in states without STC programs to determine level of interest. The section also provides $1.5 million for this purpose.

Subtitle B – Long-Term Unemployed Hiring Preferences

Section 351 – Long Term Unemployed Workers Work Opportunity Tax Credits. This section makes employers eligible for a maximum tax credit of $4,000 if they hire individuals who have been unemployed for at least 6 months. This credit is also made available to tax-exempt entities and public universities. Finally, this section authorizes the Secretary of the Treasury to provide alternative methods for certifying an individual's unemployed status.

Subtitle C – Pathways Back to Work

The "Pathways Back to Work Act of 2011" would establish a $5 billion fund to support subsidized employment opportunities, summer and year-round youth employment, and work-based training and education programs for unemployed, low-income adults and low-income youth.

Section 361 – Short Title. This section provides that this subtitle may be cited as the "Pathways Back to Work Act of 2011".

Section 362 – Establishment of Pathways Back to Work Fund. This section would establish the Pathways Back to Work Fund (the Fund) and appropriates $5 billion to the Fund for the Secretary of Labor to carry out the Act.

Section 363 – Availability of Funds. This section would direct the Secretary of Labor (the Secretary) to use the $5 billion in the Fund as follows: $2 billion would be available for subsidized employment for unemployed, low-income adults; $1.5 billion would be available to provide summer and year-round employment opportunities to low-income youth; and $1.5 billion would be available for competitive grants to local entities to carry out work-based training for unemployed, low-income adults and low-income youth. The Secretary is authorized to reserve up to 1 percent of funding for technical assistance, evaluations, and Federal administration. The funds would be available for obligation by the Secretary of Labor through December 31, 2012, and for available for expenditure by grantees and subgrantees through September 30, 2013.

Section 364 – Subsidized Employment for Unemployed, Low-Income Adults. This section describes how the $2 billion of funding for subsidized employment for unemployed, low-income adults would be allotted and administered. Under subsection (a), the Secretary would be required, not later than 30 days after the enactment of the Act, to issue guidance relating to the implementation of this section. The guidance would be issued in coordination with the

Secretary of Health and Human Services, and consistent with the specified requirements in the Act, address procedures to promote the expeditious and effective implementation of the activities.

Subsection (b) describes the allotment of funds. The Secretary would reserve 0.25 percent for outlying areas and 1.5 percent for Native American programs, and then allot the remainder by formula to States that submit plans which are approved by the Secretary. Two-thirds of the formula would be based on measures of a State's relative share of unemployed individuals and one-third would be based on the relative share of disadvantaged individuals. States that do not submit a plan, or do not have a plan approved, would have their share of funding reallotted to the portion of the Fund used for competitive grants to local areas for work-based training.

Subsection (c) contains the requirements for the State plan. The State plan is to include a description of: the strategies and activities to be carried out, in coordination with employers, to provide subsidized employment opportunities; the requirements relating to the eligibility of unemployed, low-income adults, including the targeting of assistance to categories within that group, such as individuals with disabilities and individuals who have exhausted all rights to unemployment compensation; the administration of activities at the State and local levels; performance outcomes to be achieved; coordination with activities funded under WIA, TANF, and other programs; timelines for implementation and the number of participants expected to be placed in subsidized employment; assurances regarding the reporting of information to the Secretary; and assurances regarding compliance with labor standards and protections.

The State plan may be submitted in conjunction with the request for funds to serve low-income youth under section 365 or as a modification to the WIA plan. The plan must be submitted within 75 days after enactment, and a determination regarding approval or disapproval made by the Secretary of Labor within 45 days after submission. The Secretary is to approve plans that the Secretary determines are consistent with the requirements of the section and reasonably appropriate and adequate to carry out the purposes of this section.

Under subsection (d), States would have the option to administer the subsidized employment program through local entities responsible for the Workforce Investment Act (WIA) adult program, entities responsible for Temporary Assistance for Needy Families (TANF), or both in coordination. The States would allocate funding to local WIA entities that submit plans which are approved by the Governor by formula (using the same factors as the State formula), or to TANF agencies by any method a State determines is appropriate.

