

112TH CONGRESS
1ST SESSION

S. 1960

To provide incentives to create American jobs.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2011

Ms. COLLINS (for herself and Mrs. MCCASKILL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To provide incentives to create American jobs.

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 “Jobs Creation Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES

Subtitle A—Payroll Tax Holiday

Sec. 101. Extension of payroll tax holiday.

Sec. 102. Temporary employer payroll tax cut.

Subtitle B—American Opportunity

- Sec. 111. Short title.
- Sec. 112. Angel investment tax credit.

Subtitle C—Extension of Expiring Provisions

- Sec. 121. Extension of bonus depreciation.
- Sec. 122. Deduction for qualified tuition and related expenses.
- Sec. 123. Research credit.
- Sec. 124. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 125. Enhanced charitable deduction for contributions of food inventory.
- Sec. 126. Enhanced charitable deduction for contributions of book inventories to public schools.
- Sec. 127. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.

TITLE II—INFRASTRUCTURE PROVISIONS

- Sec. 201. Capitalization of State infrastructure banks.
- Sec. 202. Highway infrastructure investment.
- Sec. 203. State revolving loan funds.

TITLE III—REGULATORY REFORM

Subtitle A—Clearing Unnecessary Regulatory Burdens

- Sec. 301. Short title.
- Sec. 302. Regulatory reform.
- Sec. 303. Reduction or waiver of civil penalties imposed on small entities.

Subtitle B—EPA Regulatory Relief

- Sec. 311. Short title.
- Sec. 312. Legislative stay.
- Sec. 313. Compliance dates.
- Sec. 314. Energy recovery and conservation.
- Sec. 315. Other provisions.

TITLE IV—WORKFORCE DEVELOPMENT

Subtitle A—Job Training Program Consolidation

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Study and proposal on duplicative job training programs.

Subtitle B—Innovation and Job Creation

- Sec. 411. Short title.
- Sec. 412. Definitions.
- Sec. 413. National Innovation Council.
- Sec. 414. National Innovation Council Board.
- Sec. 415. Transfer of programs and functions.
- Sec. 416. Cluster Information Center.
- Sec. 417. Grant programs.
- Sec. 418. Authorization of appropriations.

TITLE V—OFFSETS

Subtitle A—Surtax on High-income Taxpayers

Sec. 501. Surtax on millionaires.

Subtitle B—Closing Big Oil Tax Loopholes

Sec. 511. Short title.

PART I—CLOSE BIG OIL TAX LOOPHOLES

Sec. 521. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.

Sec. 522. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.

Sec. 523. Limitation on deduction for intangible drilling and development costs.

Sec. 524. Limitation on percentage depletion allowance for oil and gas wells.

Sec. 525. Limitation on deduction for tertiary injectants.

PART II—OUTER CONTINENTAL SHELF OIL AND NATURAL GAS

Sec. 531. Repeal of outer Continental Shelf deep water and deep gas royalty relief.

1 **TITLE I—TAX INCENTIVES**
 2 **Subtitle A—Payroll Tax Holiday**

3 **SEC. 101. EXTENSION OF PAYROLL TAX HOLIDAY.**

4 Section 601(c) of the Tax Relief, Unemployment In-
 5 surance Reauthorization, and Job Creation Act of 2010
 6 (26 U.S.C. 1401 note) is amended by striking “year
 7 2011” and inserting “years 2011 and 2012”.

8 **SEC. 102. TEMPORARY EMPLOYER PAYROLL TAX CUT.**

9 (a) IN GENERAL.—

10 (1) EMPLOYERS.—Section 601(a) of the Tax
 11 Relief, Unemployment Insurance Reauthorization,
 12 and Job Creation Act of 2010 (26 U.S.C. 1401
 13 note) is amended by striking “and” at the end of
 14 paragraph (1), by striking the period at the end of

1 paragraph (2), and by adding at the end the fol-
2 lowing new paragraph:

3 “(3) with respect to remuneration paid during
4 the payroll tax holiday period for qualified services,
5 the rate of tax under 3111(a) of such Code shall be
6 4.2 percent (including for purposes of determining
7 the applicable percentage under sections 3221(a) of
8 such Code).”.

9 (2) SELF-EMPLOYED INDIVIDUALS.—Section
10 601(a) of such Act is amended by striking “10.40
11 percent” in paragraph (1) and inserting “8.40 per-
12 cent”.

13 (b) QUALIFIED SERVICES.—Section 601 of the Tax
14 Relief, Unemployment Insurance Reauthorization, and
15 Job Creation Act of 2010 (26 U.S.C. 1401 note) is
16 amended by adding at the end the following new sub-
17 section:

18 “(f) QUALIFIED SERVICES.—For purposes of this
19 section, the term ‘qualified services’ means services per-
20 formed—

21 “(1) in a trade or business of a qualified em-
22 ployer, or

23 “(2) in the case of a qualified employer exempt
24 from tax under section 501(a) of the Internal Rev-
25 enue Code of 1986, in furtherance of the activities

1 related to the purpose or function constituting the
2 basis of the employer’s exemption under section 501
3 of such Code.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 601 of the Tax Relief, Unemploy-
6 ment Insurance Reauthorization, and Job Creation
7 Act of 2010 is amended by striking subsection (b).

8 (2) Section 601(e)(2) of such Act is amended
9 by striking “subsection (a)(2)” and inserting “para-
10 graphs (2) and (3) of subsection (a)”.

11 (3) The headings for title VI and section 601
12 of such Act are each amended by striking “em-
13 ployee”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to wages paid and self-employment
16 income earned after December 31, 2011.

17 **Subtitle B—American Opportunity**

18 **SEC. 111. SHORT TITLE.**

19 This subtitle may be cited as the “American Oppor-
20 tunity Act of 2011”.

21 **SEC. 112. ANGEL INVESTMENT TAX CREDIT.**

22 (a) IN GENERAL.—Subpart B of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 is amended by adding at the end the following new
25 section:

1 **“SEC. 30E. ANGEL INVESTMENT TAX CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—There shall be al-
3 lowed as a credit against the tax imposed by this chapter
4 for the taxable year an amount equal to 25 percent of the
5 qualified equity investments made by a qualified investor
6 during the taxable year.

7 “(b) QUALIFIED EQUITY INVESTMENT.—For pur-
8 poses of this section—

9 “(1) IN GENERAL.—The term ‘qualified equity
10 investment’ means any equity investment in a quali-
11 fied small business entity if—

12 “(A) such investment is acquired by the
13 taxpayer at its original issue (directly or
14 through an underwriter) solely in exchange for
15 cash, and

16 “(B) such investment is designated for
17 purposes of this section by the qualified small
18 business entity.

19 “(2) EQUITY INVESTMENT.—The term ‘equity
20 investment’ means—

21 “(A) any form of equity, including a gen-
22 eral or limited partnership interest, common
23 stock, preferred stock (other than nonqualified
24 preferred stock as defined in section 351(g)(2)),
25 with or without voting rights, without regard to
26 seniority position and whether or not convert-

1 ible into common stock or any form of subordi-
 2 nate or convertible debt, or both, with warrants
 3 or other means of equity conversion, and

4 “(B) any capital interest in an entity
 5 which is a partnership.

6 “(3) REDEMPTIONS.—A rule similar to the rule
 7 of section 1202(e)(3) shall apply for purposes of this
 8 subsection.

9 “(c) QUALIFIED SMALL BUSINESS ENTITY.—For
 10 purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified small
 12 business entity’ means any domestic corporation or
 13 partnership if such corporation or partnership—

14 “(A) is a small business (as defined in sec-
 15 tion 41(b)(3)(D)(iii)),

16 “(B) has its headquarters in the United
 17 States,

18 “(C) is engaged in a high technology trade
 19 or business related to—

20 “(i) advanced materials, nanotechnol-
 21 ogy, or precision manufacturing,

22 “(ii) aerospace, aeronautics, or de-
 23 fense,

24 “(iii) biotechnology or pharma-
 25 ceuticals,

1 “(iv) electronics, semiconductors, soft-
2 ware, or computer technology,

3 “(v) energy, environment, or clean
4 technologies,

5 “(vi) forest products or agriculture,

6 “(vii) information technology, commu-
7 nication technology, digital media, or
8 photonics,

9 “(viii) life sciences or medical
10 sciences,

11 “(ix) marine technology or aqua-
12 culture,

13 “(x) transportation, or

14 “(xi) any other high technology trade
15 or business as determined by the Sec-
16 retary,

17 “(D) has been in existence for less than 5
18 years as of the date of the qualified equity in-
19 vestment,

20 “(E) employs less than 100 full-time equiv-
21 alent employees as of the date of such invest-
22 ment,

23 “(F) has more than 50 percent of the em-
24 ployees performing substantially all of their

1 services in the United States as of the date of
2 such investment, and

3 “(G) has equity investments designated for
4 purposes of this paragraph.

