

Calendar No. 213

112TH CONGRESS
1ST SESSION

S. 1769

To put workers back on the job while rebuilding and modernizing America.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2011

Ms. KLOBUCHAR (for herself, Mr. MANCHIN, Mr. WHITEHOUSE, Mr. REID, Mr. KERRY, Mrs. BOXER, Mr. COONS, Mr. BEGICH, Mr. LAUTENBERG, Mr. FRANKEN, Mr. SCHUMER, Mr. NELSON of Florida, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Mr. LEVIN, Mr. MENENDEZ, Mr. BROWN of Ohio, Ms. STABENOW, and Mr. DURBIN) introduced the following bill; which was read the first time

NOVEMBER 1, 2011

Read the second time and placed on the calendar

A BILL

To put workers back on the job while rebuilding and modernizing America.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rebuild America Jobs Act”.

1 a project for the construction, alteration, maintenance, or
2 repair of a public building or public work unless all of the
3 iron, steel, and manufactured goods used in the project
4 are produced in the United States.

5 (b) EXCEPTION.—Subsection (a) shall not apply in
6 any case or category of cases in which the head of the
7 Federal department or agency involved determines that—

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

10 (2) iron, steel, and the relevant manufactured
11 goods are not produced in the United States in suffi-
12 cient and reasonably available quantities and of a
13 satisfactory quality; or

14 (3) inclusion of iron, steel, and manufactured
15 goods produced in the United States will increase
16 the cost of the overall project by more than 25 per-
17 cent.

18 (c) WAIVER.—If the head of a Federal department
19 or agency determines that it is necessary to waive the ap-
20 plication of subsection (a) based on a finding under sub-
21 section (b), the head of the department or agency shall
22 publish in the Federal Register a detailed written justifica-
23 tion as to why the provision is being waived.

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

4 **SEC. 3. WAGE RATE AND EMPLOYMENT PROTECTION RE-**
5 **QUIREMENTS.**

6 (a) IN GENERAL.—All laborers and mechanics em-
7 ployed on projects funded directly by, or assisted in whole
8 or in part by and through, the Federal Government or
9 any other entity established pursuant to this Act shall be
10 paid wages at rates not less than those prevailing on
11 projects of a character similar in the locality as deter-
12 mined by the Secretary of Labor in accordance with sub-
13 chapter IV of chapter 31 of title 40, United States Code.

14 (b) AUTHORITY OF SECRETARY OF LABOR.—With
15 respect to the labor standards specified in this section, the
16 Secretary of Labor shall have the authority and functions
17 set forth in Reorganization Plan Numbered 14 of 1950
18 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title
19 40, United States Code.

20 (c) EMPLOYEE PROTECTIVE ARRANGEMENTS.—
21 Projects (as defined in section 47102 of title 49, United
22 States Code) that are funded directly by, or assisted in
23 whole or in part by and through, the Federal Government
24 or any other entity established pursuant to this Act shall

1 be subject to the requirements under section 5333(b) of
2 title 49, United States Code.

3 **TITLE I—CREATING JOBS**
4 **THROUGH INFRASTRUCTURE**
5 **MODERNIZATION**

6 **Subtitle A—Immediate Transpor-**
7 **tation Infrastructure Invest-**
8 **ments**

9 **SEC. 101. IMMEDIATE TRANSPORTATION INFRASTRUCTURE**
10 **INVESTMENTS.**

11 (a) GRANTS-IN-AID FOR AIRPORTS.—

12 (1) IN GENERAL.—There is made available to
13 the Secretary of Transportation \$2,000,000,000 to
14 carry out airport improvement under subchapter I of
15 chapter 471 and subchapter I of chapter 475 of title
16 49, United States Code.

17 (2) FEDERAL SHARE; LIMITATION ON OBLIGA-
18 TIONS.—The Federal share payable of the costs for
19 which a grant is made under this subsection, shall
20 be 100 percent. The amount made available under
21 this subsection shall not be subject to any limitation
22 on obligations for the Grants-In-Aid for Airports
23 program set forth in any Act or in title 49, United
24 States Code.

1 (3) DISTRIBUTION OF FUNDS.—Amounts pro-
2 vided to the Secretary under this subsection shall
3 not be subject to apportionment formulas, special
4 apportionment categories, or minimum percentages
5 under chapter 471 of title 49, United States Code.

6 (4) AVAILABILITY.—Amounts made available
7 under this subsection shall be available for obligation
8 during the 2-year period beginning on the date of
9 the enactment of this Act. The Secretary shall obli-
10 gate not less than 50 percent of the such amounts
11 not later than 1 year after the date of the enactment
12 of this Act and obligate the remaining amounts not
13 later than 2 years after such date of enactment.

14 (5) ADMINISTRATIVE EXPENSES.—Of the
15 amounts made available under this subsection, 0.3
16 percent—

17 (A) shall be available to the Secretary for
18 administrative expenses;

19 (B) shall remain available for obligation
20 until September 30, 2015; and

21 (C) may be used in conjunction with
22 amounts otherwise provided for the administra-
23 tion of the Grants-In-Aid for Airports program.

24 (b) NEXT GENERATION AIR TRAFFIC CONTROL AD-
25 VANCEMENTS.—

1 (1) IN GENERAL.—There is made available to
2 the Secretary of Transportation \$1,000,000,000 for
3 necessary Federal Aviation Administration capital,
4 research and operating costs to carry out Next Gen-
5 eration air traffic control system advancements.

6 (2) AVAILABILITY.—The amounts made avail-
7 able under this subsection shall be available for obli-
8 gation during the 2-year period beginning on the
9 date of the enactment of this Act.

10 (c) HIGHWAY INFRASTRUCTURE INVESTMENT.—

11 (1) IN GENERAL.—There is made available to
12 the Secretary of Transportation \$27,000,000,000
13 for—

14 (A) restoration, repair, construction and
15 other activities eligible under section 133(b) of
16 title 23, United States Code; and

17 (B) passenger and freight rail transpor-
18 tation and port infrastructure projects eligible
19 for assistance under section 601(a)(8) of title
20 23, United States Code.

21 (2) FEDERAL SHARE; LIMITATION ON OBLIGA-
22 TIONS.—The Federal share payable on account of
23 any project or activity carried out with funds made
24 available under this subsection shall be, at the op-
25 tion of the recipient, up to 100 percent of the total

1 cost of such project or activity. The amount made
2 available under this subsection shall not be subject
3 to any limitation on obligations for Federal-aid high-
4 ways and highway safety construction programs set
5 forth in any Act or in title 23, United States Code.

6 (3) AVAILABILITY.—The amounts made avail-
7 able under this subsection shall be available for obli-
8 gation during the 2-year period beginning on the
9 date of the enactment of this Act. The Secretary
10 shall obligate not less than 50 percent of the such
11 amounts not later than 1 year after the date of the
12 enactment of this Act and obligate the remaining
13 amounts not later than 2 years after such date of
14 enactment.

15 (4) DISTRIBUTION OF FUNDS.—

16 (A) APPORTIONMENT.—After making the
17 set-asides required under paragraphs (8), (9),
18 (10), (11), and (13), and not later than 30 days
19 after the date of the enactment of this Act—

20 (i) 50 percent of the remaining
21 amounts made available under this sub-
22 section shall be apportioned to States
23 using the formula set forth in section
24 104(b)(3) of title 23, United States Code;
25 and

1 (ii) the remaining amounts shall be
2 apportioned to States in the same ratio as
3 the obligation limitation for fiscal year
4 2010 was distributed among the States in
5 accordance with the formula specified in
6 section 120(a)(6) of the Department of
7 Transportation Appropriations Act, 2010
8 (title I of division A of Public Law 111–
9 117).

10 (B) STATE PLANNING AND OVERSIGHT EX-
11 PENSES.—Of amounts apportioned under sub-
12 paragraph (A), a State may use up to 0.5 per-
13 cent for activities related to projects funded
14 under this subsection, including activities eligi-
15 ble under sections 134 and 135 of title 23,
16 United States Code, State administration of
17 subgrants, and State oversight of subrecipients.

18 (5) REDISTRIBUTION.—

19 (A) INITIAL ALLOCATION.—The Secretary
20 shall, 180 days following the date of appor-
21 tionment, withdraw from each State an amount
22 equal to 50 percent of the funds apportioned
23 under paragraph (4) to that State (excluding
24 funds suballocated within the State) less the
25 amount of funding obligated (excluding funds

1 suballocated within the State), and the Sec-
2 retary shall redistribute such amounts to other
3 States that have had no funds withdrawn under
4 this subparagraph in the manner described in
5 section 120(c) of division A of Public Law 111-
6 117.

7 (B) SUBSEQUENT ALLOCATION.—One year
8 following the date of apportionment, the Sec-
9 retary shall withdraw from each recipient of
10 funds apportioned under paragraph (4) any un-
11 obligated funds, and the Secretary shall redis-
12 tribute such amounts to States that have had
13 no funds withdrawn under this paragraph (ex-
14 cluding funds suballocated within the State) in
15 the manner described in section 120(c) of divi-
16 sion A of Public Law 111-117.

17 (C) EXTENSION.—At the request of a
18 State, the Secretary may provide an extension
19 of the 1-year period only to the extent that the
20 Secretary determines that the State has en-
21 countered extreme conditions that create an un-
22 workable bidding environment or other extenu-
23 ating circumstances. Before granting an exten-
24 sion, the Secretary shall provide a thorough jus-
25 tification for the extension in a written notifica-

1 tion submitted to the Committee on Environ-
2 ment and Public Works of the Senate and the
3 Committee on Transportation and Infrastruc-
4 ture of the House of Representatives.

5 (6) TRANSPORTATION ENHANCEMENTS.—Three
6 percent of the amounts apportioned to a State under
7 paragraph (4) shall be set aside for the purposes de-
8 scribed in section 133(d)(2) of title 23, United
9 States Code (without regard to the comparison to
10 fiscal year 2005).

11 (7) SUBALLOCATION.—Thirty percent of the
12 amounts apportioned to a State under this sub-
13 section shall be suballocated within the State in the
14 manner and for the purposes described in the first
15 sentence of sections 133(d)(3)(A), 133(d)(3)(B), and
16 133(d)(3)(D) of title 23, United States Code. Such
17 suballocation shall be conducted in every State.
18 Amounts suballocated within a State to urbanized
19 areas and other areas shall not be subject to the re-
20 distribution of amounts required 180 days after the
21 date of apportionment of funds provided by para-
22 graph (6)(A).

23 (8) PUERTO RICO AND TERRITORIAL HIGHWAY
24 PROGRAMS.—Of the amounts provided under this
25 subsection, \$105,000,000 shall be set aside for the

1 Puerto Rico highway program authorized under sec-
2 tion 165 of title 23, United States Code, and
3 \$45,000,000 shall be for the territorial highway pro-
4 gram authorized under section 215 of title 23,
5 United States Code.

6 (9) FEDERAL LANDS AND INDIAN RESERVA-
7 TIONS.—Of the amounts provided under this sub-
8 section, \$550,000,000 shall be set aside for invest-
9 ments in transportation at Indian reservations and
10 Federal lands in accordance with the following re-
11 quirements:

12 (A) Of the funds set aside by this para-
13 graph, \$310,000,000 shall be for the Indian
14 Reservation Roads program, \$170,000,000
15 shall be for the Park Roads and Parkways pro-
16 gram, \$60,000,000 shall be for the Forest
17 Highway Program, and \$10,000,000 shall be
18 for the Refuge Roads program.

19 (B) For investments at Indian reservations
20 and Federal lands, priority shall be given to
21 capital investments, and to projects and activi-
22 ties that can be completed within 2 years of en-
23 actment of this Act.

24 (C) One year following the enactment of
25 this Act, to ensure the prompt use of the fund-

1 ing provided for investments at Indian reserva-
2 tions and Federal lands, the Secretary shall
3 have the authority to redistribute unobligated
4 funds within the respective program for which
5 the funds were appropriated.

6 (D) Up to 4 percent of the funding pro-
7 vided for Indian Reservation Roads may be
8 used by the Secretary of the Interior for pro-
9 gram management and oversight and project-re-
10 lated administrative expenses.