The local plans from the WIA entities are to be submitted within 30 days of the submission of the State plan and may be submitted as a modification of the local WIA plan. The plan would contain the elements required in the State plan. The Governor is to approve or disapprove the plan within 30 days, and if approved, allocate funds to the local areas within 30 days after approval.

The State would reallocate funding from local WIA entities that do not submit or have an approved plan to other local areas. States would reserve up to 5 percent of funds for administration and technical assistance, and local WIA areas would be permitted to use up to 10 percent of their funding for administrative costs.

Under subsection (e), funds would be used to provide subsidized employment to unemployed, low-income adults, with a priority for opportunities likely to lead to unsubsidized employment. The funds could also be used to provide support services that enable participation in subsidized employment. The States or local entities administering the program may, in accordance with guidance issued by the Secretary, determine the percentage of the wages and costs of employing a participant for which an employer will receive a subsidy, and the duration of the subsidy.

<u>Section 365 – Summer Employment and Year-Round Employment Opportunities for Low-Income Youth</u>. This section describes how the $1.5 billion from the Fund for summer jobs and year-round employment opportunities for low-income youth is to be allotted and administered. Subsection (a) authorizes the allotments. Subsection (b) requires the Secretary of Labor to issue guidance regarding the implementation of this section not later than 20 days after the date the Act is enacted. That subsection also provides that except as otherwise provided in guidance or in this section, the activities are to be administered in accordance with the youth formula program under title I of WIA. Subsection (c) provides for State allotments. After a reservation of not more than 0.25 percent for outlying areas and 1.5 percent for Indian and Native American grantees, the Secretary of Labor would allot funds among States in accordance with the same formula (based on relative unemployment and the number of disadvantaged individuals) that is used under section 364.

Subsection (d) provides that for a State to be eligible to receive funds under this section, the State must submit a State plan modification to its WIA plan or other request in a form specified by the Secretary in guidance. The plan modification or request is to include: the strategies and activities to provide summer employment opportunities and year-round employment opportunities for low-income youth, including linkages to educational activities; the requirements relating to eligibility and targeting of assistance among low-income youth; performance outcomes; timelines for implementation and the number of youth expected to be placed in employment opportunities; assurances regarding reporting to the Secretary; and assurances regarding compliance with labor standards.

The State plan modification or request is to be submitted within 30 days of the issuance of guidance by the Secretary. The Secretary is then to approve the State plan modification or request unless it is inconsistent with the requirements of this section. The funds are to be allotted within 30 days after the Secretary approves the plan.

Subsection (e) relates to within-State allocation and administration of funds. The State may reserve up to 5 percent of the funds for administration and technical assistance and is to allocate the remainder to local workforce investment areas in accordance with the same formula factors used to allot funds among States. To be eligible for an allocation, the local workforce investment boards must submit to the Governor a local plan modification (or other form of request specified in guidance issued by the Secretary), describing the strategies and activities to be carried out under this section. The Governor is to approve the plan modification or request within 30 days of submission if it is not inconsistent with the requirements of this section, and allocate the funds within 30 days of approval. If a local area does not submit a plan or its plan is not approved, the Governor may recapture and reallocate the funds to the other local areas in the State according to their relative shares under the formula.

Subsection (f) relates to the use of funds. The local areas are to provide summer employment opportunities with direct linkages to academic and occupational learning to low-income youth ages 16-24. In addition, the local area is to provide year-round employment opportunities, which may be combined with other activities, to low-income youth with a priority to out-of-school youth who are high school dropouts or basic skills deficient and unemployed or underemployed. In identifying employment opportunities, priority is to be given to emerging or in-demand occupations or in the public or nonprofit sector that meet community needs. The local areas must also give priority to linking year-round program participants to training and educational activities that will provide an industry-recognized certificate or credential.