5 “(2) DESIGNATION OF EQUITY INVEST-
6 MENTS.—For purposes of paragraph (1)(G), an eq-
7 uity investment shall not be treated as designated if
8 such designation would result in the aggregate
9 amount which may be taken into account under this
10 section with respect to equity investments in such
11 corporation or partnership exceeds—

12 “(A) \$10,000,000, taking into account the
13 total amount of all qualified equity investments
14 made by all taxpayers for the taxable year and
15 all preceding taxable years,

16 “(B) \$2,000,000, taking into account the
17 total amount of all qualified equity investments
18 made by all taxpayers for such taxable year,
19 and

20 “(C) \$1,000,000, taking into account the
21 total amount of all qualified equity investments
22 made by the taxpayer for such taxable year.

23 “(d) QUALIFIED INVESTOR.—For purposes of this
24 section—

1 “(1) IN GENERAL.—The term ‘qualified investor’
2 means an accredited investor, as defined by the
3 Securities and Exchange Commission, investor network,
4 or investor fund who review new or proposed
5 businesses for potential investment.

6 “(2) INVESTOR NETWORK.—The term ‘investor
7 network’ means a group of accredited investors organized
8 for the sole purpose of making qualified equity
9 investments.

10 “(3) INVESTOR FUND.—

11 “(A) IN GENERAL.—The term ‘investor
12 fund’ means a corporation that for the applicable
13 taxable year is treated as an S corporation
14 or a general partnership, limited partnership,
15 limited liability partnership, trust, or limited liability
16 company and which for the applicable
17 taxable year is not taxed as a corporation.

18 “(B) ALLOCATION OF CREDIT.—

19 “(i) IN GENERAL.—Except as provided
20 in clause (ii), the credit allowed
21 under subsection (a) shall be allocated to
22 the shareholders or partners of the investor
23 fund in proportion to their ownership interest
24 or as specified in the fund’s organizational
25 documents, except that tax-exempt

1 investors shall be allowed to transfer their
2 interest to investors within the fund in ex-
3 change for future financial consideration.

4 “(ii) SINGLE MEMBER LIMITED LI-
5 ABILITY COMPANY.—If the investor fund is
6 a single member limited liability company
7 that is disregarded as an entity separate
8 from its owner, the credit allowed under
9 subsection (a) may be claimed by such lim-
10 ited liability company’s owner, if such
11 owner is a person subject to the tax under
12 this title.

13 “(4) EXCLUSION.—The term ‘qualified investor’
14 does not include—

15 “(A) a person controlling at least 50 per-
16 cent of the qualified small business entity,

17 “(B) an employee of such entity, or

18 “(C) any bank, bank and trust company,
19 insurance company, trust company, national
20 bank, savings association or building and loan
21 association for activities that are a part of its
22 normal course of business.

23 “(e) NATIONAL LIMITATION ON AMOUNT OF INVEST-
24 MENTS DESIGNATED.—

1 “(1) IN GENERAL.—There is an angel invest-
2 ment tax credit limitation of \$500,000,000 for each
3 of calendar years 2011 through 2015.

4 “(2) ALLOCATION OF LIMITATION.—The limita-
5 tion under paragraph (1) shall be allocated by the
6 Secretary among qualified small business entities se-
7 lected by the Secretary.

8 “(3) CARRYOVER OF UNUSED LIMITATION.—If
9 the angel investment tax credit limitation for any
10 calendar year exceeds the aggregate amount allo-
11 cated under paragraph (2) for such year, such limi-
12 tation for the succeeding calendar year shall be in-
13 creased by the amount of such excess. No amount
14 may be carried under the preceding sentence to any
15 calendar year after 2020.

16 “(f) APPLICATION WITH OTHER CREDITS.—

17 “(1) BUSINESS CREDIT TREATED AS PART OF
18 GENERAL BUSINESS CREDIT.—Except as provided in
19 paragraph (2), the credit which would be allowed
20 under subsection (a) for any taxable year (deter-
21 mined without regard to this subsection) shall be
22 treated as a credit listed in section 38(b) for such
23 taxable year (and not allowed under subsection (a)).

24 “(2) PERSONAL CREDIT.—

1 “(A) IN GENERAL.—In the case of an indi-
2 vidual who elects the application of this para-
3 graph, for purposes of this title, the credit al-
4 lowed under subsection (a) for any taxable year
5 (determined after application of paragraph (1))
6 shall be treated as a credit allowable under sub-
7 part A for such taxable year.

8 “(B) LIMITATION BASED ON AMOUNT OF
9 TAX.—In the case of a taxable year to which
10 section 26(a)(2) does not apply, the credit al-
11 lowed under subpart A for any taxable year (de-
12 termined after application of paragraph (1)) by
13 reason of subparagraph (A) shall not exceed the
14 excess of—

15 “(i) the sum of the regular tax liabil-
16 ity (as defined in section 26(b)) plus the
17 tax imposed by section 55, over

18 “(ii) the sum of the credits allowable
19 under subpart A (other than this section)
20 and section 27 for the taxable year.

21 “(C) CARRYFORWARD OF UNUSED CRED-
22 IT.—If the credit allowable under subsection (a)
23 by reason of subparagraph (A) exceeds the limi-
24 tation imposed by section 26(a)(1) or subpara-
25 graph (B), whichever is applicable, for such tax-

1 able year, reduced by the sum of the credits al-
2 lowable under subpart A (other than this sec-
3 tion) for such taxable year, such excess shall be
4 carried to each of the succeeding 20 taxable
5 years to the extent that such unused credit may
6 not be taken into account under subsection (a)
7 by reason of subparagraph (A) for a prior tax-
8 able year because of such limitation.

9 “(g) SPECIAL RULES.—

10 “(1) RELATED PARTIES.—For purposes of this
11 section—

12 “(A) IN GENERAL.—All related persons
13 shall be treated as 1 person.

14 “(B) RELATED PERSONS.—A person shall
15 be treated as related to another person if the
16 relationship between such persons would result
17 in the disallowance of losses under section 267
18 or 707(b).

19 “(2) BASIS.—For purposes of this subtitle, the
20 basis of any investment with respect to which a cred-
21 it is allowable under this section shall be reduced by
22 the amount of such credit so allowed. This sub-
23 section shall not apply for purposes of sections 1202,
24 1397B, and 1400B.

1 “(3) RECAPTURE.—The Secretary shall, by reg-
2 ulations, provide for recapturing the benefit of any
3 credit allowable under subsection (a) with respect to
4 any qualified equity investment which is held by the
5 taxpayer less than 3 years, except that no benefit
6 shall be recaptured in the case of—

7 “(A) transfer of such investment by reason
8 of the death of the taxpayer,

9 “(B) transfer between spouses,

10 “(C) transfer incident to the divorce (as
11 defined in section 1041) of such taxpayer, or

12 “(D) a transaction to which section 381(a)
13 applies (relating to certain acquisitions of the
14 assets of one corporation by another corpora-
15 tion).

16 “(h) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be appropriate to carry out this
18 section, including regulations—

19 “(1) which prevent the abuse of the purposes of
20 this section,

21 “(2) which impose appropriate reporting re-
22 quirements, and

23 “(3) which apply the provisions of this section
24 to newly formed entities.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—Subsection (b) of section 38 of the Internal
3 Revenue Code of 1986 is amended—

4 (1) in paragraph (35), by striking “plus”;

5 (2) in paragraph (36), by striking the period at
6 the end and inserting “, plus”; and

7 (3) by adding at the end the following new
8 paragraph:

9 “(37) the portion of the angel investment tax
10 credit to which section 30E(f)(1) applies.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 1016(a) of the Internal Revenue
13 Code of 1986 is amended by striking “and” at the
14 end of paragraph (36), by striking the period at the
15 end of paragraph (37) and inserting “, and”, and by
16 inserting after paragraph (37) the following new
17 paragraph:

18 “(38) to the extent provided in section
19 30E(g)(2).”.

20 (2) Section 24(b)(3)(B) of such Code is amend-
21 ed by striking “and 30D” and inserting “30D, and
22 30E”.

23 (3) Section 25(e)(1)(C)(ii) of such Code is
24 amended by inserting “30E,” after “30D,”.

1 (4) Section 25A(i)(5)(B) of such Code is
2 amended by striking “and 30D” and inserting “,
3 30D, and 30E”.

4 (5) Section 25A(i)(5) of such Code is amended
5 by inserting “30E,” after “30D,”.

6 (6) Section 25B(g)(2) of such Code is amended
7 by striking “and 30D” and inserting “30D, and
8 30E”.

9 (7) Section 26(a)(1) of such Code is amended
10 by striking “and 30D” and inserting “30D, and
11 30E”.

12 (8) Section 30(c)(2)(B)(ii) of such Code is
13 amended by striking “and 30D” and inserting “,
14 30D, and 30E”.

15 (9) Section 30B(g)(2)(B)(ii) of such Code is
16 amended by striking “and 30D” and inserting
17 “30D, and 30E”.

18 (10) Section 30D(d)(2)(B)(ii) of such Code is
19 amended by striking “and 25D” and inserting “,
20 25D, and 30E”.

21 (11) Section 904(i) of such Code is amended by
22 striking “and 30D” and inserting “30D, and 30E”.

23 (12) Section 1400C(d)(2) of such Code is
24 amended by striking “and 30D” and inserting
25 “30D, and 30E”.