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

14 (10) JOB TRAINING.—

15 (A) IN GENERAL.—Of the amounts pro-
16 vided under this subsection, \$50,000,000 shall
17 be set aside for the development and adminis-
18 tration of transportation training programs
19 under section 140(b) title 23, United States
20 Code.

21 (B) COMPETITIVE AWARD.—Amounts set
22 aside under this paragraph shall be competi-
23 tively awarded and used for the purpose of pro-
24 viding training, apprenticeship (including Reg-
25 istered Apprenticeship), skill development, and

1 skill improvement programs, as well as summer
2 transportation institutes and may be trans-
3 ferred to, or administered in partnership with,
4 the Secretary of Labor and shall demonstrate
5 to the Secretary of Transportation program
6 outcomes, including—

7 (i) impact on areas with transpor-
8 tation workforce shortages;

9 (ii) diversity of training participants;

10 (iii) number of participants obtaining
11 certifications or credentials required for
12 specific types of employment;

13 (iv) employment outcome metrics,
14 such as job placement and job retention
15 rates, established in consultation with the
16 Secretary of Labor and consistent with
17 metrics used by programs under the Work-
18 force Investment Act;

19 (v) to the extent practical, evidence
20 that the program did not preclude workers
21 that participate in training or apprentice-
22 ship activities under the program from
23 being referred to, or hired on, projects
24 funded under this chapter; and

1 (vi) identification of areas of collabo-
2 ration with the Department of Labor pro-
3 grams, including co-enrollment.

4 (C) CERTIFICATION.—To be eligible to re-
5 ceive a competitively awarded grant under this
6 subsection, a State must certify that at least
7 0.1 percent of the amounts apportioned under
8 the Surface Transportation Program and
9 Bridge Program will be obligated in the first
10 fiscal year after the date of the enactment of
11 this Act for job training activities, in accord-
12 ance with section 140(b) of title 23, United
13 States Code.

14 (11) DISADVANTAGED BUSINESS ENTER-
15 PRISES.—Of the amounts provided under this sub-
16 section, \$10,000,000 shall be set aside for training
17 programs and assistance programs under section
18 140(c) of title 23, United States Code. Amounts set
19 aside under this paragraph should be allocated to
20 businesses that have proven success in adding staff
21 while effectively completing projects.

22 (12) CONDITIONS.—Amounts made available
23 under this subsection—

1 (A) shall be administered as if apportioned
2 under chapter 1 of title 23, United States Code,
3 except for—

4 (i) amounts made available for invest-
5 ments in transportation at Indian reserva-
6 tions and Federal lands and for the terri-
7 torial highway program, which shall be ad-
8 ministered in accordance with chapter 2 of
9 such title 23; and

10 (ii) amounts made available for dis-
11 advantaged business enterprises bonding
12 assistance, which shall be administered in
13 accordance with chapter 3 of title 49,
14 United States Code;

15 (B) may not be obligated for the purposes
16 authorized under section 115(b) of title 23,
17 United States Code;

18 (C) shall be in addition to any and all
19 funds provided for fiscal years 2011 and 2012
20 in any other Act for “Federal-aid Highways”
21 and shall not affect the distribution of funds
22 provided for “Federal-aid Highways” in any
23 other Act; and

1 (D) shall be subject to the requirements
2 under section 1101(b) of SAFETEA-LU (Pub-
3 lic Law 109–59).

4 (13) OVERSIGHT.—The Administrator of the
5 Federal Highway Administration may set aside up
6 to 0.15 percent of the amounts provided under this
7 subsection to fund the oversight by the Adminis-
8 trator of projects and activities carried out with
9 amounts made available to the Federal Highway Ad-
10 ministration under this Act. Such amounts shall be
11 available through September 30, 2015.

12 (d) CAPITAL ASSISTANCE FOR HIGH-SPEED RAIL
13 CORRIDORS AND INTERCITY PASSENGER RAIL SERV-
14 ICE.—

15 (1) IN GENERAL.—

16 (A) GRANTS.—There is made available to
17 the Secretary of Transportation
18 \$4,000,000,000, which shall be used—

19 (i) for grants for high-speed rail
20 projects authorized under sections 26104
21 and 26106 of title 49, United States Code

22 (ii) for capital investment grants to
23 support intercity passenger rail service au-
24 thorized under section 24406 of such title
25 49;

1 (iii) congestion grants authorized
2 under section 24105 of such title 49; and
3 (iv) to enter into cooperative agree-
4 ments for the purposes set forth in clauses
5 (i) through (iii).

6 (B) OVERSIGHT.—The Administrator of
7 the Federal Railroad Administration may retain
8 up to 1 percent of the amounts made available
9 under subparagraph (A) for award and over-
10 sight by the Administrator of the grants made
11 under this subsection. Such amount shall re-
12 main available for obligation until September
13 30, 2015.

14 (2) AVAILABILITY.—The amounts made avail-
15 able under this subsection shall be available for obli-
16 gation during the 2-year period beginning on the
17 date of the enactment of this Act. The Secretary
18 shall obligate not less than 50 percent of the such
19 amounts not later than 1 year after the date of the
20 enactment of this Act and obligate the remaining
21 amounts not later than 2 years after such date of
22 enactment.

23 (3) FEDERAL SHARE.—The Federal share pay-
24 able of the costs for which a grant or cooperative

1 agreements is made under this subsection shall be,
2 at the option of the recipient, up to 100 percent.

3 (4) INTERIM GUIDANCE.—The Secretary shall
4 issue interim guidance to applicants covering appli-
5 cation procedures and administer the grants pro-
6 vided under this subsection pursuant to that guid-
7 ance until final regulations are issued.

8 (5) INTERCITY PASSENGER RAIL CORRIDORS.—
9 Not less than 85 percent of the amounts provided
10 under this subsection shall be for cooperative agree-
11 ments that lead to the development of entire seg-
12 ments or phases of intercity or high-speed rail cor-
13 ridors.

14 (6) CONDITIONS.—

15 (A) In addition to the provisions of title
16 49, United States Code, that apply to each of
17 the individual programs funded under this sub-
18 section, subsections (a)(2) and (i) of section
19 24402(i) of title 49, United States Code, and
20 subsections (a) and (c) of section 24403 of such
21 title 49, shall also apply to amounts provided
22 under this subsection.

23 (B) A project need not be in a State rail
24 plan developed under chapter 227 of title 49,

1 United States Code, to be eligible for assistance
2 under this subsection.

3 (C) Recipients of grants under this para-
4 graph shall conduct all procurement trans-
5 actions using such grant funds in a manner
6 that provides full and open competition, as de-
7 termined by the Secretary, in compliance with
8 existing labor agreements.

9 (e) CAPITAL GRANTS TO THE NATIONAL RAILROAD
10 PASSENGER CORPORATION.—

11 (1) IN GENERAL.—There is made available
12 \$2,000,000,000 to the Secretary of Transportation
13 to award capital grants to the National Railroad
14 Passenger Corporation (Amtrak), as authorized by
15 section 101(c) of the Passenger Rail Investment and
16 Improvement Act of 2008 (Public Law 110–432).

17 (2) AVAILABILITY.—The amounts made avail-
18 able under this subsection shall be available for obli-
19 gation during the 2-year period beginning on the
20 date of the enactment of this Act. The Secretary
21 shall obligate not less than 50 percent of the such
22 amounts not later than 1 year after the date of the
23 enactment of this Act and obligate the remaining
24 amounts not later than 2 years after such date of
25 enactment.

1 (3) PROJECT PRIORITY.—The priority for the
2 use of funds shall be given to projects for the repair,
3 rehabilitation, or upgrade of railroad assets or infra-
4 structure, and for capital projects that expand pas-
5 senger rail capacity including the rehabilitation of
6 rolling stock.

7 (4) CONDITIONS.—

8 (A) None of the amounts under this sub-
9 section shall be used to subsidize the operating
10 losses of Amtrak.

11 (B) Amounts provided under this sub-
12 section shall be awarded not later than 90 days
13 after the date of the enactment of this Act.

14 (C) The Secretary shall take measures to
15 ensure that projects funded under this sub-
16 section shall be completed not later than 2
17 years after the date of the enactment of this
18 Act, and shall serve to supplement and not sup-
19 plant planned expenditures for such activities
20 from other Federal, State, local and corporate
21 sources. The Secretary shall submit written cer-
22 tification to the Committee on Appropriations
23 of the Senate and the Committee on Armed
24 Services of the House of Representatives that

1 the Secretary is in compliance with this sub-
2 paragraph.

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

10 (f) TRANSIT CAPITAL ASSISTANCE.—

11 (1) IN GENERAL.—There is made available to
12 the Secretary of Transportation \$3,000,000,000 for
13 grants for transit capital assistance grants as de-
14 fined by section 5302(a)(1) of title 49, United
15 States Code. Notwithstanding any provision of chap-
16 ter 53 of such title 49, a recipient of funding under
17 this subsection may use up to 10 percent of such
18 funding for the operating costs of equipment and fa-
19 cilities for use in public transportation or for other
20 eligible activities.

21 (2) FEDERAL SHARE; LIMITATION ON OBLIGA-
22 TIONS.—The applicable requirements of chapter 53
23 of title 49, United States Code, shall apply to fund-
24 ing provided under this subsection, except that the
25 Federal share of the costs for which any grant is

1 made under this subsection shall be, at the option of
2 the recipient, up to 100 percent. The amount made
3 available under this subsection shall not be subject
4 to any limitation on obligations for transit programs
5 set forth in any Act or chapter 53 of title 49, United
6 States Code.

7 (3) AVAILABILITY.—The amounts made avail-
8 able under this subsection shall be available for obli-
9 gation during the 2-year period beginning on the
10 date of the enactment of this Act. The Secretary
11 shall obligate not less than 50 percent of the such
12 amounts not later than 1 year after the date of the
13 enactment of this Act and obligate the remaining
14 amounts not later than 2 years after such date of
15 enactment.

16 (4) DISTRIBUTION OF FUNDS.—The Secretary
17 of Transportation shall—

18 (A) provide 80 percent of the funds appro-
19 priated under this subsection for grants under
20 section 5307 of title 49, United States Code,
21 and apportion such funds in accordance with
22 section 5336 of such title;

23 (B) provide 10 percent of the funds appro-
24 priated under this subsection in accordance
25 with section 5340 of such title; and

1 (C) provide 10 percent of the funds appro-
2 priated under this subsection for grants under
3 section 5311 of title 49, United States Code,
4 and apportion such funds in accordance with
5 such section.

6 (5) APPORTIONMENT.—Amounts apportioned
7 under this subsection shall be apportioned not later
8 than 21 days after the date of the enactment of this
9 Act.

10 (6) REDISTRIBUTION.—

11 (A) INITIAL ALLOCATION.—The Secretary
12 of Transportation shall, 180 days following the
13 date of apportionment, withdraw from each ur-
14 banized area or State an amount equal to 50
15 percent of the amounts apportioned to such ur-
16 banized areas or States less the amount of
17 funding obligated, and the Secretary shall redis-
18 tribute such amounts to other urbanized areas
19 or States that have had no funds withdrawn
20 under this subparagraph utilizing whatever
21 method the determines to be appropriate to en-
22 sure that all funds redistributed under this sub-
23 paragraph shall be utilized promptly.

24 (B) SUBSEQUENT ALLOCATION.—One year
25 following the date of apportionment, the Sec-

1 retary shall withdraw from each urbanized area
2 or State any unobligated funds, and the Sec-
3 retary shall redistribute such amounts to other
4 urbanized areas or States that have had no
5 amounts withdrawn under this paragraph uti-
6 lizing whatever method the determines to be ap-
7 propriate to ensure that all funds redistributed
8 under this subparagraph shall be utilized
9 promptly.