Section 366 – Work-Based Employment Strategies Of Demonstrated Effectiveness. This section describes how the $1.5 billion from the Fund for competitive grants to local areas to provide work-based training would be administered. Subsection (a) authorizes the Secretary of Labor to competitively award grants to eligible entities to support strategies and activities of demonstrated effectiveness.

Under subsection (b), these strategies and activities are to be designed to provide unemployed, low-income adults or low-income youth with skills that will lead to employment upon completion of the activities. These activities may include: on-the-job training, registered apprenticeship programs, or other programs that combine work with skills development; sector-based training programs that are designed to meet specific needs of employers or include a significant work experience component; acquisition of industry-recognized credentials in a growth sector or demand industry; connections to immediate work opportunities that includes concurrent skills training and other supports; career academies that include paid internships and concurrent enrollment in community colleges; and integrated basic education and training for low-skilled adults.

Subsection (c) describes the eligible entities that may apply for the competitive grants. These entities would include a local chief elected official, in collaboration with the local workforce investment board (or a partnerships of such officials and boards from a region or State), or an entity eligible to apply for an Indian and Native American grant under section 166 of the WIA. These officials, boards and entities would be able to partner with a variety of other organizations, including employers and employer associations, community colleges and other postsecondary and adult education institutions; community-based organizations; joint labor-management committees; and work-related intermediaries.

Subsection (d) relates to the application for funds. At a minimum, the application is to include the strategies and activities that will be used to provide unemployed, low-income adults or low-income youth with the skills needed for employment; target populations within those categories, such as individuals with disabilities and individuals who have exhausted all rights to unemployment compensation; how the activities will address the needs of the target populations and employers in the local area; expected outcomes; evidence that the funds may be expended expeditiously; coordination with other programs; evidence of employer commitment to participate, including identification of anticipated occupational and skill needs; and assurances regarding reporting and labor standards and protections.

Subsection (e) provides that in awarding grants, the Secretary would give priority to grant applicants from areas of high poverty and high unemployment, including Public Use Microdata Areas (PUMAs).

Subsection (f) provides that the Secretary of Labor would administer this section in coordination with the Secretary of Education, Secretary of Health and Human Services, and other appropriate agency heads.

<u>Section 367 – General Requirements</u>. This section contains general requirements applicable to all of the activities carried out under the Fund. Under subsection (a), the labor standards and protections and nondiscrimination requirements specified under WIA would apply to activities carried out under this Act, in addition to other Federal laws.

Under subsection (b), the Secretary of Labor is to require funding recipients to report fiscal, performance, and other information, and would require several minimum reporting elements, including: the number and demographic characteristics of participants; the amount of fund expenditures; the number of jobs created; and specified participant outcomes.

Under subsection (c), funds provided under this Act may only be used for activities that are in addition to activities that would otherwise be available in the State or local area in the absence of such funds.

Under subsection (d), the Secretary of Labor may establish additional requirements to ensure the appropriate and prompt implementation of this Act.

Under subsection (e), the Secretary of Labor is to report performance information and evaluation results to Congress and the public.

<u>Section 368 – Definitions</u>. This section would establish definitions for the following terms which are used in the Act: local chief elected official; local workforce investment area; local workforce investment board; low-income youth; outlying area; unemployed, low-income adult; and State.

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

<u>Section 371 – Short Title</u>. This section provides that this subtitle may be cited as the “Fair Employment Opportunity Act of 2011.”

<u>Section 372 – Findings and Purpose</u>. This section sets forth Congress’s findings and the purposes of the Act. Subsection (a) states that Congress has found that the denial of employment opportunities to individuals because they are currently unemployed is discriminatory and burdens commerce in ways explained in subsections of this Section. Subections (a)(1)-(5)

describe the burdens on commerce imposed by denial of employment opportunities to individuals who are currently unemployed. Those burdens include: (1) reducing personal consumption and undermining economic stability; (2) squandering essential human capital; (3) increasing demands for unemployment insurance, reducing trust fund assets, and raising payroll taxes for employers and/or cutting benefits for jobless workers; (4) imposing additional burdens on publicly funded health and welfare programs; and (5) depressing income and other tax revenues that governments rely on to support operations and institutions essential to commerce.