1 (d) CLERICAL AMENDMENT.—The table of sections
2 for subpart B of part IV of subchapter A of chapter 1
3 of the Internal Revenue Code of 1986 is amended by add-
4 ing at the end the following new item:

“Sec. 30E. Angel investment tax credit.”.

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to investments made after Decem-
7 ber 31, 2010, in taxable years ending after such date.

8 (f) REGULATIONS ON ALLOCATION OF NATIONAL
9 LIMITATION.—Not later than 120 days after the date of
10 the enactment of this Act, the Secretary of the Treasury
11 or the Secretary’s delegate shall prescribe regulations
12 which specify—

13 (1) how small business entities shall apply for
14 an allocation under section 30E(e)(2) of the Internal
15 Revenue Code of 1986, as added by this section,

16 (2) the competitive procedure through which
17 such allocations are made,

18 (3) the criteria for determining an allocation to
19 a small business entity, including—

20 (A) whether the small business entity is lo-
21 cated in a State that is historically underserved
22 by angel investors and venture capital investors,

23 (B) whether the small business entity has
24 received an angel investment tax credit, or its

1 equivalent, from the State in which the small
2 business entity is located and registered,

3 (C) whether small business entities in low-
4 , medium-, and high-population density States
5 are receiving allocations, and

6 (D) whether the small business entity has
7 been awarded a Small Business Innovative Re-
8 search or Small Business Technology Transfer
9 grant from a Federal agency,

10 (4) the actions that such Secretary or delegate
11 shall take to ensure that such allocations are prop-
12 erly made to qualified small business entities, and

13 (5) the actions that such Secretary or delegate
14 shall take to ensure that angel investment tax cred-
15 its are allocated and issued to the taxpayer.

16 (g) AUDIT AND REPORT.—Not later than January
17 31, 2014, the Comptroller General of the United States,
18 pursuant to an audit of the angel investment tax credit
19 program established under section 30E of the Internal
20 Revenue Code of 1986 (as added by subsection (a)), shall
21 report to Congress on such program, including all quali-
22 fied small business entities that receive an allocation of
23 an angel investment credit under such section.

1 **Subtitle C—Extension of Expiring**
 2 **Provisions**

3 **SEC. 121. EXTENSION OF BONUS DEPRECIATION.**

4 (a) IN GENERAL.—Paragraph (2) of section 168(k)
 5 is amended—

6 (1) by striking “January 1, 2014” in subpara-
 7 graph (A)(iv) and inserting “January 1, 2015”, and

8 (2) by striking “January 1, 2013” each place
 9 it appears and inserting “January 1, 2014”.

10 (b) 100 PERCENT EXPENSING.—Paragraph (5) of
 11 section 168(k) is amended—

12 (1) by striking “January 1, 2013” and insert-
 13 ing “January 1, 2014”, and

14 (2) by striking “January 1, 2012” each place
 15 it appears and inserting “January 1, 2013”.

16 (c) EXTENSION OF ELECTION TO ACCELERATE THE
 17 AMT CREDIT IN LIEU OF BONUS DEPRECIATION.—

18 (1) IN GENERAL.—Subclause (II) of section
 19 168(k)(4)(D)(iii) is amended by striking “2013” and
 20 inserting “2014”.

21 (2) ROUND 3 EXTENSION PROPERTY.—Para-
 22 graph (4) of section 168(k) is amended by adding at
 23 the end the following new subparagraph:

24 “(J) SPECIAL RULES FOR ROUND 3 EX-
 25 TENSION PROPERTY.—

1 “(i) IN GENERAL.—In the case of
2 round 3 extension property, this paragraph
3 shall be applied without regard to—

4 “(I) the limitation described in
5 subparagraph (B)(i) thereof, and

6 “(II) the business credit increase
7 amount under subparagraph (E)(iii)
8 thereof.

9 “(ii) TAXPAYERS PREVIOUSLY ELECT-
10 ING ACCELERATION.—In the case of a tax-
11 payer who made the election under sub-
12 paragraph (A) for its first taxable year
13 ending after March 31, 2008, a taxpayer
14 who made the election under subparagraph
15 (H)(ii) for its first taxable year ending
16 after December 31, 2008, or a taxpayer
17 who made the election under subparagraph
18 (I)(iii) for its first taxable year ending
19 after December 31, 2010—

20 “(I) the taxpayer may elect not
21 to have this paragraph apply to round
22 3 extension property, but

23 “(II) if the taxpayer does not
24 make the election under subclause (I),
25 in applying this paragraph to the tax-

1 payer the bonus depreciation amount,
2 maximum amount, and maximum in-
3 crease amount shall be computed and
4 applied to eligible qualified property
5 which is round 3 extension property.

6 The amounts described in subclause (II)
7 shall be computed separately from any
8 amounts computed with respect to eligible
9 qualified property which is not round 2 ex-
10 tension property.

11 “(iii) TAXPAYERS NOT PREVIOUSLY
12 ELECTING ACCELERATION.—In the case of
13 a taxpayer who neither made the election
14 under subparagraph (A) for its first tax-
15 able year ending after March 31, 2008,
16 nor made the election under subparagraph
17 (H)(ii) for its first taxable year ending
18 after December 31, 2008, nor made the
19 election under subparagraph (I)(iii) for its
20 first taxable year ending after December
21 31, 2010—

22 “(I) the taxpayer may elect to
23 have this paragraph apply to its first
24 taxable year ending after December

1 31, 2011, and each subsequent tax-
2 able year, and

3 “(II) if the taxpayer makes the
4 election under subclause (I), this
5 paragraph shall only apply to eligible
6 qualified property which is round 3
7 extension property.

8 “(iv) ROUND 3 EXTENSION PROP-
9 erty.—For purposes of this subpara-
10 graph, the term ‘round 3 extension prop-
11 erty’ means property which is eligible
12 qualified property solely by reason of the
13 extension of the application of the special
14 allowance under paragraph (1) pursuant to
15 the amendments made by section 7(a) of
16 the Small Business Jobs Tax Extenders
17 Act of 2011 (and the application of such
18 extension to this paragraph pursuant to
19 the amendment made by section 7(c)(1) of
20 such Act).”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) The heading for subsection (k) of section
23 168 is amended by striking “JANUARY 1, 2013” and
24 inserting “JANUARY 1, 2014”.

1 (2) The heading for clause (ii) of section
2 168(k)(2)(B) is amended by striking “PRE-JANUARY
3 1, 2013” and inserting “PRE-JANUARY 1, 2014”.

4 (3) Paragraph (5) of section 168(l) is amend-
5 ed—

6 (A) by striking “and” at the end of sub-
7 paragraph (A),

8 (B) by redesignating subparagraph (C) as
9 subparagraph (B), and

10 (C) by inserting after subparagraph (A)
11 the following new subparagraph:

12 “(B) by substituting ‘January 1, 2013’ for
13 ‘January 1, 2014’ in clause (i) thereof, and”.

14 (4) Subparagraph (C) of section 168(n)(2) is
15 amended by striking “January 1, 2013” and insert-
16 ing “January 1, 2014”.

17 (5) Subparagraph (D) of section 1400L(b)(2) is
18 amended by striking “January 1, 2013” and insert-
19 ing “January 1, 2014”.

20 (6) Subparagraph (B) of section 1400N(d)(3)
21 is amended by striking “January 1, 2013” and in-
22 serting “January 1, 2014”.

23 (e) EFFECTIVE DATES.—The amendments made by
24 this section shall apply to property placed in service after

1 December 31, 2011, in taxable years ending after such
2 date.

3 **SEC. 122. DEDUCTION FOR QUALIFIED TUITION AND RE-**
4 **LATED EXPENSES.**

5 (a) IN GENERAL.—Subsection (e) of section 222 of
6 the Internal Revenue Code of 1986 is amended by striking
7 “December 31, 2011” and inserting “December 31,
8 2012”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 2011.

12 **SEC. 123. RESEARCH CREDIT.**

13 (a) IN GENERAL.—Subparagraph (B) of section
14 41(h)(1) of the Internal Revenue Code of 1986 is amended
15 by striking “December 31, 2011” and inserting “Decem-
16 ber 31, 2012”.

17 (b) CONFORMING AMENDMENT.—Subparagraph (D)
18 of section 45C(b)(1) of such Code is amended by striking
19 “December 31, 2011” and inserting “December 31,
20 2012”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts paid or incurred after
23 December 31, 2011.

1 **SEC. 124. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**
2 **QUALIFIED LEASEHOLD IMPROVEMENTS,**
3 **QUALIFIED RESTAURANT BUILDINGS AND IM-**
4 **PROVEMENTS, AND QUALIFIED RETAIL IM-**
5 **PROVEMENTS.**

6 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-
7 tion 168(e)(3)(E) of the Internal Revenue Code of 1986
8 are each amended by striking “January 1, 2012” and in-
9 serting “January 1, 2013”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to property placed in service after
12 December 31, 2011.