10 (C) EXTENSION.—At the request of an ur-
11 banized area or State, the Secretary may pro-
12 vide an extension of the 1-year period only to
13 the extent that the Secretary determines that
14 the urbanized area or State has encountered an
15 unworkable bidding environment or other ex-
16 tenuating circumstances. Before granting an ex-
17 tension, the Secretary shall provide a thorough
18 justification for the extension in a written noti-
19 fication submitted to the Committee on Envi-
20 ronment and Public Works of the Senate and
21 the Committee on Transportation and Infra-
22 structure of the House of Representatives.

23 (7) CONDITIONS.—

24 (A) Of the amounts provided for section
25 5311 of title 49, United States Code, 2.5 per-

1 cent shall be made available for subsection
2 (c)(1) of such section.

3 (B) Amounts appropriated under this sub-
4 section shall be subject to the requirements
5 under section 1101(b) of SAFETEA-LU (Pub-
6 lic Law 109–59).

7 (C) Amounts appropriated under this sub-
8 section may not be commingled with amounts
9 appropriated in any prior fiscal year.

10 (8) OVERSIGHT.—Notwithstanding any other
11 provision of law—

12 (A) 0.3 percent of the amounts provided
13 for grants under sections 5307 and 5340 of
14 title 49, United States Code, and 0.3 percent of
15 the amounts provided for grants under section
16 5311 of such title 49, shall be available for ad-
17 ministrative expenses and program management
18 oversight; and

19 (B) amounts set aside under subparagraph
20 (A) shall be available through September 30,
21 2015.

22 (g) STATE OF GOOD REPAIR.—

23 (1) IN GENERAL.—There is made available to
24 the Secretary of Transportation \$6,000,000,000 for
25 capital expenditures authorized under paragraphs

1 (2) and (3) of section 5309(b) of title 49, United
2 States Code.

3 (2) FEDERAL SHARE.—The applicable require-
4 ments under chapter 53 of title 49, United States
5 Code, shall apply to amounts made available under
6 this subsection, except that the Federal share of the
7 costs for which a grant is made under this sub-
8 section shall be, at the option of the recipient, up to
9 100 percent.

10 (3) AVAILABILITY.—The amounts made avail-
11 able under this subsection shall be available for obli-
12 gation during the 2-year period beginning on the
13 date of the enactment of this Act. The Secretary
14 shall obligate not less than 50 percent of the such
15 amounts not later than 1 year after the date of the
16 enactment of this Act and obligate the remaining
17 amounts not later than 2 years after such date of
18 enactment.

19 (4) DISTRIBUTION OF FUNDS.—

20 (A) FIXED GUIDEWAY SYSTEMS.—Not
21 later than 30 days after the date of the enact-
22 ment of this Act, the Secretary of Transpor-
23 tation shall apportion not less than 75 percent
24 of the amounts made available under this sub-
25 section for the modernization of fixed guideway

1 systems pursuant to the formula set forth in
2 section 5336(b) title 49, United States Code
3 (other than paragraph (2)(A)(ii)).

4 (B) BUS SYSTEMS.—Not later than 30
5 days after the date of the enactment of this
6 Act, the Secretary of Transportation shall ap-
7 portion not less than 25 percent of the amounts
8 appropriated under this subsection for the res-
9 toration or replacement of existing public trans-
10 portation assets related to bus systems pursu-
11 ant to the formula set forth in section 5336
12 (other than subsection (b)).

13 (5) REDISTRIBUTION.—

14 (A) INITIAL ALLOCATION.—The Secretary
15 of Transportation shall, 180 days following the
16 date of apportionment, withdraw from each ur-
17 banized area an amount equal to 50 percent of
18 the amounts apportioned to such urbanized
19 area less the amount of funding obligated, and
20 the Secretary shall redistribute such amounts to
21 other urbanized areas that have had no funds
22 withdrawn under this paragraph utilizing what-
23 ever method the determines to be appropriate to
24 ensure that all funds redistributed under this
25 subparagraph shall be utilized promptly.

1 (B) SUBSEQUENT ALLOCATION.—One year
2 after the date of apportionment, the Secretary
3 shall withdraw from each urbanized area any
4 unobligated funds, and the Secretary shall re-
5 distribute such amounts to other urbanized
6 areas that have had no amounts withdrawn
7 under this paragraph utilizing whatever method
8 the determines to be appropriate to ensure that
9 all funds redistributed under this subparagraph
10 shall be utilized promptly.

11 (C) EXTENSION.—At the request of an ur-
12 banized area, the Secretary may provide an ex-
13 tension of the 1-year period if the Secretary de-
14 termines that the urbanized area has encoun-
15 tered an unworkable bidding environment or
16 other extenuating circumstances. Before grant-
17 ing an extension, the Secretary shall provide a
18 thorough justification for the extension in a
19 written notification submitted to the Committee
20 on Environment and Public Works of the Sen-
21 ate and the Committee on Transportation and
22 Infrastructure of the House of Representatives.

23 (6) CONDITIONS.—

24 (A) Amounts appropriated under this sub-
25 section shall be subject to the requirements

1 under section 1101(b) of SAFETEA-LU (Pub-
2 lic Law 109–59).

3 (B) Amounts appropriated under this sub-
4 section may not be commingled with amounts
5 appropriated in any prior fiscal year.

6 (7) OVERSIGHT.—Notwithstanding any other
7 provision of law, 0.3 percent of the funds under this
8 subsection shall be available for administrative ex-
9 penses and program management oversight and shall
10 remain available for obligation until September 30,
11 2015.

12 (h) TRANSPORTATION INFRASTRUCTURE GRANTS
13 AND FINANCING.—

14 (1) IN GENERAL.—There is made available to
15 the Secretary of Transportation \$5,000,000,000 for
16 capital investments in surface transportation infra-
17 structure. The Secretary shall distribute amounts
18 made available under this subsection as discretionary
19 grants to be awarded to State and local governments
20 or transit agencies on a competitive basis for
21 projects that will have a significant impact on the
22 Nation, a metropolitan area, or a region.

23 (2) FEDERAL SHARE; LIMITATION ON OBLIGA-
24 TIONS.—The Federal share payable of the costs for

1 which a grant is made under this subsection shall be
2 100 percent.

3 (3) AVAILABILITY.—The amounts made avail-
4 able under this subsection shall be available for obli-
5 gation during the 2-year period beginning on the
6 date of the enactment of this Act. The Secretary
7 shall obligate not less than 50 percent of the such
8 amounts not later than 1 year after the date of the
9 enactment of this Act and obligate the remaining
10 amounts not later than 2 years after such date of
11 enactment.

12 (4) PROJECT ELIGIBILITY.—Projects eligible for
13 funding provided under this subsection include—

14 (A) highway or bridge projects eligible
15 under title 23, United States Code, including
16 interstate rehabilitation, improvements to the
17 rural collector road system, the reconstruction
18 of overpasses and interchanges, bridge replace-
19 ments, seismic retrofit projects for bridges, and
20 road realignments;

21 (B) public transportation projects eligible
22 under chapter 53 of title 49, United States
23 Code, including investments in projects partici-
24 pating in the New Starts or Small Starts pro-

1 grams that will expedite the completion of those
2 projects and their entry into revenue service;

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

5 (D) port infrastructure investments, in-
6 cluding projects that connect ports to other
7 modes of transportation and improve the effi-
8 ciency of freight movement.

9 (5) TIFIA PROGRAM.—The Secretary may
10 transfer amounts made available under this sub-
11 section to the Federal Highway Administration for
12 the purpose of paying the subsidy and administrative
13 costs of projects eligible for federal credit assistance
14 under chapter 6 of title 23, United States Code, if
15 the Secretary determines that such use would ad-
16 vance the purposes of this subsection.

17 (6) PROJECT PRIORITY.—The Secretary shall
18 give priority to projects that are expected to be com-
19 pleted not later than 3 years after the date of the
20 enactment of this Act.

21 (7) DEADLINE FOR ISSUANCE OF COMPETITION
22 CRITERIA.—Not later than 90 days after the date of
23 the enactment of this Act, the Secretary shall pub-
24 lish criteria on which to base the competition for any
25 grants awarded under this subsection. The Secretary

1 shall require applications for funding under this sub-
2 section to be submitted not later than 180 days after
3 the publication of the criteria, and announce all
4 projects selected to be funded from such amounts
5 not later than 1 year after the date of the enactment
6 of the Act.

7 (8) APPLICABILITY OF TITLE 40, UNITED
8 STATES CODE.—Each project conducted using funds
9 provided under this subsection shall comply with the
10 requirements under subchapter IV of chapter 31 of
11 title 40, United States Code.

12 (9) ADMINISTRATIVE EXPENSES.—The Sec-
13 retary may retain up to 0.5 percent of the amounts
14 provided under this subsection, and may transfer
15 portions of those funds to the Administrator of the
16 Federal Highway Administration, the Administrator
17 of the Federal Transit Administration, the Adminis-
18 trator of the Federal Railroad Administration, and
19 the Administrator of the Maritime Administration,
20 to fund the award and oversight of grants made
21 under this subsection. Amounts retained under this
22 paragraph shall remain available for obligation until
23 September 30, 2015.

24 (i) LOCAL HIRING.—

1 (1) IN GENERAL.—With regard to the funding
2 made available under subsections (a) through (h),
3 the Secretary of Transportation may establish stand-
4 ards under which a contract for construction may be
5 advertised that contains requirements for the em-
6 ployment of individuals residing in or adjacent to
7 any of the areas in which the work is to be per-
8 formed to perform construction work required under
9 the contract, if—

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

16 (B) the estimated cost of the project of
17 which the contract is a part is greater than
18 \$10,000,000, except that the estimated cost of
19 the project in the case of construction funded
20 under subsection (c) shall be greater than
21 \$50,000,000; and

22 (C) the recipient may not require the hir-
23 ing of individuals who do not have the nec-
24 essary skills to perform work in any craft or
25 trade unless the recipient establishes reasonable

1 provisions to train such individuals to perform
2 any such work under the contract effectively.

3 (2) PROJECT STANDARDS.—

4 (A) IN GENERAL.—Any standards estab-
5 lished by the Secretary under this section shall
6 ensure that any requirements under subsection
7 (c)(1)—

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

10 (ii) are reasonable in scope and appli-
11 cation;

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

14 (iv) do not unreasonably increase the
15 cost of the project.

16 (B) AVAILABLE PROGRAMS.—A portion of
17 the amounts made available under subsections
18 (a) through (h) may be allocated by the recipi-
19 ents of such funding for training programs that
20 comply with paragraph (1)(C). The Secretary of
21 Labor shall make available its qualifying work-
22 force and training development programs to re-
23 cipients desiring to establish training programs
24 that comply with paragraph (1)(C).

1 (3) IMPLEMENTING REGULATIONS.—The Sec-
2 retary shall promulgate final regulations to imple-
3 ment this subsection.

4 (j) ADMINISTRATIVE PROVISIONS.—

5 (1) APPLICABILITY OF TITLE 40.—Each project
6 using amounts provided under this section shall
7 comply with the requirements under subchapter IV
8 of chapter 31 of title 40, United States Code.

9 (2) BUY AMERICAN.—Section 1605 of division
10 A of the American Recovery and Reinvestment Act
11 of 2009 (Public Law 111–5) shall apply to each
12 project conducted using amounts made available
13 under this section.