Subsection (b) sets out the purposes of the Act. Subsection (b)(1) states that the Act is intended to prohibit employers and employment agencies from disqualifying an individual from employment opportunities because of that individual's status as unemployed. Subsection (b)(2) states that the Act is intended to prohibit employers and employment agencies from publishing or posting any advertisement or announcement for an employment opportunity that indicates that an individual's status as unemployed disqualifies the individual for the opportunity. Subsection (b)(3) states that the Act is intended to eliminate the burdens on commerce caused by the exclusion of such individuals from employment.

<u>Section 373 – Definitions</u>. Subsection (1) defines "affected individual" to mean any person who was subject to an unlawful employment practice because of his or her status as unemployed.

Subsection (2) states that "Commission" means the Equal Employment Opportunity Commission.

Subsection (3) defines "employee" to include employees covered under Section 701(f) of the Civil Rights Act of 1964; State employees covered by Section 302(a)(1) of the Government Employee Rights Act of 1991; covered employees as defined in Section 101 of the Congressional Accountability Act of 1995; or employees or applicants covered by Section 717(a) of the Civil Rights Act of 1964.

Subsection (4) defines "employer" to mean a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and any agent of such a person. This subsection excludes from the definition of "employer" a bona fide private membership club that is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1986. The subsection further defines "employer" to mean an employing authority to which Section 302(a)(1) of the Government Employee Rights Act of 1991 applies; an employing office as defined in Section 101 of the Congressional Accountability Act of 1995 or section 411(c) of title 3, United States Code; or an entity to which Section 717(a) of the Civil Rights Act of 1964 applies.

Subsection (5) defines "employment agency" to mean any person that regularly undertakes, with or without compensation, to procure employees for an employer or to procure for individuals opportunities to work as employees of an employer and includes an agent of such a person. Subsection (5) further defines "employment agency" to mean any person who maintains a website or print medium that publishes advertisements or announcements of openings in jobs for employees.

Subsection (6) states that the term “person” has the meaning given that term in Section 701(a) of the Civil Rights Act of 1964.

Subsection (7) defines “status as unemployed” to mean, with respect to an individual, that the individual at the time of application for employment or at the time of action alleged to violate this Act does not have a job, is available for work, and is searching for work.

Section 374 – Prohibited Acts. This section sets forth the actions that the Act prohibits employers and employment agencies from taking. Subsection (a) describes unlawful employment practices by an employer. Subsection (a)(1) states that it shall be an unlawful employment practice for an employer to publish, in print, on the Internet, or in any medium, an advertisement or announcement for a job that includes any provision stating or indicating that an individual’s status as unemployed disqualifies the individual for any employment opportunity. The subsection also bars any provision stating or indicating that an employer will not consider or hire an individual based on that individual’s status as unemployed.
Subsection (a)(2) states that it shall be an unlawful employment practice for an employer to fail or refuse to consider for employment, or fail or refuse to hire an individual as an employee because of the individual's status as unemployed.

Subsection (a)(3) states that it shall be an unlawful employment practice for an employer to direct or request that an employment agency take an individual's status as unemployed into account to disqualify an applicant for consideration, screening, or referral for employment as an employee.

Subsection (b) describes unlawful employment practices by an employment agency. Subsection (b)(1) states that it shall be an unlawful employment practice for an employment agency to publish, in print, on the Internet, or in any medium, an advertisement or announcement for a job that includes any provision stating or indicating that an individual’s status as unemployed disqualifies the individual for any employment opportunity. The subsection also bars any provision stating or indicating that an employer or an employment agency will not consider or hire an individual based on that individual’s status as unemployed.