13 **SEC. 125. ENHANCED CHARITABLE DEDUCTION FOR CON-**
14 **TRIBUTIONS OF FOOD INVENTORY.**

15 (a) IN GENERAL.—Clause (iv) of section
16 170(e)(3)(C) of the Internal Revenue Code of 1986 is
17 amended by striking “December 31, 2011” and inserting
18 “December 31, 2012”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to contributions made after De-
21 cember 31, 2011.

22 **SEC. 126. ENHANCED CHARITABLE DEDUCTION FOR CON-**
23 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
24 **LIC SCHOOLS.**

25 (a) IN GENERAL.—Clause (iv) of section
26 170(e)(3)(D) of the Internal Revenue Code of 1986 is

1 amended by striking “December 31, 2011” and inserting
2 “December 31, 2012”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to contributions made after De-
5 cember 31, 2011.

6 **SEC. 127. ENHANCED CHARITABLE DEDUCTION FOR COR-**
7 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
8 **VENTORY FOR EDUCATIONAL PURPOSES.**

9 (a) IN GENERAL.—Subparagraph (G) of section
10 170(e)(6) of the Internal Revenue Code of 1986 is amend-
11 ed by striking “December 31, 2011” and inserting “De-
12 cember 31, 2012”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to contributions made in taxable
15 years beginning after December 31, 2011.

16 **TITLE II—INFRASTRUCTURE**
17 **PROVISIONS**

18 **SEC. 201. CAPITALIZATION OF STATE INFRASTRUCTURE**
19 **BANKS.**

20 Section 610 of title 23, United States Code, is
21 amended—

22 (1) in subsection (d)—

23 (A) by redesignating paragraphs (5) and
24 (6) as paragraphs (6) and (7), respectively; and

1 (B) by inserting after paragraph (4) the
2 following:

3 “(5) SPECIAL SINGLE ALLOCATION.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (C), of the funds made available under
6 subparagraph (D), the Secretary shall allocate
7 to each State a proportional amount in the
8 manner required under this section for a 1-time
9 deposit into the State infrastructure bank, for
10 use in accordance with this section.

11 “(B) CERTAIN USES OF FUNDS.—A State
12 may use an amount equal to 20 percent of the
13 funds allocated under subparagraph (A) for—

14 “(i) investigating the viability of iden-
15 tifying revenue sources for repayment for
16 projects;

17 “(ii) technical assistance;

18 “(iii) promotion to potential bor-
19 rowers; and

20 “(iv) other activities that would en-
21 hance the project pipeline.

22 “(C) NONPARTICIPATING STATES.—

23 “(i) IN GENERAL.—The Secretary
24 shall allocate to each State that elects not
25 to establish, or is prohibited by State law

1 from establishing, an infrastructure bank
2 under this section an amount equal to, at
3 the election of the State—

4 “(I) 20 percent of the amount
5 that would otherwise be allocated to
6 the State under subparagraph (A)
7 for—

8 “(aa) investigating the via-
9 bility of establishing such an in-
10 frastructure bank in the State;

11 “(bb) identifying revenue
12 sources for repayment for
13 projects;

14 “(cc) technical assistance;

15 “(dd) promotion to potential
16 borrowers; and

17 “(ee) other activities that
18 would enhance the project pipe-
19 line; or

20 “(II) 10 percent of the amount
21 that would otherwise be allocated to
22 the State under subparagraph (A) for
23 use for other surface transportation
24 projects authorized under this title or
25 title 49.

1 “(ii) USE OF REMAINING FUNDS.—

2 The amounts remaining after making an
3 allocation to a State under clause (i) shall
4 be redistributed by the Secretary to States
5 with infrastructure banks under this sec-
6 tion in accordance with subparagraph (A).

7 “(D) FUNDING.—

8 “(i) IN GENERAL.—On October 1,
9 2012, out of any funds in the Treasury not
10 otherwise appropriated, the Secretary of
11 the Treasury shall transfer to the Sec-
12 retary to carry out this paragraph
13 \$10,000,000,000, to remain available until
14 expended.

15 “(ii) RECEIPT AND ACCEPTANCE.—

16 The Secretary shall be entitled to receive,
17 shall accept, and shall use to carry out this
18 paragraph the funds transferred under
19 clause (i), without further appropriation.

20 “(E) NON-FEDERAL SHARE.—The non-
21 Federal share of the cost of a project carried
22 out using an allocation under this paragraph
23 shall be 10 percent.”; and

24 (2) by adding at the end the following:

25 “(1) STUDIES AND REPORTS.—

1 “(1) ANNUAL FINANCIAL AUDIT.—

2 “(A) IN GENERAL.—The special single al-
3 location described in subsection (d)(5)(A) shall
4 be subject to an annual financial audit by an
5 independent public accounting firm selected by
6 the Inspector General to ensure that the State
7 infrastructure bank meets generally accepted
8 accounting principles.

9 “(B) AVAILABILITY.—The Inspector Gen-
10 eral shall—

11 “(i) submit to the appropriate com-
12 mittees of Congress the results of each
13 audit carried out under subparagraph (A);
14 and

15 “(ii) publish the results of each audit
16 carried out under subparagraph (A) on a
17 publicly accessible Internet site of the De-
18 partment.

19 “(2) ANNUAL PERFORMANCE EVALUATION.—

20 “(A) IN GENERAL.—The Inspector General
21 shall carry out an annual assessment—

22 “(i) to evaluate the overall perform-
23 ance of the State infrastructure bank pro-
24 gram; and

1 “(ii) to determine the effectiveness of
2 the program at meeting the objectives and
3 strategy goals of the program.

4 “(B) INITIAL REVIEW.—In the first annual
5 assessment carried out under this paragraph,
6 the Inspector General shall include a report
7 that describes—

8 “(i) each State that has established a
9 State infrastructure bank under this sec-
10 tion; and

11 “(ii)(I) each State that elected not to
12 establish, or is prohibited by State law
13 from establishing, such an infrastructure
14 bank; and

15 “(II) each State described in sub-
16 clause (I) that is investigating the viability
17 of establishing an infrastructure bank in
18 the State under this section.

19 “(C) DISSEMINATION.—The Inspector
20 General shall submit to the appropriate commit-
21 tees of Congress a report that contains the re-
22 sults of each annual assessment carried out
23 under this paragraph.”.

1 **SEC. 202. HIGHWAY INFRASTRUCTURE INVESTMENT.**

2 (a) IN GENERAL.—Out of any funds in the Treasury
3 not otherwise appropriated, there is appropriated to the
4 Secretary of Transportation (referred to in this section as
5 the “Secretary”) \$25,000,000,000 for—

6 (1) construction, reconstruction, rehabilitation,
7 resurfacing, restoration, and operational improve-
8 ments for highways (including Interstate highways)
9 and bridges (including bridges on public roads of all
10 functional classifications);

11 (2) the seismic retrofit and painting of bridges
12 and approaches to bridges and other elevated struc-
13 tures; and

14 (3) the cost of mitigation eligible under title 23,
15 United States Code, necessary to address adverse
16 impacts of projects funded under this Act.

17 (b) FEDERAL SHARE; LIMITATION ON OBLIGA-
18 TIONS.—

19 (1) FEDERAL SHARE.—The Federal share pay-
20 able on account of any project or activity carried out
21 using funds made available under this section shall
22 be, at the option of the recipient, up to 100 percent
23 of the total cost of the project or activity.

24 (2) LIMITATION ON OBLIGATIONS.—The funds
25 made available under this section shall not be sub-
26 ject to any limitation on obligations for Federal-aid

1 highways and highway safety construction programs
2 established under title 23, United States Code, or
3 any other provision of law.

4 (c) AVAILABILITY.—The funds made available under
5 this section shall be available for obligation until the date
6 that is 2 years after the date of enactment of this Act.

7 (d) DISTRIBUTION OF FUNDS.—After making the
8 set-aside under subsection (h), the Secretary shall appor-
9 tion the funds made available under this section among
10 States in the same ratio as amounts apportioned among
11 States for fiscal year 2011 under the Surface Transpor-
12 tation Extension Act of 2010 (Public Law 111–147; 124
13 Stat. 78).

14 (e) APPORTIONMENT.—The apportionments under
15 subsection (d) shall be made not later than 30 days after
16 the date of enactment of this Act.

17 (f) REDISTRIBUTION.—

18 (1) UNOBLIGATED FUNDS.—Subject to para-
19 graph (2), not later than 1 year after the date on
20 which the apportionments are made under sub-
21 section (e), the Secretary shall—

22 (A) withdraw from each recipient of funds
23 apportioned under subsection (e) any unobli-
24 gated funds; and

1 (B) redistribute those amounts in the man-
2 ner described in the Surface Transportation
3 Extension Act of 2010 (Public Law 111–147;
4 124 Stat. 78) to States that have had no funds
5 withdrawn under this paragraph (excluding
6 States that have opted not to obligate funds
7 under this section).

8 (2) EXTENSIONS.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), at the request of a State, the Sec-
11 retary may provide an extension of the 1-year
12 period described in paragraph (1) only to the
13 extent that the Secretary determines that the
14 State has encountered—

15 (i) extreme conditions that create an
16 unworkable bidding environment; or

17 (ii) other extenuating circumstances.