14 **Subtitle B—Building and Upgrad-**
15 **ing Infrastructure for Long-**
16 **term Development**

17 **SEC. 121. SHORT TITLE.**

18 This subtitle may be cited as the “Building and Up-
19 grading Infrastructure for Long-Term Development”.

20 **SEC. 122. FINDINGS AND PURPOSE.**

21 (1) FINDINGS.—Congress finds that—

22 (A) infrastructure has always been a vital
23 element of the economic strength of the United
24 States and a key indicator of the international
25 leadership of the United States;

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

6 (C) according to the World Economic Fo-
7 rum’s Global Competitiveness Report, the
8 United States fell to second place in 2009, and
9 dropped to fourth place overall in 2010, how-
10 ever, in the “Quality of overall infrastructure”
11 category of the same report, the United States
12 ranked 23rd in the world;

13 (D) according to the World Bank’s 2010
14 Logistic Performance Index, the capacity of
15 countries to efficiently move goods and connect
16 manufacturers and consumers with inter-
17 national markets is improving around the
18 world, and the United States now ranks seventh
19 in the world in logistics-related infrastructure
20 behind countries from both Europe and Asia;

21 (E) according to a January 2009 report
22 from the University of Massachusetts/Alliance
23 for American Manufacturing entitled “Employ-
24 ment, Productivity and Growth,” infrastructure

1 investment is a “highly effective engine of job
2 creation”;

3 (F) according to the American Society of
4 Civil Engineers, the current condition of the in-
5 frastructure in the United States earns a grade
6 point average of D, and an estimated
7 \$2,200,000,000,000 investment is needed over
8 the next 5 years to bring American infrastruc-
9 ture up to adequate condition;

10 (G) according to the National Surface
11 Transportation Policy and Revenue Study Com-
12 mission, \$225,000,000,000 is needed annually
13 from all sources for the next 50 years to up-
14 grade the United States surface transportation
15 system to a state of good repair and create a
16 more advanced system;

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

22 (I) published reports state that there may
23 not be enough demand for municipal bonds to
24 maintain the same level of borrowing at the
25 same rates, resulting in significantly decreased

1 infrastructure investment at the State and local
2 level;

3 (J) current funding mechanisms are not
4 readily scalable and do not—

5 (i) serve large in-State or cross jurisdic-
6 tion infrastructure projects, projects of
7 regional or national significance, or
8 projects that cross sector silos;

9 (ii) sufficiently catalyze private sector
10 investment; or

11 (iii) ensure the optimal return on pub-
12 lic resources;

13 (K) although grant programs of the United
14 States Government must continue to play a
15 central role in financing the transportation, en-
16 vironment, and energy infrastructure needs of
17 the United States, current and foreseeable de-
18 mands on existing Federal, State, and local
19 funding for infrastructure expansion clearly ex-
20 ceed the resources to support these programs
21 by margins wide enough to prompt serious con-
22 cerns about the United States ability to sustain
23 long-term economic development, productivity,
24 and international competitiveness;

1 (L) the capital markets, including pension
2 funds, private equity funds, mutual funds, sov-
3 eraign wealth funds, and other investors, have
4 a growing interest in infrastructure investment
5 and represent hundreds of billions of dollars of
6 potential investment; and

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

16 (2) PURPOSE.—The purpose of this subtitle is
17 to facilitate investment in, and long-term financing
18 of, economically viable infrastructure projects of re-
19 gional or national significance in a manner that—

20 (A) complements existing Federal, State,
21 local, and private funding sources for these
22 projects;

23 (B) introduces a merit-based system for fi-
24 nancing such projects; and

1 (C) mobilizes significant private sector in-
2 vestment, creates jobs, and ensures United
3 States competitiveness through an institution
4 that limits the need for ongoing Federal fund-
5 ing.

6 **SEC. 123. DEFINITIONS.**

7 In this subtitle:

8 (1) AIFA.—The term “AIFA” means the
9 American Infrastructure Financing Authority estab-
10 lished under this subtitle.

11 (2) BLIND TRUST.—The term “blind trust”
12 means a trust in which the beneficiary has no knowl-
13 edge of the specific holdings and no rights over how
14 those holdings are managed by the fiduciary of the
15 trust prior to the dissolution of the trust.

16 (3) BOARD OF DIRECTORS.—The term “Board
17 of Directors” means Board of Directors of AIFA.

18 (4) CHAIRPERSON.—The term “Chairperson”
19 means the Chairperson of the Board of Directors of
20 AIFA.

21 (5) CHIEF EXECUTIVE OFFICER.—The term
22 “chief executive officer” means the chief executive
23 officer of AIFA, appointed under section 126.

24 (6) COST; DIRECT LOAN.—The terms “cost”
25 and “direct loan” have the meanings given such

1 terms in section 502 of the Federal Credit Reform
2 Act of 1990 (2 U.S.C. 661a).

3 (7) ELIGIBLE ENTITY.—The term “eligible enti-
4 ty” means an individual, corporation, partnership
5 (including a public-private partnership), joint ven-
6 ture, trust, State, or other non-Federal govern-
7 mental entity, including a political subdivision or any
8 other instrumentality of a State, or a revolving fund.

9 (8) INFRASTRUCTURE PROJECTS.—

10 (A) IN GENERAL.—The term “eligible in-
11 frastructure project” means any non-Federal
12 transportation, water, or energy infrastructure
13 project, or an aggregation of such infrastruc-
14 ture projects, as provided in this subtitle.

15 (B) TRANSPORTATION INFRASTRUCTURE
16 PROJECT.—The term “transportation infra-
17 structure project” means the construction, al-
18 teration, or repair, including the facilitation of
19 intermodal transit, of the following subsectors:

20 (i) Highway or road.

21 (ii) Bridge.

22 (iii) Mass transit.

23 (iv) Inland waterways.

24 (v) Commercial ports.

25 (vi) Airports.

1 (vii) Air traffic control systems.

2 (viii) Passenger rail, including high-
3 speed rail.

4 (ix) Freight rail systems.

5 (C) WATER INFRASTRUCTURE PROJECT.—

6 The term “water infrastructure project” means
7 the construction, consolidation, alteration, or
8 repair of the following subsectors:

9 (i) Wastewater treatment facility.

10 (ii) Storm water management system.

11 (iii) Dam.

12 (iv) Solid waste disposal facility.

13 (v) Drinking water treatment facility.

14 (vi) Levee.

15 (vii) Open space management system.

16 (D) ENERGY INFRASTRUCTURE

17 PROJECT.—The term “energy infrastructure

18 project” means the construction, alteration, or

19 repair of the following subsectors:

20 (i) Pollution reduced energy genera-
21 tion.

22 (ii) Transmission and distribution.

23 (iii) Storage.

1 (iv) Energy efficiency enhancements
2 for buildings, including public and com-
3 mercial buildings.

4 (E) BOARD AUTHORITY TO MODIFY SUB-
5 SECTORS.—The Board of Directors may make
6 modifications to the subsectors set forth in sub-
7 paragraphs (B) through (D) by a vote of not
8 fewer than 5 of the voting members of the
9 Board of Directors.

10 (9) INVESTMENT PROSPECTUS.—

11 (A) IN GENERAL.—The term “investment
12 prospectus” means the processes and publica-
13 tions described in this subsection that will guide
14 the priorities and strategic focus for the Bank’s
15 investments. The investment prospectus shall
16 follow rulemaking procedures under section 553
17 of title 5, United States Code.

18 (B) PUBLICATION.—Not later than 1 year
19 after the date of the enactment of this Act, the
20 Bank shall publish a detailed description of its
21 strategy in an Investment Prospectus that—

22 (i) specifies what the Bank shall con-
23 sider significant to the economic competi-
24 tiveness of the United States or a region

1 thereof in a manner consistent with the
2 primary objective;

3 (ii) specifies the priorities and stra-
4 tegic focus of the Bank in forwarding its
5 strategic objectives and carrying out the
6 Bank strategy;

7 (iii) specifies the priorities and stra-
8 tegic focus of the Bank in promoting
9 greater efficiency in the movement of
10 freight;

11 (iv) specifies the priorities and stra-
12 tegic focus of the Bank in promoting the
13 use of innovation and best practices in the
14 planning, design, development and delivery
15 of projects;

16 (v) describes in detail the framework
17 and methodology for calculating applica-
18 tion qualification scores and associated
19 ranges as specified in this subchapter,
20 along with the data to be requested from
21 applicants and the mechanics of calcula-
22 tions to be applied to that data to deter-
23 mine qualification scores and ranges;

24 (vi) describes how selection criteria
25 will be applied by the Chief Executive Offi-

1 cer in determining the competitiveness of
2 an application and its qualification score
3 and range relative to other current applica-
4 tions and previously funded applications;
5 and

6 (vii) describes how the qualification
7 score and range methodology and project
8 selection framework are consistent with
9 maximizing the Bank goals in urban and
10 rural areas.

11 (C) APPROVAL.—The Investment Pro-
12 spectus and any subsequent updates to the In-
13 vestment Prospectus shall be approved by a ma-
14 jority vote of the Board of Directors prior to
15 publication.

16 (D) UPDATES.—The Bank shall update
17 the Investment Prospectus on every biennial an-
18 niversary of its original publication.

19 (10) INVESTMENT-GRADE RATING.—The term
20 “investment-grade rating” means a rating of BBB
21 minus, Baa3, or higher assigned to an infrastructure
22 project by a ratings agency.

23 (11) LOAN GUARANTEE.—The term “loan guar-
24 antee” has the meaning given such term in section

1 502 of the Federal Credit Reform Act of 1990 (2
2 U.S.C. 661a).

3 (12) PUBLIC-PRIVATE PARTNERSHIP.—The
4 term “public-private partnership” means any eligible
5 entity—

6 (A)(i) which is undertaking the develop-
7 ment of all or part of an infrastructure project
8 that will have a public benefit, pursuant to re-
9 quirements established in one or more contracts
10 between the entity and a State or an instru-
11 mentality of a State; or

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

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

19 (C) the participants in which include not
20 fewer than 1 nongovernmental entity with sig-
21 nificant investment and some control over the
22 project or project vehicle.

23 (13) RURAL INFRASTRUCTURE PROJECT.—The
24 term “rural infrastructure project” means an infra-
25 structure project in a rural area (as defined in sec-

1 tion 343(a)(13)(A) of the Consolidated Farm and
2 Rural Development Act (7 U.S.C. 1991(a)(13)(A))).

3 (14) SECRETARY.—Unless the context other-
4 wise requires, the term “Secretary” means the Sec-
5 retary of the Treasury or the designee of the Sec-
6 retary of the Treasury.

7 (15) SENIOR MANAGEMENT.—The term “senior
8 management” means—

9 (A) the chief financial officer, chief risk of-
10 ficer, chief compliance officer, general counsel,
11 chief lending officer, and chief operations offi-
12 cer of AIFA established under section 128; and

13 (B) such other officers as the Board of Di-
14 rectors may, by majority vote, add to senior
15 management.

16 (16) STATE.—The term “State” includes the
17 District of Columbia, Puerto Rico, Guam, American
18 Samoa, the Virgin Islands, the Commonwealth of
19 Northern Mariana Islands, and any other territory
20 of the United States.

1 **SEC. 124. ESTABLISHMENT AND GENERAL AUTHORITY OF**
2 **AMERICAN INFRASTRUCTURE FINANCING**
3 **AUTHORITY.**

4 (a) ESTABLISHMENT OF AIFA.—The American In-
5 frastructure Financing Authority is established as a whol-
6 ly owned Government corporation.

7 (b) GENERAL AUTHORITY OF AIFA.—AIFA shall
8 provide direct loans and loan guarantees to facilitate infra-
9 structure projects that are both economically viable and
10 of regional or national significance, and shall have such
11 other authority, as provided in this subtitle.

12 (c) INCORPORATION.—

13 (1) IN GENERAL.—The Board of Directors first
14 appointed shall be deemed the incorporator of AIFA,
15 and the incorporation shall be held to have been ef-
16 fected from the date of the first meeting of the
17 Board of Directors.

18 (2) CORPORATE OFFICE.—AIFA shall—

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

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

24 (d) RESPONSIBILITY OF THE SECRETARY.—The Sec-
25 retary shall take such action as may be necessary to assist

1 in implementing AIFA, and in carrying out the purpose
2 of this Act.

3 (e) RULE OF CONSTRUCTION.—Chapter 91 of title
4 31, United States Code, does not apply to AIFA, unless
5 otherwise specifically provided in this subtitle.

6 **SEC. 125. VOTING MEMBERS OF THE BOARD OF DIREC-**
7 **TORS.**

8 (a) VOTING MEMBERSHIP OF THE BOARD OF DIREC-
9 TORS.—

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

15 (2) CHAIRPERSON.—One of the voting members
16 of the Board of Directors shall be designated by the
17 President to serve as Chairperson.

18 (3) CONGRESSIONAL RECOMMENDATIONS.—Not
19 later than 30 days after the date of the enactment
20 of this Act, the majority leader of the Senate, the
21 minority leader of the Senate, the Speaker of the
22 House of Representatives, and the minority leader of
23 the House of Representatives shall each submit a
24 recommendation to the President for appointment of

1 a member of the Board of Directors, after consulta-
2 tion with the appropriate committees of Congress.