Subsection (b)(2) bars employment agencies from screening, failing or refusing to consider or refer an individual for employment as an employee because of the individual’s status as unemployed.

Subsection (b)(3) prohibits an employment agency from limiting, segregating or classifying individuals in any manner that would limit or tend to limit their access to information about jobs or consideration, screening or referral for jobs as employees, because of their status as unemployed.

Subsection (c) bars interference with rights, proceedings and inquiries under the Act and makes it unlawful for any employer or employment agency to: interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under the Act. The subsection further bars any employer or employment agency from failing or refusing to hire, discharging, or otherwise discriminating against any individual, as an employee, because the individual opposed practices made unlawful by the Act; asserted any right, filed any charge, or instituted any proceeding under or related to the Act; gave (or is about to give) any information, or testified (or is about to testify) in connection with any inquiry or proceeding related to any right provided under the Act.

Subsection (d) sets forth a rule of construction that nothing in the Act is intended to preclude an employer or employment agency from considering an individual's employment history or examining the reasons underlying an individual's status as unemployed in assessing the individual's ability to perform the job or otherwise making employment decisions about the individual. The subsection further states that such consideration or examination may include an assessment of whether an individual's employment in a similar or related job for a period of time reasonably proximate to the consideration of such individual for employment is job-related and consistent with business necessity.

Section 375 – Enforcement. Subsection (a) sets out the powers provided to different entities to administer and enforce the Act. Subsection (a) states that the Equal Employment Opportunity Commission; the Librarian of Congress; the Board as defined in Section 101 of the Congressional Accountability Act; the Attorney General; the President, the Commission and the Merit Systems Protection Board; and the courts of the United States shall have the same powers under the Act as each entity does under other non-discrimination statutes each enforces when addressing the case of an affected individual who would be covered by such statutes.

Subsection (b) describes the procedures applicable to a claim alleged by an individual for a violation of the Act. Those procedures are the procedures that apply for a violation of Title VII of the Civil Rights Act of 1964 in the case of a claim alleged by the individual for a violation of that title; those that are applicable for a violation of Section 302 (a)(1) of the Government Employee Rights Act of 1991 in the case of a claim alleged by the individual for a violation of such section; the procedures applicable for a violation of Section 201(a)(1) or the Congressional Accountability Act of 1995 in the case of a claim alleged by the individual for a violation of such section; and the procedures applicable for a violation of Section 411 of Title 3, United States Code, in the case of a claim alleged by the individual for a violation of such section.

Subsection (c)(1) identifies the remedies available for a violation of section 374(a)(1) or 374(b)(1) of the Act: (a) an order enjoining the respondent from engaging in the unlawful employment practice; (b) reimbursement of costs expended as a result of the unlawful employment practice; (c) liquidated damages not to exceed $1,000 for each day of the violation; and (d) reasonable attorney's fees (including expert fees) and costs attributable to pursuit of a claim under the Act, except that no person identified in Section 375(a) of the Act is eligible to receive attorney's fees.

Subsection (c)(2) identifies the remedies available for a violation of any other subsection of the Act as available under other existing law, except that in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the individual, damages may be awarded in an amount not to exceed $5,000. Those remedies are the remedies available for a violation of Title VII of the Civil Rights Act of 1964 in the case of a claim alleged by the individual for a violation of that title; those that are applicable for a violation of Section

302 (a)(1) of the Government Employee Rights Act of 1991 in the case of a claim alleged by the individual for a violation of such section; those that are applicable for a violation of Section 201(a)(1) or the Congressional Accountability Act of 1995 in the case of a claim alleged by the individual for a violation of such section; and those that are applicable for a violation of Section 411 of Title 3, United States Code, in the case of a claim alleged by the individual for a violation of such section.

Section 376 – Federal and State Immunity. Subsection (a) states that a State shall not be immune under the 11th Amendment to the Constitution to suits brought in federal court challenging a violation of the Act.