18 (B) NOTICE.—Before granting an exten-
19 sion under subparagraph (A), the Secretary
20 shall submit to the Committee on Transpor-
21 tation and Infrastructure of the House of Rep-
22 resentatives and the Committee on Environ-
23 ment and Public Works of the Senate a written
24 notice providing a thorough justification for the
25 extension.

1 (g) CONDITIONS.—

2 (1) IN GENERAL.—Funds made available under
3 this section shall be administered as if apportioned
4 under chapter 1 of title 23, United States Code.

5 (2) ADVANCE CONSTRUCTION.—Funds made
6 available under this section shall not be obligated for
7 the purposes authorized under section 115(b) of title
8 23, United States Code.

9 (3) FUNDS UNDER OTHER ACTS.—Funds made
10 available under this section—

11 (A) shall be in addition to all funds pro-
12 vided for fiscal year 2012 for “Federal-aid
13 Highways” in any other Act; and

14 (B) shall not affect the distribution of any
15 such funds.

16 (4) DISADVANTAGED BUSINESS ENTER-
17 PRISES.—Section 1101(b) of Public Law 109–59
18 (23 U.S.C. 101 note; 119 Stat. 1156) shall apply to
19 the funds apportioned under this section.

20 (h) OVERSIGHT.—The Secretary may set aside not
21 more than 0.15 percent of the funds made available under
22 this section to fund oversight by the Administrator of the
23 Federal Highway Administration of projects and activities
24 carried out using funds made available to the Federal

1 Highway Administration by this Act, to remain available
2 through September 30, 2015.

3 **SEC. 203. STATE REVOLVING LOAN FUNDS.**

4 (a) IN GENERAL.—In addition to any other amounts
5 made available under Federal law, on October 1, 2012,
6 out of any funds in the Treasury not otherwise appro-
7 priated, the Secretary of the Treasury shall transfer to
8 the Administrator of the Environmental Protection Agen-
9 cy \$800,000,000, to remain available until expended—

10 (1) for State water pollution control revolving
11 funds under title VI of the Federal Water Pollution
12 Control Act (33 U.S.C. 1381 et seq.); and

13 (2) for State drinking water treatment revolving
14 loan funds under section 1452 of the Safe Drinking
15 Water Act (42 U.S.C. 300j–12).

16 (b) RECEIPT AND ACCEPTANCE.—The Administrator
17 of the Environmental Protection Agency shall be entitled
18 to receive, shall accept, and shall use in accordance with
19 paragraphs (1) and (2) of subsection (a) the funds trans-
20 ferred under that subsection, without further appropria-
21 tion.

1 **TITLE III—REGULATORY**
2 **REFORM**
3 **Subtitle A—Clearing Unnecessary**
4 **Regulatory Burdens**

5 **SEC. 301. SHORT TITLE.**

6 This subtitle may be cited as the “Clearing Unneces-
7 sary Regulatory Burdens Act” or the “CURB Act”.

8 **SEC. 302. REGULATORY REFORM.**

9 (a) **DEFINITIONS.**—In this section—

10 (1) the term “Administrator” means the Ad-
11 ministrator of the Office of Information and Regu-
12 latory Affairs in the Office of Management and
13 Budget;

14 (2) the term “agency” has the same meaning as
15 in section 3502(1) of title 44, United States Code;

16 (3) the term “economically significant guidance
17 document” means a significant guidance document
18 that may reasonably be anticipated to lead to an an-
19 nual effect on the economy of \$100,000,000 or more
20 or adversely affect in a material way the economy or
21 a sector of the economy, except that economically
22 significant guidance documents do not include guid-
23 ance documents on Federal expenditures and re-
24 ceipts;

25 (4) the term “disseminated”—

1 (A) means prepared by an agency and dis-
2 tributed to the public or regulated entities; and

3 (B) does not include—

4 (i) distribution limited to Federal
5 Government employees;

6 (ii) intra- or interagency use or shar-
7 ing of Federal Government information;
8 and

9 (iii) responses to requests for agency
10 records under section 552 of title 5,
11 United States Code (commonly referred to
12 as the “Freedom of Information Act”),
13 section 552a of title 5, United States Code,
14 (commonly referred to as the “Privacy
15 Act”), the Federal Advisory Committee
16 Act (5 U.S.C. App.), or other similar laws;

17 (5) the term “guidance document” means an
18 agency statement of general applicability and future
19 effect, other than a regulatory action, that sets forth
20 a policy on a statutory, regulatory or technical issue
21 or an interpretation of a statutory or regulatory
22 issue;

23 (6) the term “regulation” means an agency
24 statement of general applicability and future effect,
25 which the agency intends to have the force and ef-

1 fect of law, that is designed to implement, interpret,
2 or prescribe law or policy or to describe the proce-
3 dure or practice requirements of an agency;

4 (7) the term “regulatory action” means any
5 substantive action by an agency (normally published
6 in the Federal Register) that promulgates or is ex-
7 pected to lead to the promulgation of a final regula-
8 tion, including notices of inquiry, advance notices of
9 proposed rulemaking, and notices of proposed rule-
10 making;

11 (8) the term “significant guidance document”—

12 (A) means a guidance document dissemi-
13 nated to regulated entities or the general public
14 that may reasonably be anticipated to—

15 (i) lead to an annual effect on the
16 economy of \$100,000,000 or more or affect
17 in a material way the economy, a sector of
18 the economy, productivity, competition,
19 jobs, the environment, public health or
20 safety, or State, local, or tribal govern-
21 ments or communities;

22 (ii) create a serious inconsistency or
23 otherwise interfere with an action taken or
24 planned by another agency;

1 (iii) materially alter the budgetary im-
2 pact of entitlements, grants, user fees, or
3 loan programs or the rights and obliga-
4 tions of recipients thereof; or

5 (iv) raise novel legal or policy issues
6 arising out of legal mandates and the pri-
7 orities, principles, and provisions of this
8 section; and

9 (B) does not include—

10 (i) legal advisory opinions for internal
11 Executive Branch use and not for release
12 (such as Department of Justice Office of
13 Legal Counsel opinions);

14 (ii) briefs and other positions taken by
15 agencies in investigations, pre-litigation,
16 litigation, or other enforcement pro-
17 ceedings;

18 (iii) speeches;

19 (iv) editorials;

20 (v) media interviews;

21 (vi) press materials;

22 (vii) congressional correspondence;

23 (viii) guidance documents that pertain
24 to a military or foreign affairs function of
25 the United States (other than guidance on

- 1 procurement or the import or export of
2 non-defense articles and services);
- 3 (ix) grant solicitations;
- 4 (x) warning letters;
- 5 (xi) case or investigatory letters re-
6 sponding to complaints involving fact-spe-
7 cific determinations;
- 8 (xii) purely internal agency policies;
- 9 (xiii) guidance documents that pertain
10 to the use, operation or control of a gov-
11 ernment facility;
- 12 (xiv) internal guidance documents di-
13 rected solely to other agencies; and
- 14 (xv) any other category of significant
15 guidance documents exempted by an agen-
16 cy head in consultation with the Adminis-
17 trator; and
- 18 (9) the term “significant regulatory action”
19 means any regulatory action that is likely to result
20 in a regulation that may—
- 21 (A) have an annual effect on the economy
22 of \$100,000,000 or more or adversely affect in
23 a material way the economy, a sector of the
24 economy, productivity, competition, jobs, the

1 environment, public health or safety, or State,
 2 local, or tribal governments or communities;

3 (B) create a serious inconsistency or other-
 4 wise interfere with an action taken or planned
 5 by another agency;

6 (C) materially alter the budgetary impact
 7 of entitlements, grants, user fees, or loan pro-
 8 grams or the rights and obligations of recipi-
 9 ents thereof; or

10 (D) raise novel legal or policy issues aris-
 11 ing out of legal mandates and the priorities,
 12 principles, and provisions of this section.

13 (b) AGENCY ASSESSMENT OF SIGNIFICANT REGU-
 14 LATORY ACTIONS.—For each significant regulatory ac-
 15 tion, each agency shall submit, at such times specified by
 16 the Administrator, a report to the Office of Information
 17 and Regulatory Affairs that includes—

18 (1) an assessment, including the underlying
 19 analysis, of benefits anticipated from the significant
 20 regulatory action, such as—

21 (A) the promotion of the efficient func-
 22 tioning of the economy and private markets;

23 (B) the enhancement of health and safety;

24 (C) the protection of the natural environ-
 25 ment; and

1 (D) the elimination or reduction of dis-
2 crimination or bias;

3 (2) to the extent feasible, a quantification of
4 the benefits assessed under paragraph (1);

5 (3) an assessment, including the underlying
6 analysis, of costs anticipated from the regulatory ac-
7 tion, such as—

8 (A) the direct cost both to the Federal
9 Government in administering the significant
10 regulatory action and to businesses, consumers,
11 and others (including State, local, and tribal of-
12 ficials) in complying with the regulation; and

13 (B) any adverse effects on the efficient
14 functioning of the economy, private markets
15 (including productivity, employment, and com-
16 petitiveness), health, safety, the natural envi-
17 ronment, job creation, the prices of consumer
18 goods, and energy costs;

19 (4) to the extent feasible, a quantification of
20 the costs assessed under paragraph (3); and

21 (5) an assessment, including the underlying
22 analysis, of costs and benefits of potentially effective
23 and reasonably feasible alternatives to the planned
24 significant regulatory action, identified by the agen-
25 cy or the public (including improving the current

1 regulation and reasonably viable nonregulatory ac-
2 tions), and an explanation why the planned regu-
3 latory action is preferable to the identified potential
4 alternatives.