3 (b) VOTING RIGHTS.—Each voting member of the
4 Board of Directors shall have an equal vote in all decisions
5 of the Board of Directors.

6 (c) QUALIFICATIONS OF VOTING MEMBERS.—Each
7 voting member of the Board of Directors shall—

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

9 (2) have significant demonstrated expertise in—

10 (A) the management and administration of
11 a financial institution relevant to the operation
12 of AIFA; or a public financial agency or author-
13 ity; or

14 (B) the financing, development, or oper-
15 ation of infrastructure projects; or

16 (C) analyzing the economic benefits of in-
17 frastructure investment.

18 (d) TERMS.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subtitle, each voting member of the
21 Board of Directors shall be appointed for a term of
22 4 years.

23 (2) INITIAL STAGGERED TERMS.—Of the voting
24 members first appointed to the Board of Directors—

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

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

6 (3) DATE OF INITIAL NOMINATIONS.—The ini-
7 tial nominations for the appointment of all voting
8 members of the Board of Directors shall be made
9 not later than 60 days after the date of the enact-
10 ment of this Act.

11 (4) BEGINNING OF TERM.—The term of each of
12 the initial voting members appointed under this sub-
13 title shall commence immediately upon the date of
14 appointment, except that, for purposes of calculating
15 the term limits specified in this section, the initial
16 terms shall each be construed as beginning on Janu-
17 ary 22 of the year following the date of the initial
18 appointment.

19 (5) VACANCIES.—A vacancy in the position of
20 a voting member of the Board of Directors shall be
21 filled by the President, and a member appointed to
22 fill a vacancy on the Board of Directors occurring
23 before the expiration of the term for which the pred-
24 ecessor was appointed shall be appointed only for
25 the remainder of that term.

1 (e) MEETINGS.—

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

5 (A) open to the public; and

6 (B) preceded by reasonable public notice.

7 (2) FREQUENCY.—The Board of Directors shall
8 meet not later than 60 days after the date on which
9 all members of the Board of Directors are first ap-
10 pointed, at least quarterly thereafter, and otherwise
11 at the call of either the Chairperson or 5 voting
12 members of the Board of Directors.

13 (3) EXCEPTION FOR CLOSED MEETINGS.—The
14 voting members of the Board of Directors may, by
15 majority vote, close a meeting to the public if, dur-
16 ing the meeting to be closed, there is likely to be dis-
17 closed proprietary or sensitive information regarding
18 an infrastructure project under consideration for as-
19 sistance under this Act. The Board of Directors
20 shall prepare minutes of any meeting that is closed
21 to the public, and shall make such minutes available
22 as soon as practicable, not later than 1 year after
23 the date of the closed meeting, with any necessary
24 redactions to protect any proprietary or sensitive in-
25 formation.

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

4 (f) COMPENSATION OF MEMBERS.—Each voting
5 member of the Board of Directors shall be compensated
6 at a rate equal to the daily equivalent of the annual rate
7 of basic pay prescribed for level III of the Executive
8 Schedule under section 5314 of title 5, United States
9 Code, for each day (including travel time) during which
10 the member is engaged in the performance of the duties
11 of the Board of Directors.

12 (g) CONFLICTS OF INTEREST.—A voting member of
13 the Board of Directors may not participate in any review
14 or decision affecting an infrastructure project under con-
15 sideration for assistance under this subtitle, if the member
16 has or is affiliated with an entity who has a financial inter-
17 est in such project.

18 **SEC. 126. CHIEF EXECUTIVE OFFICER OF AIFA.**

19 (a) IN GENERAL.—The chief executive officer of
20 AIFA shall be a nonvoting member of the Board of Direc-
21 tors, who shall be responsible for all activities of AIFA,
22 and shall support the Board of Directors as set forth in
23 this Act and as the Board of Directors deems necessary
24 or appropriate.

1 (b) APPOINTMENT AND TENURE OF THE CHIEF EX-
2 ECUTIVE OFFICER.—

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

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

8 (3) VACANCIES.—Any vacancy in the office of
9 the chief executive officer shall be filled by the Presi-
10 dent, and the person appointed to fill a vacancy in
11 that position occurring before the expiration of the
12 term for which the predecessor was appointed shall
13 be appointed only for the remainder of that term.

14 (c) QUALIFICATIONS.—The chief executive officer—

15 (1) shall have significant expertise in manage-
16 ment and administration of a financial institution,
17 or significant expertise in the financing and develop-
18 ment of infrastructure projects, or significant exper-
19 tise in analyzing the economic benefits of infrastruc-
20 ture investment; and

21 (2) may not—

22 (A) hold any other public office;

23 (B) have any financial interest in an infra-
24 structure project then being considered by the

1 Board of Directors, unless that interest is
2 placed in a blind trust; or

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

10 (d) RESPONSIBILITIES.—The chief executive officer
11 shall have such executive functions, powers, and duties as
12 may be prescribed by this Act, the bylaws of AIFA, or
13 the Board of Directors, including—

14 (1) responsibility for the development and im-
15 plementation of the strategy of AIFA, including—

16 (A) the development and submission to the
17 Board of Directors of the investment pro-
18 spectus, the annual business plans and budget;

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

22 (C) the development, revision, and submis-
23 sion to the Board of Directors of internal poli-
24 cies; and

1 (2) responsibility for the management and over-
2 sight of the daily activities, decisions, operations,
3 and personnel of AIFA, including—

4 (A) the appointment of senior manage-
5 ment, subject to approval by the voting mem-
6 bers of the Board of Directors, and the hiring
7 and termination of all other AIFA personnel;

8 (B) requesting the detail, on a reimburs-
9 able basis, of personnel from any Federal agen-
10 cy having specific expertise not available from
11 within AIFA, following which request the head
12 of the Federal agency may detail, on a reim-
13 bursable basis, any personnel of such agency
14 reasonably requested by the chief executive offi-
15 cer;

16 (C) assessing and recommending in the
17 first instance, for ultimate approval or dis-
18 approval by the Board of Directors, compensa-
19 tion and adjustments to compensation of senior
20 management and other personnel of AIFA as
21 may be necessary for carrying out the functions
22 of AIFA;

23 (D) ensuring, in conjunction with the gen-
24 eral counsel of AIFA, that all activities of

1 AIFA are carried out in compliance with appli-
2 cable law;

3 (E) overseeing the involvement of AIFA in
4 all projects, including—

5 (i) developing eligible projects for
6 AIFA financial assistance;

7 (ii) determining the terms and condi-
8 tions of all financial assistance packages;

9 (iii) monitoring all infrastructure
10 projects assisted by AIFA, including re-
11 sponsibility for ensuring that the proceeds
12 of any loan made, guaranteed, or partici-
13 pated in are used only for the purposes for
14 which the loan or guarantee was made;

15 (iv) preparing and submitting for ap-
16 proval by the Board of Directors the docu-
17 ments required under paragraph (1); and

18 (v) ensuring the implementation of de-
19 cisions of the Board of Directors; and

20 (F) such other activities as may be nec-
21 essary or appropriate in carrying out this Act.

22 (e) COMPENSATION.—

23 (1) IN GENERAL.—Any compensation assess-
24 ment or recommendation by the chief executive offi-
25 cer under this subtitle shall be without regard to the

1 provisions of chapter 51 or subchapter III of chapter
2 53 of title 5, United States Code.

3 (2) CONSIDERATIONS.—The compensation as-
4 sessment or recommendation required under this
5 section shall take into account merit principles,
6 where applicable, as well as the education, experi-
7 ence, level of responsibility, geographic differences,
8 and retention and recruitment needs in determining
9 compensation of personnel.

10 **SEC. 127. POWERS AND DUTIES OF THE BOARD OF DIREC-**
11 **TORS.**

12 The Board of Directors shall—

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

16 (b) not later than 180 days after the date on which
17 all members are appointed—

18 (1) develop and approve the bylaws of AIFA,
19 including bylaws for the regulation of the affairs and
20 conduct of the business of AIFA, consistent with the
21 purpose, goals, objectives, and policies set forth in
22 this subtitle;

23 (2) establish subcommittees, including an audit
24 committee that is composed solely of members of the

1 Board of Directors who are independent of the sen-
2 ior management of AIFA;

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

6 (4) approve or disapprove internal policies that
7 the chief executive officer shall submit to the Board
8 of Directors, including—

9 (A) policies regarding the loan application
10 and approval process, including—

11 (i) disclosure and application proce-
12 dures to be followed by entities in the
13 course of nominating infrastructure
14 projects for assistance under this Act;

15 (ii) guidelines for the selection and
16 approval of projects;

17 (iii) specific criteria for determining
18 eligibility for project selection, consistent
19 with title II; and

20 (iv) standardized terms and condi-
21 tions, fee schedules, or legal requirements
22 of a contract or program, so as to carry
23 out this Act; and

24 (B) operational guidelines; and

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

3 (c) ensure that AIFA is at all times operated in a
4 manner that is consistent with this subtitle, by—

5 (1) monitoring and assessing the effectiveness
6 of AIFA in achieving its strategic goals;

7 (2) periodically reviewing internal policies;

8 (3) reviewing and approving annual business
9 plans, annual budgets, and long-term strategies sub-
10 mitted by the chief executive officer;

11 (4) reviewing and approving annual reports
12 submitted by the chief executive officer;

13 (5) engaging one or more external auditors, as
14 set forth in this subtitle; and

15 (6) reviewing and approving all changes to the
16 organization of senior management;

17 (d) appoint and fix, by a vote of 5 of the 7 voting
18 members of the Board of Directors, and without regard
19 to the provisions of chapter 51 or subchapter III of chap-
20 ter 53 of title 5, United States Code, the compensation
21 and adjustments to compensation of all AIFA personnel,
22 provided that in appointing and fixing any compensation
23 or adjustments to compensation under this subsection, the
24 Board shall—

1 (1) consult with, and seek to maintain com-
2 parability with, other comparable Federal personnel;

3 (2) consult with the Office of Personnel Man-
4 agement; and

5 (3) carry out such duties consistent with merit
6 principles, where applicable, as well as the education,
7 experience, level of responsibility, geographic dif-
8 ferences, and retention and recruitment needs in de-
9 termining compensation of personnel;

10 (e) establish such other criteria, requirements, or pro-
11 cedures as the Board of Directors may consider to be ap-
12 propriate in carrying out this subtitle;

13 (f) serve as the primary liaison for AIFA in inter-
14 actions with Congress, the Executive Branch, and State
15 and local governments, and to represent the interests of
16 AIFA in such interactions and others;

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

20 (h) have the authority and responsibility—

21 (1) to oversee entering into and carry out such
22 contracts, leases, cooperative agreements, or other
23 transactions as are necessary to carry out this sub-
24 title with—

25 (A) any Federal department or agency;

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

4 (C) any individual, public-private partner-
5 ship, firm, association, or corporation;

6 (2) to approve of the acquisition, lease, pledge,
7 exchange, and disposal of real and personal property
8 by AIFA and otherwise approve the exercise by
9 AIFA of all of the usual incidents of ownership of
10 property, to the extent that the exercise of such pow-
11 ers is appropriate to and consistent with the pur-
12 poses of AIFA;

13 (3) to determine the character of, and the ne-
14 cessity for, the obligations and expenditures of
15 AIFA, and the manner in which the obligations and
16 expenditures will be incurred, allowed, and paid,
17 subject to this Act and other Federal law specifically
18 applicable to wholly owned Federal corporations;

19 (4) to execute, in accordance with applicable by-
20 laws and regulations, appropriate instruments;

21 (5) to approve other forms of credit enhance-
22 ment that AIFA may provide to eligible projects, as
23 long as the forms of credit enhancements are con-
24 sistent with the purposes of this subtitle and terms
25 set forth in this subtitle;

1 (6) to exercise all other lawful powers which are
2 necessary or appropriate to carry out, and are con-
3 sistent with, the purposes of AIFA;

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

6 (8) to indemnify the members of the Board of
7 Directors and officers of AIFA for any liabilities
8 arising out of the actions of the members and offi-
9 cers in such capacity, in accordance with, and sub-
10 ject to the limitations contained in this subtitle;

11 (9) to review all financial assistance packages
12 to all eligible infrastructure projects, as submitted
13 by the chief executive officer and to approve, post-
14 pone, or deny the same by majority vote;

15 (10) to review all restructuring proposals sub-
16 mitted by the chief executive officer, including assig-
17 nation, pledging, or disposal of the interest of AIFA
18 in a project, including payment or income from any
19 interest owned or held by AIFA, and to approve,
20 postpone, or deny the same by majority vote; and

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

23 (i) delegate to the chief executive officer those duties
24 that the Board of Directors deems appropriate, to better

1 carry out the powers and purposes of the Board of Direc-
2 tors under this section; and

3 (j) to approve a maximum aggregate amount of out-
4 standing obligations of AIFA at any given time, taking
5 into consideration funding, and the size of AIFA's ad-
6 dressable market for infrastructure projects.