Subsection (b) states that a State's receipt or use of Federal financial assistance for any program or activity shall constitute a waiver of sovereign immunity to a suit brought by an employee or applicant for employment of that program or activity for a remedy authorized under the Act. Subsection (b) defines "program or activity" to have the meaning given the term in Section 606 of the Civil Rights Act of 1964 and provides that the waiver of sovereign immunity with respect to a program or activity applies to conduct occurring on or after the day, after the date of enactment of the Act, on which a State first receives or uses Federal financial assistance for the program or activity.

Subsection (c) states that an official of a State may be sued in his official capacity by any employee or applicant for employment who has complied with the applicable procedures of the Act for a remedy authorized under the Act.

Subsection (d) states that in an action or administrative proceeding against the United States or a State for a violation of the Act, remedies are available to the same extent as such remedies would be available against a non-governmental entity.

Section 377 – Relationship to Other Laws. This section states that the Act does not invalidate or limit the rights, remedies or procedures available to an individual claiming discrimination prohibited under any other Federal law or regulation or any law or regulation of a State or political subdivision of a State.

Section 378 – Severability. This section states that if any provision of the Act, or application of the provision to any person or circumstance, is held to be invalid, the remainder of the Act and the application of the provision to other persons or circumstances shall not be affected.

Section 379 – Effective Date. This section states that the Act shall take effect on the date of enactment and shall not apply to conduct occurring before the effective date.

Title IV – Offsets

The following subtitles raise revenue to support the hiring incentives and important tax relief provided by the American Jobs Act to American taxpayers.

Subtitle A – 28 Percent Limitation on Certain Deductions and Exclusions

Section 401 – 28 Percent Limitation on Certain Deductions And Exclusions. This section would limit the value of all itemized deductions and certain other tax expenditures for high-income taxpayers by limiting the tax value of otherwise allowable deductions and exclusions to 28 percent. No taxpayer with adjusted gross income under $250,000 for married couples filing jointly (or $200,000 for single taxpayers) would be subject to this limitation. The limitation would affect itemized deductions and certain other tax expenditures that would otherwise reduce taxable income in the 36 or 39.6 percent tax brackets. A similar limitation also would apply under the alternative minimum tax. This section would be effective for taxable years beginning on or after January 1, 2013.

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

Section 411 – Partnership Interests Transferred in Connection With Performance of Services. Current law allows service partners to receive capital gains treatment on labor income without limit, which creates an unfair and inefficient tax preference. This section would tax as ordinary income, and make subject to self-employment tax, a service partner's share of the income of an investment partnership attributable to a carried interest because such income is derived from the performance of services.

Section 412 – Special Rules for Partners Providing Investment Management Services to Partnerships. To the extent that a service partner contributes "invested capital" and the partnership reasonably allocates its income and loss between such invested capital and the remaining interest, income attributable to the invested capital would not be recharacterized. This subtitle would be effective for taxable years beginning after December 31, 2012.

Subtitle C – Close Loophole for Corporate Jet Depreciation

Section 421 – General Aviation Aircraft Treated As 7-Year Property. The cost of capital assets used in businesses generally cannot be deducted immediately, but instead may be depreciated over a period of years. Current law contains a loophole that allows corporate jets to be depreciated faster than jets used by airlines to carry passengers. This section closes this loophole, requiring corporate jets to be depreciated over the same number of years as other aircraft. This section would be effective for taxable years beginning after December 31, 2012.

Subtitle D -- Repeal Oil Subsidies

Section 431 – Repeal of Deduction for Intangible Drilling and Development Costs in the Case of Oil and Gas Wells. This section would not allow expensing of IDCs or 60-month amortization of capitalized IDCs. Instead, IDCs would be capitalized as depreciable or depletable property, depending on the nature of the cost incurred, in accordance with generally applicable rules. This section would repeal current law expensing of IDCs and 60-month amortization of capitalized IDCs effective for costs paid or incurred after December 31, 2012.