5 (c) AGENCY GOOD GUIDANCE PRACTICES.—

6 (1) AGENCY STANDARDS FOR SIGNIFICANT
7 GUIDANCE DOCUMENTS.—

8 (A) APPROVAL PROCEDURES.—

9 (i) IN GENERAL.—Each agency shall
10 develop or have written procedures for the
11 approval of significant guidance docu-
12 ments, which shall ensure that the issuance
13 of significant guidance documents is ap-
14 proved by appropriate senior agency offi-
15 cials.

16 (ii) REQUIREMENT.—Employees of an
17 agency may not depart from significant
18 guidance documents without appropriate
19 justification and supervisory concurrence.

20 (B) STANDARD ELEMENTS.—Each signifi-
21 cant guidance document—

22 (i) shall—

23 (I) include the term “guidance”
24 or its functional equivalent;

- 1 (II) identify the agency or office
2 issuing the document;
- 3 (III) identify the activity to
4 which and the persons to whom the
5 significant guidance document applies;
- 6 (IV) include the date of issuance;
- 7 (V) note if the significant guid-
8 ance document is a revision to a pre-
9 viously issued guidance document and,
10 if so, identify the document that the
11 significant guidance document re-
12 places;
- 13 (VI) provide the title of the docu-
14 ment and a document identification
15 number; and
- 16 (VII) include the citation to the
17 statutory provision or regulation (in
18 Code of Federal Regulations format)
19 which the significant guidance docu-
20 ment applies to or interprets; and
- 21 (ii) shall not include mandatory terms
22 such as “shall”, “must”, “required”, or
23 “requirement” unless—

1 (I) the agency is using those
2 terms to describe a statutory or regu-
3 latory requirement; or

4 (II) the terminology is addressed
5 to agency staff and will not foreclose
6 agency consideration of positions ad-
7 vanced by affected private parties.

8 (2) PUBLIC ACCESS AND FEEDBACK FOR SIG-
9 NIFICANT GUIDANCE DOCUMENTS.—

10 (A) INTERNET ACCESS.—

11 (i) IN GENERAL.—Each agency
12 shall—

13 (I) maintain on the Web site for
14 the agency, or as a link on the Web
15 site of the agency to the electronic list
16 posted on a Web site of a component
17 of the agency a list of the significant
18 guidance documents in effect of the
19 agency, including a link to the text of
20 each significant guidance document
21 that is in effect; and

22 (II) not later than 30 days after
23 the date on which a significant guid-
24 ance document is issued, update the
25 list described in clause (i).

- 1 (ii) LIST REQUIREMENTS.—The list
2 described in subparagraph (A)(i) shall—
3 (I) include the name of each—
4 (aa) significant guidance
5 document;
6 (bb) document identification
7 number; and
8 (cc) issuance and revision
9 dates; and
10 (II) identify significant guidance
11 documents that have been added, re-
12 vised, or withdrawn in the preceding
13 year.
- 14 (B) PUBLIC FEEDBACK.—
15 (i) IN GENERAL.—Each agency shall
16 establish and clearly advertise on the Web
17 site for the agency a means for the public
18 to electronically submit—
19 (I) comments on significant guid-
20 ance documents; and
21 (II) a request for issuance, recon-
22 sideration, modification, or rescission
23 of significant guidance documents.

1 (ii) AGENCY RESPONSE.—Any com-
2 ments or requests submitted under sub-
3 paragraph (A)—

4 (I) are for the benefit of the
5 agency; and

6 (II) shall not require a formal re-
7 sponse from the agency.

8 (iii) OFFICE FOR PUBLIC COM-
9 MENTS.—

10 (I) IN GENERAL.—Each agency
11 shall designate an office to receive and
12 address complaints from the public re-
13 lating to—

14 (aa) the failure of the agen-
15 cy to follow the procedures de-
16 scribed in this section; or

17 (bb) the failure to treat a
18 significant guidance document as
19 a binding requirement.

20 (II) WEB SITE.—The agency
21 shall provide, on the Web site of the
22 agency, the name and contact infor-
23 mation for the office designated under
24 clause (i).

1 (3) NOTICE AND PUBLIC COMMENT FOR ECO-
2 NOMICALLY SIGNIFICANT GUIDANCE DOCUMENTS.—

3 (A) IN GENERAL.—Except as provided in
4 paragraph (2), in preparing a draft of an eco-
5 nomically significant guidance document, and
6 before issuance of the final significant guidance
7 document, each agency shall—

8 (i) publish a notice in the Federal
9 Register announcing that the draft docu-
10 ment is available;

11 (ii) post the draft document on the
12 Internet and make a tangible copy of that
13 document publicly available (or notify the
14 public how the public can review the guid-
15 ance document if the document is not in a
16 format that permits such electronic posting
17 with reasonable efforts);

18 (iii) invite public comment on the
19 draft document; and

20 (iv) prepare and post on the Web site
21 of the agency a document with responses
22 of the agency to public comments.

23 (B) EXCEPTIONS.—In consultation with
24 the Administrator, an agency head may identify
25 a particular economically significant guidance

1 document or category of such documents for
2 which the procedures of this subsection are not
3 feasible or appropriate.

4 (4) EMERGENCIES.—

5 (A) IN GENERAL.—In emergency situa-
6 tions or when an agency is obligated by law to
7 act more quickly than normal review procedures
8 allow, the agency shall notify the Administrator
9 as soon as possible and, to the extent prac-
10 ticable, comply with this subsection.

11 (B) SIGNIFICANT GUIDANCE DOCUMENTS
12 SUBJECT TO STATUTORY OR COURT-IMPOSED
13 DEADLINE.—For a significant guidance docu-
14 ment that is governed by a statutory or court-
15 imposed deadline, the agency shall, to the ex-
16 tent practicable, schedule the proceedings of the
17 agency to permit sufficient time to comply with
18 this subsection.

19 (5) EFFECTIVE DATE.—This section shall take
20 effect 60 days after the date of enactment of this
21 subtitle.

1 **SEC. 303. REDUCTION OR WAIVER OF CIVIL PENALTIES IM-**
2 **POSED ON SMALL ENTITIES.**

3 (a) IN GENERAL.—Chapter 6 of title 5, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 613. Reduction or waiver of civil penalties imposed**
7 **on small entities**

8 “(a) Upon notifying a small entity of a violation by
9 the small entity of a collection of information or record-
10 keeping requirement, the agency shall provide the small
11 entity with an opportunity to request that the agency re-
12 duce or waive any civil penalty imposed on the small entity
13 as a result of the violation.

14 “(b) If a small entity requests a reduction or waiver
15 under subsection (a), the agency that receives the request
16 shall—

17 “(1) review the records of the agency; and

18 “(2) reduce or waive the civil penalty imposed
19 on the small entity if the agency determines that—

20 “(A) the civil penalty was the result of a
21 first-time violation by the small entity of a col-
22 lection of information or recordkeeping require-
23 ment; and

24 “(B) the reduction or waiver is consistent
25 with the conditions and exclusions described in
26 paragraphs (1), (3), (4), (5), and (6) of section

1 223(b) of the Small Business Regulatory En-
 2 forcement Fairness Act of 1996 (5 U.S.C. 601
 3 note).

4 “(c) Not later than 60 days after the receipt of a
 5 request from a small entity under subsection (a), an agen-
 6 cy shall send the small entity written notice of the deter-
 7 mination of the agency with respect to the request and
 8 the reasons for the determination.

9 “(d) The Chief Counsel for Advocacy shall submit to
 10 Congress an annual report summarizing—

11 “(1) all requests received by the agencies under
 12 subsection (a) during the previous year; and

13 “(2) the results of the requests described in
 14 paragraph (1).”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 16 The table of sections for chapter 6 of title 5, United States
 17 Code, is amended by adding at the end the following:

“613. Reduction or waiver of civil penalties imposed on small entities.”.