7 **SEC. 128. SENIOR MANAGEMENT.**

8 (a) IN GENERAL.—Senior management shall support
9 the chief executive officer in the discharge of the respon-
10 sibilities of the chief executive officer.

11 (b) APPOINTMENT OF SENIOR MANAGEMENT.—The
12 chief executive officer shall appoint such senior managers
13 as are necessary to carry out the purpose of AIFA, as
14 approved by a majority vote of the voting members of the
15 Board of Directors.

16 (c) TERM.—Each member of senior management
17 shall serve at the pleasure of the chief executive officer
18 and the Board of Directors.

19 (d) REMOVAL OF SENIOR MANAGEMENT.—Any mem-
20 ber of senior management may be removed, either by a
21 majority of the voting members of the Board of Directors
22 upon request by the chief executive officer, or otherwise
23 by vote of not fewer than 5 voting members of the Board
24 of Directors.

25 (e) SENIOR MANAGEMENT.—

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

5 (2) DUTIES AND RESPONSIBILITIES.—

6 (A) CHIEF FINANCIAL OFFICER.—The
7 Chief Financial Officer shall be responsible for
8 all financial functions of AIFA, provided that,
9 at the discretion of the Board of Directors, spe-
10 cific functions of the Chief Financial Officer
11 may be delegated externally.

12 (B) CHIEF RISK OFFICER.—The Chief
13 Risk Officer shall be responsible for all func-
14 tions of AIFA relating to—

15 (i) the creation of financial, credit,
16 and operational risk management guide-
17 lines and policies;

18 (ii) credit analysis for infrastructure
19 projects;

20 (iii) the creation of conforming stand-
21 ards for infrastructure finance agreements;

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

1 (v) risk management and mitigation
2 actions, including by reporting such ac-
3 tions, or recommendations of such actions
4 to be taken, directly to the Board of Direc-
5 tors.

6 (C) CHIEF COMPLIANCE OFFICER.—The
7 Chief Compliance Officer shall be responsible
8 for all functions of AIFA relating to internal
9 audits, accounting safeguards, and the enforce-
10 ment of such safeguards and other applicable
11 requirements.

12 (D) GENERAL COUNSEL.—The General
13 Counsel shall be responsible for all functions of
14 AIFA relating to legal matters and, in consulta-
15 tion with the chief executive officer, shall be re-
16 sponsible for ensuring that AIFA complies with
17 all applicable law.

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

- 1 (F) CHIEF LENDING OFFICER.—The Chief
2 Lending Officer shall be responsible for—
- 3 (i) all functions of AIFA relating to
4 the development of project pipeline, finan-
5 cial structuring of projects, selection of in-
6 frastructure projects to be reviewed by the
7 Board of Directors, preparation of infra-
8 structure projects to be presented to the
9 Board of Directors, and set aside for rural
10 infrastructure projects;
- 11 (ii) the creation and management of—
- 12 (I) a Center for Excellence to
13 provide technical assistance to public
14 sector borrowers in the development
15 and financing of infrastructure
16 projects; and
- 17 (II) an Office of Rural Assistance
18 to provide technical assistance in the
19 development and financing of rural in-
20 frastructure projects; and
- 21 (iii) the establishment of guidelines to
22 ensure diversification of lending activities
23 by region, infrastructure project type, and
24 project size.

1 (f) CHANGES TO SENIOR MANAGEMENT.—The Board
2 of Directors, in consultation with the chief executive offi-
3 cer, may alter the structure of the senior management of
4 AIFA at any time to better accomplish the goals, objec-
5 tives, and purposes of AIFA, provided that the functions
6 of the Chief Financial Officer set forth in subsection
7 (e)(2)(A) remain separate from the functions of the Chief
8 Risk Officer set forth in subsection (e)(2)(B).

9 (g) CONFLICTS OF INTEREST.—No individual ap-
10 pointed to senior management may—

11 (1) hold any other public office;

12 (2) have any financial interest in an infrastruc-
13 ture project then being considered by the Board of
14 Directors, unless that interest is placed in a blind
15 trust; or

16 (3) have any financial interest in an investment
17 institution or its affiliates, AIFA or its affiliates, or
18 other entity then seeking or likely to seek financial
19 assistance for any infrastructure project from AIFA,
20 unless any such interest is placed in a blind trust
21 during the term of service of that individual in a
22 senior management position, and for a period of 2
23 years thereafter.

1 **SEC. 129. SPECIAL INSPECTOR GENERAL FOR AIFA.**

2 (a) IN GENERAL.—During the first 5 operating years
3 of AIFA, the Office of the Inspector General of the De-
4 partment of the Treasury shall have responsibility for
5 AIFA.

6 (b) OFFICE OF THE SPECIAL INSPECTOR GEN-
7 ERAL.—Effective 5 years after the date of the commence-
8 ment of the operations of AIFA, there is established the
9 Office of the Special Inspector General for AIFA.

10 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-
11 MOVAL.—

12 (1) HEAD OF OFFICE.—The head of the Office
13 of the Special Inspector General for AIFA shall be
14 the Special Inspector General for AIFA (referred to
15 in this section as the “Special Inspector General”),
16 who shall be appointed by the President, by and
17 with the advice and consent of the Senate.

18 (2) BASIS OF APPOINTMENT.—The appoint-
19 ment of the Special Inspector General shall be made
20 on the basis of integrity and demonstrated ability in
21 accounting, auditing, financial analysis, law, man-
22 agement analysis, public administration, or inves-
23 tigation.

24 (3) TIMING OF NOMINATION.—The nomination
25 of an individual as Special Inspector General shall

1 be made as soon as is practicable after the effective
2 date under subsection (b).

3 (4) REMOVAL.—The Special Inspector General
4 shall be removable from office in accordance with
5 the provisions of section 3(b) of the Inspector Gen-
6 eral Act of 1978 (5 U.S.C. App.).

7 (5) RULE OF CONSTRUCTION.—For purposes of
8 section 7324 of title 5, United States Code, the Spe-
9 cial Inspector General shall not be considered an em-
10 ployee who determines policies to be pursued by the
11 United States in the nationwide administration of
12 Federal law.

13 (6) RATE OF PAY.—The annual rate of basic
14 pay of the Special Inspector General shall be the an-
15 nual rate of basic pay for an Inspector General
16 under section 3(e) of the Inspector General Act of
17 1978 (5 U.S.C. App.).

18 (d) DUTIES.—

19 (1) IN GENERAL.—The Special Inspector Gen-
20 eral shall conduct, supervise, and coordinate audits
21 and investigations of the business activities of AIFA.

22 (2) OTHER SYSTEMS, PROCEDURES, AND CON-
23 TROLS.—The Special Inspector General shall estab-
24 lish, maintain, and oversee such systems, procedures,
25 and controls as the Special Inspector General con-

1 siders appropriate to discharge the duty described in
2 paragraph (1).

3 (3) ADDITIONAL DUTIES.—In addition to the
4 duties specified in paragraphs (1) and (2), the In-
5 spector General shall have the duties and respon-
6 sibilities of inspectors general under the Inspector
7 General Act of 1978.

8 (e) POWERS AND AUTHORITIES.—

9 (1) IN GENERAL.—In carrying out the duties
10 specified in subsection (d), the Special Inspector
11 General shall have the authorities provided in section
12 6 of the Inspector General Act of 1978.

13 (2) ADDITIONAL AUTHORITY.—The Special In-
14 spector General shall carry out the duties specified
15 in subsection (d)(1) in accordance with section
16 4(b)(1) of the Inspector General Act of 1978.

17 (f) PERSONNEL, FACILITIES, AND OTHER RE-
18 SOURCES.—

19 (1) ADDITIONAL OFFICERS.—

20 (A) The Special Inspector General may se-
21 lect, appoint, and employ such officers and em-
22 ployees as may be necessary for carrying out
23 the duties of the Special Inspector General,
24 subject to the provisions of title 5, United
25 States Code, governing appointments in the

1 competitive service, and the provisions of chap-
2 ter 51 and subchapter III of chapter 53 of such
3 title, relating to classification and General
4 Schedule pay rates.

5 (B) The Special Inspector General may ex-
6 ercise the authorities under subsections (b)
7 through (i) of section 3161 of title 5, United
8 States Code (without regard to subsection (a)
9 of that section).

10 (2) RETENTION OF SERVICES.—The Special In-
11 spector General may obtain services as authorized by
12 section 3109 of title 5, United States Code, at daily
13 rates not to exceed the equivalent rate prescribed for
14 grade GS–15 of the General Schedule by section
15 5332 of such title.

16 (3) ABILITY TO CONTRACT FOR AUDITS, STUD-
17 IES, AND OTHER SERVICES.—The Special Inspector
18 General may enter into contracts and other arrange-
19 ments for audits, studies, analyses, and other serv-
20 ices with public agencies and with private persons,
21 and make such payments as may be necessary to
22 carry out the duties of the Special Inspector Gen-
23 eral.

24 (4) REQUEST FOR INFORMATION.—

1 (A) IN GENERAL.—Upon request of the
2 Special Inspector General for information or as-
3 sistance from any department, agency, or other
4 entity of the Federal Government, the head of
5 such entity shall, insofar as is practicable and
6 not in contravention of any existing law, furnish
7 such information or assistance to the Special
8 Inspector General, or an authorized designee.

9 (B) REFUSAL TO COMPLY.—Whenever in-
10 formation or assistance requested by the Spe-
11 cial Inspector General is, in the judgment of the
12 Special Inspector General, unreasonably refused
13 or not provided, the Special Inspector General
14 shall report the circumstances to the Secretary
15 of the Treasury, without delay.

16 (g) REPORTS.—

17 (1) ANNUAL REPORT.—Not later than 1 year
18 after the confirmation of the Special Inspector Gen-
19 eral, and every calendar year thereafter, the Special
20 Inspector General shall submit to the President a re-
21 port summarizing the activities of the Special In-
22 spector General during the previous 1-year period
23 ending on the date of such report.

1 (2) PUBLIC DISCLOSURES.—Nothing in this
2 section shall be construed to authorize the public
3 disclosure of information that is—

4 (A) specifically prohibited from disclosure
5 by any other provision of law;

6 (B) specifically required by Executive order
7 to be protected from disclosure in the interest
8 of national defense or national security or in
9 the conduct of foreign affairs; or

10 (C) a part of an ongoing criminal inves-
11 tigation.

12 **SEC. 130. OTHER PERSONNEL.**

13 Except as otherwise provided in the bylaws of AIFA,
14 the chief executive officer, in consultation with the Board
15 of Directors, shall appoint, remove, and define the duties
16 of such qualified personnel as are necessary to carry out
17 the powers, duties, and purpose of AIFA, other than sen-
18 ior management, who shall be appointed in accordance
19 with section 249.

20 **SEC. 131. COMPLIANCE.**

21 The provision of assistance by the Board of Directors
22 pursuant to this Act shall not be construed as superseding
23 any provision of State law or regulation otherwise applica-
24 ble to an infrastructure project.