Section 432 – Repeal of Deduction for Tertiary Injectants. This section would repeal the deduction available under existing law for the cost of qualified tertiary injectant expenses.

Qualified tertiary injectant expenses are amounts paid or incurred for any tertiary injectants (other than recoverable hydrocarbon injectants) that are used as a part of a tertiary recovery method to increase the recovery of crude oil. This section would repeal the deduction for qualified tertiary injectant expenses effective for amounts paid or incurred after December 31, 2012.

Section 433 – Repeal of Percentage Depletion for Oil and Gas Wells. This section would repeal the percentage depletion method available under existing law for recovery of the capital costs of oil and gas wells. Under the percentage depletion method, the amount of the deduction is a statutory percentage of the gross income from the property. Instead of the percentage depletion method, taxpayers would be permitted to claim cost depletion on their adjusted basis, if any, in oil and gas wells. Under the cost depletion method, the basis recovery for a taxable year is proportional to the exhaustion of the property during the year. This method does not permit cost recovery deductions that exceed basis or that are allowable on an accelerated basis. This section would be effective for taxable years beginning after December 31, 2012.

Section 434 – Section 199 Deduction Not Allowed With Respect to Oil, Natural Gas, or Primary Products Thereof. This section would deny the deduction available under existing law with respect to income attributable to domestic production activities (the manufacturing deduction) for oil and gas production. For taxable years beginning after 2009, the manufacturing deduction is generally equal to 9 percent of the lesser of qualified production activities income for the taxable year or taxable income for the taxable year, limited to 50 percent of the W-2 wages of the taxpayer for the taxable year. The deduction for income from oil and gas production activities is computed at a 6 percent rate. Qualified production activities income is generally calculated as a taxpayer's domestic production gross receipts minus the cost of goods sold and other expenses, losses, or deductions attributable to such receipts. The manufacturing deduction generally is available to all taxpayers that generate qualified production activities income, which under current law includes income from the sale, exchange or disposition of oil, natural gas or primary products thereof produced in the United States. The proposal would retain the overall manufacturing deduction, but exclude from the definition of domestic production gross receipts all gross receipts derived from the sale, exchange or other disposition of oil, natural gas or a primary product thereof. This section would be effective for taxable years beginning after December 31, 2012.

Section 435 – Repeal Oil and Gas Working Interest Exception to Passive Activity Rules. This section would repeal the exception under existing law for oil and gas working interests from the passive loss rules that limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. A similar rule applies to credits. Suspended deductions and credits are carried forward and treated as deductions and credits from passive activities in the next year. The suspended losses and credits from a passive activity are allowed in full when the taxpayer completely disposes of the activity. Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Under existing law, an exception is provided, however, for any working interest in an oil or gas property that the taxpayer holds directly or through an entity that does not limit the liability of the taxpayer with respect to the interest. This section would repeal this exception for taxable years beginning after December 31, 2012.

Section 436 – Uniform Seven-Year Amortization for Geological and Geophysical Expenditures. Geological and geophysical expenditures are costs incurred for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties. Under existing law, the amortization period for geological and geophysical expenditures incurred in connection with oil and gas exploration in the United States is two years for independent producers and seven years for integrated oil and gas producers. The proposal would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with all oil and gas exploration in the United States. Seven-year amortization would apply even if the property is abandoned and any remaining basis of the abandoned property would be recovered over the remainder of the seven-year period. This section would be effective for amounts paid or incurred after December 31, 2012.