18 **Subtitle B—EPA Regulatory Relief**

19 **SEC. 311. SHORT TITLE.**

20 This subtitle may be cited as the “EPA Regulatory
 21 Relief Act of 2011”.

22 **SEC. 312. LEGISLATIVE STAY.**

23 (a) ESTABLISHMENT OF STANDARDS.—In place of
 24 the rules specified in subsection (b), and notwithstanding
 25 the date by which such rules would otherwise be required

1 to be promulgated, the Administrator of the Environ-
2 mental Protection Agency (in this subtitle referred to as
3 the “Administrator”) shall—

4 (1) propose regulations for industrial, commer-
5 cial, and institutional boilers and process heaters,
6 and commercial and industrial solid waste inciner-
7 ator units, subject to any of the rules specified in
8 subsection (b)—

9 (A) establishing maximum achievable con-
10 trol technology standards, performance stand-
11 ards, and other requirements under sections
12 112 and 129, as applicable, of the Clean Air
13 Act (42 U.S.C. 7412, 7429); and

14 (B) identifying non-hazardous secondary
15 materials that, when used as fuels or ingredi-
16 ents in combustion units of such boilers, proc-
17 ess heaters, or incinerator units are solid waste
18 under the Solid Waste Disposal Act (42 U.S.C.
19 6901 et seq.; commonly referred to as the “Re-
20 source Conservation and Recovery Act”) for
21 purposes of determining the extent to which
22 such combustion units are required to meet the
23 emissions standards under section 112 of the
24 Clean Air Act (42 U.S.C. 7412) or the emission

1 standards under section 129 of such Act (42
2 U.S.C. 7429); and

3 (2) finalize the regulations on the date that is
4 15 months after the date of the enactment of this
5 subtitle, or on such later date as may be determined
6 by the Administrator.

7 (b) STAY OF EARLIER RULES.—The following rules
8 are of no force or effect, shall be treated as though such
9 rules had never taken effect, and shall be replaced as de-
10 scribed in subsection (a):

11 (1) “National Emission Standards for Haz-
12 ardous Air Pollutants for Major Sources: Industrial,
13 Commercial, and Institutional Boilers and Process
14 Heaters”, published at 76 Fed. Reg. 15608 (March
15 21, 2011).

16 (2) “National Emission Standards for Haz-
17 ardous Air Pollutants for Area Sources: Industrial,
18 Commercial, and Institutional Boilers”, published at
19 76 Fed. Reg. 15554 (March 21, 2011).

20 (3) “Standards of Performance for New Sta-
21 tionary Sources and Emission Guidelines for Exist-
22 ing Sources: Commercial and Industrial Solid Waste
23 Incineration Units”, published at 76 Fed. Reg.
24 15704 (March 21, 2011).

1 (4) “Identification of Non-Hazardous Sec-
2 ondary Materials That are Solid Waste”, published
3 at 76 Fed. Reg. 15456 (March 21, 2011).

4 (c) INAPPLICABILITY OF CERTAIN PROVISIONS.—
5 With respect to any standard required by subsection (a)
6 to be promulgated in regulations under section 112 of the
7 Clean Air Act (42 U.S.C. 7412), the provisions of sub-
8 sections (g)(2) and (j) of such section 112 shall not apply
9 prior to the effective date of the standard specified in such
10 regulations.

11 **SEC. 313. COMPLIANCE DATES.**

12 (a) ESTABLISHMENT OF COMPLIANCE DATES.—For
13 each regulation promulgated pursuant to section 312, the
14 Administrator—

15 (1) shall establish a date for compliance with
16 standards and requirements under such regulation
17 that is, notwithstanding any other provision of law,
18 not earlier than 5 years after the effective date of
19 the regulation; and

20 (2) in proposing a date for such compliance,
21 shall take into consideration—

22 (A) the costs of achieving emissions reduc-
23 tions;

1 (B) any non-air quality health and environ-
2 mental impact and energy requirements of the
3 standards and requirements;

4 (C) the feasibility of implementing the
5 standards and requirements, including the time
6 needed to—

7 (i) obtain necessary permit approvals;

8 and

9 (ii) procure, install, and test control
10 equipment;

11 (D) the availability of equipment, sup-
12 pliers, and labor, given the requirements of the
13 regulation and other proposed or finalized regu-
14 lations of the Environmental Protection Agency;
15 and

16 (E) potential net employment impacts.

17 (b) NEW SOURCES.—The date on which the Adminis-
18 trator proposes a regulation pursuant to section 312(a)(1)
19 establishing an emission standard under section 112 or
20 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall
21 be treated as the date on which the Administrator first
22 proposes such a regulation for purposes of applying the
23 definition of a new source under section 112(a)(4) of such
24 Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid

1 waste incineration unit under section 129(g)(2) of such
2 Act (42 U.S.C. 7429(g)(2)).

3 (c) **RULE OF CONSTRUCTION.**—Nothing in this sub-
4 title shall be construed to restrict or otherwise affect the
5 provisions of paragraphs (3)(B) and (4) of section 112(i)
6 of the Clean Air Act (42 U.S.C. 7412(i)).

7 **SEC. 314. ENERGY RECOVERY AND CONSERVATION.**

8 (a) **IN GENERAL.**—Notwithstanding any other provi-
9 sion of law, to ensure the recovery and conservation of
10 energy consistent with the Solid Waste Disposal Act (42
11 U.S.C. 6901 et seq.) (commonly known as the “Resource
12 Conservation and Recovery Act of 1976”), in promul-
13 gating regulations under section 312(a) that address the
14 subject matter of the regulations described in paragraphs
15 (3) and (4) of section 312(b), the Administrator shall—

16 (1) adopt the definitions of the terms “commer-
17 cial and industrial solid waste incineration unit”,
18 “commercial and industrial waste”, and “contained
19 gaseous material” contained in the regulation enti-
20 tled “Standards of Performance for New Stationary
21 Sources and Emission Guidelines for Existing
22 Sources: Commercial and Industrial Solid Waste In-
23 cineration Units” (65 Fed. Reg. 75338 (December
24 1, 2000)); and

1 (2) identify nonhazardous secondary material as
 2 not to be solid waste for purposes of the Solid Waste
 3 Disposal Act (42 U.S.C. 6901 et seq.) if—

4 (A) the material—

5 (i) does not meet the definition of
 6 commercial and industrial waste; and

7 (ii) is on the list published by the Ad-
 8 ministrator under subsection (b); or

9 (B) in the case of the material that is a
 10 gas, the material does not meet the definition of
 11 contained gaseous material.

12 (b) LIST OF NONHAZARDOUS SECONDARY MATE-
 13 RIALS.—

14 (1) IN GENERAL.—Not later than 120 days
 15 after the date of enactment of this subtitle, the Ad-
 16 ministrator shall publish a list of nonhazardous sec-
 17 ondary materials that are not solid waste when com-
 18 busted in units designed for energy recovery, includ-
 19 ing—

20 (A) without limitation, all forms of bio-
 21 mass, including—

22 (i) agricultural and forest-derived bio-
 23 mass;

24 (ii) biomass crops, vines, and orchard
 25 trees;

- 1 (iii) bagasse and other crop and tree
2 residues, including—
- 3 (I) hulls and seeds;
 - 4 (II) spent grains;
 - 5 (III) byproducts of cotton;
 - 6 (IV) corn and peanut production;
 - 7 (V) rice milling and grain eleva-
8 tor operations;
 - 9 (VI) cellulosic biofuels; and
 - 10 (VII) byproducts of ethanol nat-
11 ural fermentation processes;
 - 12 (iv) hogged fuel, including wood pal-
13 lets, sawdust, and wood pellets;
 - 14 (v) wood debris from forests and
15 urban areas;
 - 16 (vi) resinated wood and other
17 resinated biomass-derived residuals, includ-
18 ing trim, sanderdust, offcuts, and wood-
19 working residuals;
 - 20 (vii) creosote-treated, borate-treated,
21 sap-stained, and other treated wood;
 - 22 (viii) residuals from wastewater treat-
23 ment by the manufacturing industry, in-
24 cluding process wastewater with significant
25 British thermal unit (“Btu”) value;

- 1 (ix) paper and paper or cardboard re-
2 cycling residuals, including paper-derived
3 fuel cubes, paper fines, and paper and
4 cardboard rejects;
- 5 (x) turpentine, turpentine derivatives,
6 pine tar, rectified methanol, glycerine, lum-
7 ber kiln condensates, and wood char;
- 8 (xi) tall oil and related soaps;
- 9 (xii) biogases or bioliquids generated
10 from biomass materials, wastewater oper-
11 ations, or landfill operations;
- 12 (xiii) processed biomass derived from
13 construction and demolition debris for the
14 purpose of fuel production; and
- 15 (xiv) animal manure and bedding ma-
16 terial;
- 17 (B) solid and emulsified paraffin;
- 18 (C) petroleum and chemical reaction and
19 distillation byproducts and residues, alcohol,
20 ink, and nonhalogenated solvents;
- 21 (D) tire-derived fuel, including factory
22 scrap tire and related material;
- 23 (E) foundry sand processed in thermal rec-
24 lamation units;

1 (F) coal refuse and coal combustion re-
2 siduals;

3 (G) shredded cloth and carpet scrap;

4 (H) latex paint water, organic printing
5 dyes and inks, recovered paint solids, and non-
6 metallic paint sludges;

7 (I) nonchlorinated plastics;

8 (J) all used oil that qualifies as recycled oil
9 under section 1004 of the Solid Waste Disposal
10 Act (42 U.S.C. 6903);

11 (K) process densified fuels that contain
12 any of the materials described in this para-
13 graph; and

14 (L) any other specific or general categories
15 of material that the Administrator determines
16 the combustion of which is for use as a fuel
17 pursuant to paragraph (2).