1 **SEC. 132. TERMS AND LIMITATIONS ON DIRECT LOANS AND**
2 **LOAN GUARANTEES.**

3 (a) **ELIGIBILITY CRITERIA FOR ASSISTANCE FROM**
4 **AIFA AND TERMS AND LIMITATIONS OF LOANS.**—Any
5 project whose use or purpose is private and for which no
6 public benefit is created shall not be eligible for financial
7 assistance from AIFA under this subtitle. Financial assist-
8 ance under this subtitle shall only be made available if
9 the applicant for such assistance has demonstrated to the
10 satisfaction of the Board of Directors that the infrastruc-
11 ture project for which such assistance is being sought—

12 (1) is not for the refinancing of an existing in-
13 frastructure project; and

14 (2) meets—

15 (A) any pertinent requirements set forth in
16 this subtitle;

17 (B) any criteria established by the Board
18 of Directors or chief executive officer in accord-
19 ance with this subtitle; and

20 (C) the definition of a transportation infra-
21 structure project, water infrastructure project,
22 or energy infrastructure project.

23 (b) **CONSIDERATIONS.**—The criteria established by
24 the Board of Directors pursuant to this subtitle shall pro-
25 vide adequate consideration of—

1 (1) the economic, financial, technical, environ-
2 mental, and public benefits and costs of each infra-
3 structure project under consideration for financial
4 assistance under this subtitle, prioritizing infrastruc-
5 ture projects that—

6 (A) contribute to regional or national eco-
7 nomic growth;

8 (B) offer value for money to taxpayers;

9 (C) demonstrate a clear and significant
10 public benefit;

11 (D) lead to job creation; and

12 (E) mitigate environmental concerns;

13 (2) the means by which development of the in-
14 frastructure project under consideration is being fi-
15 nanced, including—

16 (A) the terms, conditions, and structure of
17 the proposed financing;

18 (B) the credit worthiness and standing of
19 the project sponsors, providers of equity, and
20 co-financiers;

21 (C) the financial assumptions and projec-
22 tions on which the infrastructure project is
23 based; and

1 (D) whether there is sufficient State or
2 municipal political support for the successful
3 completion of the infrastructure project;

4 (3) the likelihood that the provision of assist-
5 ance by AIFA will cause such development to pro-
6 ceed more promptly and with lower costs than would
7 be the case without such assistance;

8 (4) the extent to which the provision of assist-
9 ance by AIFA maximizes the level of private invest-
10 ment in the infrastructure project or supports a
11 public-private partnership, while providing a signifi-
12 cant public benefit;

13 (5) the extent to which the provision of assist-
14 ance by AIFA can mobilize the participation of other
15 financing partners in the infrastructure project;

16 (6) the technical and operational viability of the
17 infrastructure project;

18 (7) the proportion of financial assistance from
19 AIFA;

20 (8) the geographic location of the project in an
21 effort to have geographic diversity of projects funded
22 by AIFA;

23 (9) the size of the project and its impact on the
24 resources of AIFA;

1 (10) the infrastructure sector of the project, in
2 an effort to have projects from more than one sector
3 funded by AIFA; and

4 (11) encourages use of innovative procurement,
5 asset management, or financing to minimize the all-
6 in-life-cycle cost, and improve the cost-effectiveness
7 of a project.

8 (c) APPLICATION.—

9 (1) IN GENERAL.—Any eligible entity seeking
10 assistance from AIFA under this Act for an eligible
11 infrastructure project shall submit an application to
12 AIFA at such time, in such manner, and containing
13 such information as the Board of Directors or the
14 chief executive officer may require.

15 (2) REVIEW OF APPLICATIONS.—AIFA shall re-
16 view applications for assistance under this Act on an
17 ongoing basis. The chief executive officer, working
18 with the senior management, shall prepare eligible
19 infrastructure projects for review and approval by
20 the Board of Directors.

21 (3) DEDICATED REVENUE SOURCES.—The Fed-
22 eral credit instrument shall be repayable, in whole or
23 in part, from tolls, user fees, or other dedicated rev-
24 enue sources that also secure the infrastructure
25 project obligations.

1 (d) ELIGIBLE INFRASTRUCTURE PROJECT COSTS.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), to be eligible for assistance under this
4 subtitle, an infrastructure project shall have project
5 costs that are reasonably anticipated to equal or ex-
6 ceed \$100,000,000.

7 (2) RURAL INFRASTRUCTURE PROJECTS.—To
8 be eligible for assistance under this subtitle, a rural
9 infrastructure project shall have project costs that
10 are reasonably anticipated to equal or exceed
11 \$25,000,000.

12 (e) LOAN ELIGIBILITY AND MAXIMUM AMOUNTS.—

13 (1) IN GENERAL.—The amount of a direct loan
14 or loan guarantee under this subtitle may not exceed
15 the lesser of 50 percent of the reasonably anticipated
16 eligible infrastructure project costs or, if the direct
17 loan or loan guarantee does not receive an invest-
18 ment grade rating, the amount of the senior project
19 obligations.

20 (2) MAXIMUM ANNUAL LOAN AND LOAN GUAR-
21 ANTEE VOLUME.—The aggregate amount of direct
22 loans and loan guarantees made by AIFA in any
23 single fiscal year may not exceed—

24 (A) during the first 2 fiscal years of the
25 operations of AIFA, \$10,000,000,000;

1 (B) during fiscal years 3 through 9 of the
2 operations of AIFA, \$20,000,000,000; or

3 (C) during any fiscal year thereafter,
4 \$50,000,000,000.

5 (f) STATE AND LOCAL PERMITS REQUIRED.—The
6 provision of assistance by the Board of Directors pursuant
7 to this subtitle shall not be deemed to relieve any recipient
8 of such assistance, or the related infrastructure project,
9 of any obligation to obtain required State and local per-
10 mits and approvals.

11 **SEC. 133. LOAN TERMS AND REPAYMENT.**

12 (a) IN GENERAL.—A direct loan or loan guarantee
13 under this subtitle with respect to an eligible infrastruc-
14 ture project shall be on such terms, subject to such condi-
15 tions, and contain such covenants, representations, war-
16 ranties, and requirements (including requirements for au-
17 dits) as the chief executive officer determines appropriate.

18 (b) TERMS.—A direct loan or loan guarantee under
19 this subtitle—

20 (1) shall—

21 (A) be payable, in whole or in part, from
22 tolls, user fees, or other dedicated revenue
23 sources that also secure the senior project obli-
24 gations (such as availability payments and dedi-
25 cated State or local revenues); and

1 (B) include a rate covenant, coverage re-
2 quirement, or similar security feature sup-
3 porting the project obligations; and

4 (2) may have a lien on revenues described in
5 paragraph (1), subject to any lien securing project
6 obligations.

7 (c) BASE INTEREST RATE.—The base interest rate
8 on a direct loan under this subtitle shall be not less than
9 the yield on United States Treasury obligations of a simi-
10 lar maturity to the maturity of the direct loan.

11 (d) RISK ASSESSMENT.—Before entering into an
12 agreement for assistance under this subtitle, the chief ex-
13 ecutive officer, in consultation with the Director of the Of-
14 fice of Management and Budget and considering rating
15 agency preliminary or final rating opinion letters of the
16 project under this subtitle, shall estimate an appropriate
17 Federal credit subsidy amount for each direct loan and
18 loan guarantee, taking into account such letter, as well
19 as any comparable market rates available for such a loan
20 or loan guarantee, should any exist. The final credit sub-
21 sidy cost for each loan and loan guarantee shall be deter-
22 mined consistent with the Federal Credit Reform Act, 2
23 U.S.C. 661a et seq.

24 (e) CREDIT FEE.—With respect to each agreement
25 for assistance under this subtitle, the chief executive offi-

1 cer may charge a credit fee to the recipient of such assist-
2 ance to pay for, over time, all or a portion of the Federal
3 credit subsidy determined under subsection (d), with the
4 remainder paid by the account established for AIFA; pro-
5 vided, that the source of fees paid under this subtitle shall
6 not be a loan or debt obligation guaranteed by the Federal
7 Government. In the case of a direct loan, such credit fee
8 shall be in addition to the base interest rate established
9 under subsection (c).

10 (f) MATURITY DATE.—The final maturity date of a
11 direct loan or loan guaranteed by AIFA under this subtitle
12 shall be not later than 35 years after the date of substan-
13 tial completion of the infrastructure project, as determined
14 by the chief executive officer.

15 (g) RATING OPINION LETTER.—

16 (1) IN GENERAL.—The chief executive officer
17 shall require each applicant for assistance under this
18 subtitle to provide a rating opinion letter from at
19 least 1 ratings agency, indicating that the senior ob-
20 ligations of the infrastructure project, which may be
21 the Federal credit instrument, have the potential to
22 achieve an investment-grade rating.

23 (2) RURAL INFRASTRUCTURE PROJECTS.—With
24 respect to a rural infrastructure project, a rating
25 agency opinion letter described in paragraph (1)

1 shall not be required, except that the loan or loan
2 guarantee shall receive an internal rating score,
3 using methods similar to the ratings agencies gen-
4 erated by AIFA, measuring the proposed direct loan
5 or loan guarantee against comparable direct loans or
6 loan guarantees of similar credit quality in a similar
7 sector.

8 (h) INVESTMENT-GRADE RATING REQUIREMENT.—

9 (1) LOANS AND LOAN GUARANTEES.—The exe-
10 cution of a direct loan or loan guarantee under this
11 subtitle shall be contingent on the senior obligations
12 of the infrastructure project receiving an investment-
13 grade rating.

14 (2) RATING OF AIFA OVERALL PORTFOLIO.—

15 The average rating of the overall portfolio of AIFA
16 shall be not less than investment grade after 5 years
17 of operation.

18 (i) TERMS AND REPAYMENT OF DIRECT LOANS.—

19 (1) SCHEDULE.—The chief executive officer
20 shall establish a repayment schedule for each direct
21 loan under this subtitle, based on the projected cash
22 flow from infrastructure project revenues and other
23 repayment sources.

24 (2) COMMENCEMENT.—Scheduled loan repay-

25 ments of principal or interest on a direct loan under

1 this subtitle shall commence not later than 5 years
2 after the date of substantial completion of the infra-
3 structure project, as determined by the chief execu-
4 tive officer of AIFA.

5 (3) DEFERRED PAYMENTS OF DIRECT
6 LOANS.—

7 (A) AUTHORIZATION.—If, at any time
8 after the date of substantial completion of an
9 infrastructure project assisted under this sub-
10 title, the infrastructure project is unable to gen-
11 erate sufficient revenues to pay the scheduled
12 loan repayments of principal and interest on the
13 direct loan under this subtitle, the chief execu-
14 tive officer may allow the obligor to add unpaid
15 principal and interest to the outstanding bal-
16 ance of the direct loan, if the result would ben-
17 efit the taxpayer.

18 (B) INTEREST.—Any payment deferred
19 under subparagraph (A) shall—

20 (i) continue to accrue interest, in ac-
21 cordance with the terms of the obligation,
22 until fully repaid; and

23 (ii) be scheduled to be amortized over
24 the remaining term of the loan.

25 (C) CRITERIA.—

1 (i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the infrastructure project meeting criteria established by the Board of Directors.

2
3
4
5
6 (ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

7
8
9
10 (4) PREPAYMENT OF DIRECT LOANS.—

11 (A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the infrastructure project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations under this subtitle may be applied annually to prepay the direct loan, without penalty.

12
13
14
15
16
17
18
19
20 (B) USE OF PROCEEDS OF REFINANCING.—A direct loan under this subtitle may be prepaid at any time, without penalty, from the proceeds of refinancing from non-Federal funding sources.

21
22
23
24
25 (5) SALE OF DIRECT LOANS.—

1 (A) IN GENERAL.—As soon as is prac-
2 ticable after substantial completion of an infra-
3 structure project assisted under this subtitle,
4 and after notifying the obligor, the chief execu-
5 tive officer may sell to another entity, or reoffer
6 into the capital markets, a direct loan for the
7 infrastructure project, if the chief executive offi-
8 cer determines that the sale or reoffering can
9 be made on favorable terms for the taxpayer.