Section 437 – Repeal Enhanced Oil Recovery (EOR) Credit. This section would repeal the 15-percent credit available under existing law for eligible costs attributable to EOR projects. Eligible costs currently include the cost of constructing a gas treatment plant to prepare Alaska natural gas for pipeline transportation and any of the following costs with respect to a qualified EOR project: (1) the cost of depreciable or amortizable tangible property that is an integral part of the project; (2) intangible drilling and development costs (IDCs) that the taxpayer can elect to deduct; and (3) deductible tertiary injectant costs. Additional limitations apply, and the allowable credit is phased out under existing law over a $6 range for a taxable year if the annual average unregulated wellhead price per barrel of domestic crude oil during the calendar year preceding the calendar year in which the taxable year begins (the reference price) exceeds an inflation adjusted threshold. The repeal of the EOR credit would be effective for taxable years beginning after December 31, 2012.

Section 438 – Repeal Marginal Well Production Credit. This section would repeal the credit available under existing law for crude oil and natural gas produced from marginal wells. Under existing law, the credit rate is $3.00 per barrel of oil and 50 cents per 1,000 cubic feet of natural gas for taxable years beginning in 2005 and is adjusted for inflation in taxable years beginning after 2005. The credit can be carried back up to five years. The credit is available for production from wells that produce oil and gas qualifying as marginal production for purposes of the percentage depletion rules or that have average daily production of not more than 25 barrel-of-oil equivalents and produce at least 95 percent water. The credit per well is limited to 1,095 barrels of oil or barrel-of-oil equivalents per year. The credit rate for crude oil is phased out for a taxable year if the annual average unregulated wellhead price per barrel of domestic crude oil during the calendar year preceding the calendar year in which the taxable year begins (the reference price) exceeds the applicable threshold. The repeal of the marginal well credit would be effective for taxable years beginning after December 31, 2012.

Subtitle E -- Dual Capacity Taxpayers

Section 441 – Modifications of Foreign Tax Credit Rules Applicable to Dual Capacity Taxpayers. The purpose of the foreign tax credit is to mitigate double taxation of income by the United States and a foreign country. When a payment is made to a foreign country in exchange for a specific economic benefit, there is no double taxation. Current law recognizes the distinction between a payment of creditable taxes and a payment in exchange for a specific economic benefit but fails to achieve the appropriate split between the two when a single payment is made in a case where, for example, a foreign country imposes a levy only on oil and gas income, or imposes a higher levy on oil and gas income as compared to other income. This section would allow a dual capacity taxpayer to treat as a creditable tax the portion of a foreign levy that does not exceed the foreign levy that the taxpayer would pay if it were not a dual-capacity taxpayer.

Section 442 – Separate Basket Treatment Taxes Paid On Foreign Oil And Gas Income. This section would convert the special foreign tax credit limitation rules of section 907 into a separate category within section 904 for foreign oil and gas income. This section would yield to United States treaty obligations to the extent that they explicitly allow a credit for taxes paid or accrued on certain oil or gas income. This subtitle would be effective for taxable years beginning after December 31, 2012.

Subtitle F – Increased Target and Trigger for Joint Select Committee on Deficit Reduction

Section 451 – Increased Target and Trigger for Joint Select Committee on Deficit Reduction. Subtitles A through E of Title IV of this bill enact offsets to pay for the jobs creation provisions of the bill. If the Joint Select Committee on Deficit Reduction achieves additional savings in the amount of the cost of these jobs creation provisions, the offsets do not take effect.

Subsection (a) of Section 451 amends the Budget Control Act of 2011 to increase the $1.5 trillion deficit reduction target of the Joint Committee by the cost of the jobs creation provisions (Titles I-III). This increased amount would be revised based on the final score of the jobs provisions.

Subsection (b) of Section 451 amends the Budget Control Act to specify that if the Joint Committee exceeds the $1.2 trillion in deficit reduction necessary to avoid sequestration by the cost of the jobs creation provisions, then the offsets in Title IV of this bill will not take effect. As in subsection (a) of this section, this increased amount would be revised based on the final score of the jobs provisions (Titles I-III). Subsection (b) does not affect the existing requirement in the Budget Control Act for sequestration if the Joint Committee does not hit its minimum deficit reduction target of $1.2 trillion.