10 (B) CONSENT OF OBLIGOR.—In making a
11 sale or reoffering under subparagraph (A), the
12 chief executive officer may not change the origi-
13 nal terms and conditions of the direct loan,
14 without the written consent of the obligor.

15 (j) LOAN GUARANTEES.—

16 (1) TERMS.—The terms of a loan guaranteed
17 by AIFA under this subtitle shall be consistent with
18 the terms set forth in this subtitle for a direct loan,
19 except that the rate on the guaranteed loan and any
20 payment, pre-payment, or refinancing features shall
21 be negotiated between the obligor and the lender,
22 with the consent of the chief executive officer.

23 (2) GUARANTEED LENDER.—A guaranteed
24 lender shall be limited to those lenders meeting the

1 definition of that term in section 601(a) of title 23,
2 United States Code.

3 (k) COMPLIANCE WITH FCRA—IN GENERAL.—Di-
4 rect loans and loan guarantees authorized by this subtitle
5 shall be subject to the provisions of the Federal Credit
6 Reform Act of 1990 (2 U.S.C. 661 et seq.).

7 **SEC. 134. COMPLIANCE AND ENFORCEMENT.**

8 (a) CREDIT AGREEMENT.—Notwithstanding any
9 other provision of law, each eligible entity that receives
10 assistance under this subtitle from AIFA shall enter into
11 a credit agreement that requires such entity to comply
12 with all applicable policies and procedures of AIFA, in ad-
13 dition to all other provisions of the loan agreement.

14 (b) AIFA AUTHORITY ON NONCOMPLIANCE.—In any
15 case in which a recipient of assistance under this subtitle
16 is materially out of compliance with the loan agreement,
17 or any applicable policy or procedure of AIFA, the Board
18 of Directors may take action to cancel unutilized loan
19 amounts, or to accelerate the repayment terms of any out-
20 standing obligation.

21 (c) RULE OF CONSTRUCTION.—Nothing in this sub-
22 title is intended to affect existing provisions of law applica-
23 ble to the planning, development, construction, or oper-
24 ation of projects funded under this subtitle.

1 **SEC. 135. AUDITS; REPORTS TO THE PRESIDENT AND CON-**
2 **GRESS.**

3 (a) ACCOUNTING.—The books of account of AIFA
4 shall be maintained in accordance with generally accepted
5 accounting principles, and shall be subject to an annual
6 audit by independent public accountants of nationally rec-
7 ognized standing appointed by the Board of Directors.

8 (b) REPORTS.—

9 (1) BOARD OF DIRECTORS.—Not later than 90
10 days after the last day of each fiscal year, the Board
11 of Directors shall submit to the President and Con-
12 gress a complete and detailed report with respect to
13 the preceding fiscal year, setting forth—

14 (A) a summary of the operations of AIFA,
15 for such fiscal year;

16 (B) a schedule of the obligations of AIFA
17 and capital securities outstanding at the end of
18 such fiscal year, with a statement of the
19 amounts issued and redeemed or paid during
20 such fiscal year;

21 (C) the status of infrastructure projects re-
22 ceiving funding or other assistance pursuant to
23 this subtitle during such fiscal year, including
24 all nonperforming loans, and including disclo-
25 sure of all entities with a development, owner-

1 ship, or operational interest in such infrastruc-
2 ture projects;

3 (D) a description of the successes and
4 challenges encountered in lending to rural com-
5 munities, including the role of the Center for
6 Excellence and the Office of Rural Assistance
7 established under this subtitle; and

8 (E) an assessment of the risks of the port-
9 folio of AIFA, prepared by an independent
10 source.

11 (2) GAO.—Not later than 5 years after the
12 date of the enactment of this Act, the Comptroller
13 General of the United States shall conduct an eval-
14 uation of, and shall submit to Congress a report on,
15 activities of AIFA for the fiscal years covered by the
16 report that includes an assessment of the impact
17 and benefits of each funded infrastructure project,
18 including a review of how effectively each such infra-
19 structure project accomplished the goals prioritized
20 by the infrastructure project criteria of AIFA.

21 (c) BOOKS AND RECORDS.—

22 (1) IN GENERAL.—AIFA shall maintain ade-
23 quate books and records to support the financial
24 transactions of AIFA, with a description of financial
25 transactions and infrastructure projects receiving

1 funding, and the amount of funding for each such
2 project maintained on a publically accessible data-
3 base.

4 (2) AUDITS BY THE SECRETARY AND GAO.—

5 The books and records of AIFA shall at all times be
6 open to inspection by the Secretary of the Treasury,
7 the Special Inspector General, and the Comptroller
8 General of the United States.

9 **SEC. 136. ADMINISTRATIVE FEES.**

10 (a) IN GENERAL.—In addition to fees that may be
11 collected under section 133(e), the chief executive officer
12 shall establish and collect fees from eligible funding recipi-
13 ents with respect to loans and loan guarantees under this
14 subtitle that—

15 (1) are sufficient to cover all or a portion of the
16 administrative costs to the Federal Government for
17 the operations of AIFA, including the costs of expert
18 firms, including counsel in the field of municipal and
19 project finance, and financial advisors to assist with
20 underwriting, credit analysis, or other independent
21 reviews, as appropriate;

22 (2) may be in the form of an application or
23 transaction fee, or other form established by the
24 CEO; and

1 (3) may be based on the risk premium associ-
2 ated with the loan or loan guarantee, taking into
3 consideration—

4 (A) the price of United States Treasury
5 obligations of a similar maturity;

6 (B) prevailing market conditions;

7 (C) the ability of the infrastructure project
8 to support the loan or loan guarantee; and

9 (D) the total amount of the loan or loan
10 guarantee.

11 (b) AVAILABILITY OF AMOUNTS.—Amounts collected
12 under paragraphs (1), (2), and (3) of subsection (a) shall
13 be available without further action; provided further, that
14 the source of fees paid under this section shall not be a
15 loan or debt obligation guaranteed by the Federal Govern-
16 ment.

17 **SEC. 137. EFFICIENCY OF AIFA.**

18 The chief executive officer shall, to the extent pos-
19 sible, take actions consistent with this subtitle to minimize
20 the risk and cost to the taxpayer of AIFA activities. Fees
21 and premiums for loan guarantee or insurance coverage
22 will be set at levels that minimize administrative and Fed-
23 eral credit subsidy costs to the Government (as defined
24 in section 502 of the Federal Credit Reform Act of 1990)
25 of such coverage, while supporting achievement of the pro-

1 gram’s objectives, consistent with policies as set forth in
2 the Business Plan.

3 **SEC. 138. FUNDING.**

4 There is appropriated to AIFA to carry out this sub-
5 title, for the cost of direct loans and loan guarantees sub-
6 ject to the limitations under section 132, and for adminis-
7 trative costs, \$10,000,000,000, to remain available until
8 expended. Such costs, including the costs of modifying
9 such loans, shall be as defined in section 502 of the Fed-
10 eral Credit Reform Act of 1990. Of this amount, not more
11 than \$25,000,000 for each of fiscal years 2012 through
12 2013, and not more than \$50,000,000 for fiscal year 2014
13 may be used for administrative costs of AIFA. Not more
14 than 5 percent of such amount shall be used to offset sub-
15 sidy costs associated with rural projects. Amounts author-
16 ized shall be available without further action.

17 **Subtitle C—Extension of Exemp-**
18 **tion From Alternative Minimum**
19 **Tax Treatment for Certain Tax-**
20 **exempt Bonds**

21 **SEC. 141. EXTENSION OF EXEMPTION FROM ALTERNATIVE**
22 **MINIMUM TAX TREATMENT FOR CERTAIN**
23 **TAX-EXEMPT BONDS.**

24 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)
25 of the Internal Revenue Code of 1986 is amended—

1 (1) by striking “January 1, 2011” in subclause
2 (I) and inserting “January 1, 2013”; and

3 (2) by striking “AND 2010” in the heading and
4 inserting “, 2010, 2011, AND 2012”.

5 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of
6 section 56(g)(4)(B) of the Internal Revenue Code of 1986
7 is amended—

8 (1) by striking “January 1, 2011” in subclause
9 (I) and inserting “January 1, 2013”; and

10 (2) by striking “AND 2010” in the heading and
11 inserting “, 2010, 2011, AND 2012”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to obligations issued after Decem-
14 ber 31, 2010.

15 **TITLE II—SURTAX ON** 16 **MILLIONAIRES**

17 **SEC. 201. SURTAX ON MILLIONAIRES.**

18 (a) IN GENERAL.—Subchapter A of chapter 1 of the
19 Internal Revenue Code of 1986 is amended by adding at
20 the end the following new part:

21 **“PART VIII—SURTAX ON MILLIONAIRES**

“Sec. 59B. Surtax on millionaires.

22 **“SEC. 59B. SURTAX ON MILLIONAIRES.**

23 “(a) GENERAL RULE.—In the case of a taxpayer
24 other than a corporation for any taxable year beginning

1 after 2012, there is hereby imposed (in addition to any
2 other tax imposed by this subtitle) a tax equal to 0.7 per-
3 cent of so much of the modified adjusted gross income
4 of the taxpayer for such taxable year as exceeds
5 \$1,000,000 (\$500,000, in the case of a married individual
6 filing a separate return).

7 “(b) INFLATION ADJUSTMENT.—

8 “(1) IN GENERAL.—In the case of any taxable
9 year beginning after 2013, each dollar amount under
10 subsection (a) shall be increased by an amount equal
11 to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year in which the taxable year begins, deter-
16 mined by substituting ‘calendar year 2011’ for
17 ‘calendar year 1992’ in subparagraph (B)
18 thereof.

19 “(2) ROUNDING.—If any amount as adjusted
20 under paragraph (1) is not a multiple of \$10,000,
21 such amount shall be rounded to the next highest
22 multiple of \$10,000.

23 “(c) MODIFIED ADJUSTED GROSS INCOME.—For
24 purposes of this section, the term ‘modified adjusted gross
25 income’ means adjusted gross income reduced by any de-

1 duction (not taken into account in determining adjusted
2 gross income) allowed for investment interest (as defined
3 in section 163(d)). In the case of an estate or trust, ad-
4 justed gross income shall be determined as provided in sec-
5 tion 67(e).

6 “(d) SPECIAL RULES.—

7 “(1) NONRESIDENT ALIEN.—In the case of a
8 nonresident alien individual, only amounts taken
9 into account in connection with the tax imposed
10 under section 871(b) shall be taken into account
11 under this section.

12 “(2) CITIZENS AND RESIDENTS LIVING
13 ABROAD.—The dollar amount in effect under sub-
14 section (a) shall be decreased by the excess of—

15 “(A) the amounts excluded from the tax-
16 payer’s gross income under section 911, over

17 “(B) the amounts of any deductions or ex-
18 clusions disallowed under section 911(d)(6)
19 with respect to the amounts described in sub-
20 paragraph (A).

21 “(3) CHARITABLE TRUSTS.—Subsection (a)
22 shall not apply to a trust all the unexpired interests
23 in which are devoted to one or more of the purposes
24 described in section 170(c)(2)(B).

1 “(4) NOT TREATED AS TAX IMPOSED BY THIS
2 CHAPTER FOR CERTAIN PURPOSES.—The tax im-
3 posed under this section shall not be treated as tax
4 imposed by this chapter for purposes of determining
5 the amount of any credit under this chapter or for
6 purposes of section 55.”.

7 (b) CLERICAL AMENDMENT.—The table of parts for
8 subchapter A of chapter 1 of the Internal Revenue Code
9 of 1986 is amended by adding at the end the following
10 new item:

 “PART VIII. SURTAX ON MILLIONAIRES.”.

11 (c) SECTION 15 NOT TO APPLY.—The amendment
12 made by subsection (a) shall not be treated as a change
13 in a rate of tax for purposes of section 15 of the Internal
14 Revenue Code of 1986.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2012.

Calendar No. 213

112TH CONGRESS
1ST Session

S. 1769

A BILL

To put workers back on the job while rebuilding
and modernizing America.

NOVEMBER 1, 2011

Read the second time and placed on the calendar