18 (2) ADDITIONS TO THE LIST.—

19 (A) IN GENERAL.—To provide greater reg-
20 ulatory certainty, the Administrator may, after
21 public notice and opportunity to comment, add
22 nonhazardous secondary materials to the list
23 published under paragraph (1)—

24 (i) as the Administrator determines
25 necessary; or

1 (ii) based on a petition submitted by
2 any person.

3 (B) RESPONSE.—Not later than 120 days
4 after receiving any petition under subparagraph
5 (A)(ii), the Administrator shall respond to the
6 petition.

7 (C) REQUIREMENTS.—In making a deter-
8 mination under this paragraph, the Adminis-
9 trator may decline to add a material to the list
10 under paragraph (1) if the Administrator deter-
11 mines that regulation under section 112 of the
12 Clean Air Act (42 U.S.C. 7412) would not rea-
13 sonably protect public health with an ample
14 margin of safety.

15 **SEC. 315. OTHER PROVISIONS.**

16 (a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN
17 PRACTICE.—In promulgating rules under section 312(a),
18 the Administrator shall ensure that emissions standards
19 for existing and new sources established under section 112
20 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as
21 applicable, can be met under actual operating conditions
22 consistently and concurrently with emission standards for
23 all other air pollutants regulated by the rule for the source
24 category, taking into account variability in actual source
25 performance, source design, fuels, inputs, controls, ability

1 to measure the pollutant emissions, and operating condi-
2 tions.

3 (b) REGULATORY ALTERNATIVES.—For each regula-
4 tion promulgated pursuant to section 312(a), from among
5 the range of regulatory alternatives authorized under the
6 Clean Air Act (42 U.S.C. 7401 et seq.) including work
7 practice standards under section 112(h) of such Act (42
8 U.S.C. 7412(h)), the Administrator shall impose the least
9 burdensome, consistent with the purposes of such Act and
10 Executive Order 13563 published at 76 Fed. Reg. 3821
11 (January 21, 2011).

12 **TITLE IV—WORKFORCE**
13 **DEVELOPMENT**
14 **Subtitle A—Job Training Program**
15 **Consolidation**

16 **SEC. 401. SHORT TITLE.**

17 This subtitle may be cited as the “Job Training Pro-
18 gram Consolidation Act of 2011”.

19 **SEC. 402. DEFINITIONS.**

20 In this subtitle:

21 (1) **JOB TRAINING PROGRAM.**—The term “job
22 training program” means any federally funded em-
23 ployment and training program, including the pro-
24 grams identified in the January 2011 report of the
25 Government Accountability Office entitled “Multiple

1 Employee and Training Programs: Providing Infor-
2 mation on Colocating Services and Consolidating Ad-
3 ministrative Structures Could Promote Efficiencies”
4 (GAO–11–92) or the March 2011 report of such Of-
5 fice entitled “Opportunities to Reduce Potential Du-
6 plication in Government Programs, Save Tax Dol-
7 lars, and Enhance Revenue” (GAO–11–318SP).

8 (2) DIRECTOR.—The term “Director” means
9 the Director of the Office of Management and Budg-
10 et.

11 **SEC. 403. STUDY AND PROPOSAL ON DUPLICATIVE JOB**
12 **TRAINING PROGRAMS.**

13 (a) STUDY REQUIRED.—The Director shall conduct
14 a study on the effectiveness of current job training pro-
15 grams and on the consolidation of duplicative job training
16 programs, using funds that are authorized under Federal
17 law other than this subtitle and available for activities de-
18 scribed in this section.

19 (b) RECOMMENDATIONS.—

20 (1) IN GENERAL.—In conducting the study re-
21 quired by subsection (a), the Director shall prepare
22 recommendations for legislation.

23 (2) REDUCTION OF PROGRAMS AND COSTS.—
24 The recommended legislation shall—

1 (A) reduce the overall number of job train-
2 ing programs;

3 (B) reduce Federal administrative costs of
4 job training programs;

5 (C) reduce State and local administrative
6 costs of job training programs; and

7 (D) ensure that job training programs for
8 veterans are visible and accessible to veterans
9 seeking employment.

10 (3) CONSOLIDATION UNDER SINGLE AGENCY.—

11 The recommended legislation shall consolidate all job
12 training programs into a reduced number of pro-
13 grams that—

14 (A) are carried out by a single agency; and

15 (B) emphasize the provision of job training
16 that develops skills needed by employers in the
17 State or local area involved.

18 (4) USE OF SAVINGS.—Under the recommended
19 legislation—

20 (A) half of all funds saved shall be used to
21 increase funds for individual training accounts
22 under section 134(d)(4)(F) of the Workforce
23 Investment Act of 1998 (29 U.S.C.
24 2864(d)(4)(F)); and

1 (B) half of all funds saved shall be depos-
 2 ited in the General Fund of the Treasury for
 3 debt reduction purposes.

4 (c) REPORT.—Using funds described in subsection
 5 (a), not later than 180 days after the date of enactment
 6 of this Act, the Director shall prepare and submit to Con-
 7 gress a report on the results of the study required by sub-
 8 section (a), including the recommendations described in
 9 subsection (b).

10 **Subtitle B—Innovation and Job** 11 **Creation**

12 **SEC. 411. SHORT TITLE.**

13 This subtitle may be cited as the “National Innova-
 14 tion and Job Creation Act of 2011”.

15 **SEC. 412. DEFINITIONS.**

16 In this subtitle:

17 (1) BOARD.—The term “Board” means the Na-
 18 tional Innovation Council Board appointed under
 19 section 414.

20 (2) CLIC.—The term “CLIC” means the
 21 CLUSTER Information Center established under
 22 section 416.

23 (3) CLUSTER INITIATIVE.—The term “CLUS-
 24 TER Initiative” means a formally organized effort
 25 to promote cluster growth and competitiveness

1 through collaborative activities among cluster par-
2 ticipants.

3 (4) CLUSTER PROGRAM.—The term “CLUS-
4 TER Program” means the Competitive Leadership
5 for the United States Through its Economic Regions
6 Program established under this subtitle to create
7 and sustain a series of initiatives to promote eco-
8 nomic growth in industry groups.

9 (5) COUNCIL.—The term “Council” means the
10 National Innovation Council established under sec-
11 tion 413.

12 (6) INDUSTRY CLUSTER.—The term “industry
13 cluster” means a geographic concentration of inter-
14 connected businesses, suppliers, service providers,
15 and associated institutions in a particular field.

16 (7) INDUSTRY RESEARCH COUNCIL.—The term
17 “Industry Research Council” means an entity that—

18 (A) is organized for the purpose of advanc-
19 ing innovation;

20 (B) is comprised of at least 5 for profit en-
21 tities; and

22 (C) contributes not less than the minimum
23 amount established by the Council toward any
24 grant awarded by the Council.

1 (8) INNOVATION.—The term “innovation”
2 means the achievement of meaningful increases in
3 productivity through the introduction or diffusion of
4 a new or improved product, service, process, source
5 of supply of materials, business structure, business
6 practice, business model, or methods of production,
7 delivery, distribution, financing, marketing, pack-
8 aging, promoting, or pricing.

9 (9) PRODUCTIVITY.—The term “productivity”
10 means the measure of the quality or quantity of eco-
11 nomic output relative to the input required to
12 produce that output.

13 **SEC. 413. NATIONAL INNOVATION COUNCIL.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—There is established, in the
16 Executive Office of the President, the “National In-
17 novation Council”, which shall—

18 (A) coordinate Federal innovation policy;

19 and

20 (B) provide financial assistance for State
21 and local innovation initiatives.

22 (2) DIRECTOR.—The Council shall be under the
23 direction of a Director, who shall be appointed by
24 the President, with the advice and consent of the
25 Senate.

1 (3) STAFF.—

2 (A) IN GENERAL.—In accordance with
3 such policies as the Council shall from time to
4 time prescribe, the Director shall appoint and
5 fix the compensation of such personnel as may
6 be necessary to enable the Council to perform
7 its duties under this subtitle.

8 (B) TEMPORARY STAFF.—The Director
9 may appoint, for a limited term or on a tem-
10 porary basis, such professional or technical staff
11 as the Director determines to be necessary to
12 carry out specific functions under this subtitle
13 for which their expertise is required.

14 (b) POWERS AND RESPONSIBILITIES.—

15 (1) POLICY FORMULATION AND ADVOCACY.—
16 The Council shall be responsible for formulating and
17 advocating for the innovation policy of the Federal
18 Government.

19 (2) ASSISTANCE.—The Council shall achieve
20 the goal described in paragraph (1) by—

21 (A) providing assistance to other Federal
22 agencies with respect to innovation, upon re-
23 quest;

24 (B) assisting the Census Bureau, the Bu-
25 reau of Economic Analysis, the Bureau of

1 Labor Statistics, other major Federal statistical
2 agencies, and the National Science Foundation
3 in developing operational measures of innova-
4 tion that can be included in new or existing eco-
5 nomic data sources, and providing funding to
6 such agencies for such purpose;

7 (C) providing Federal agencies and compa-
8 nies with the information they need to promote
9 innovation and productivity; and

10 (D) assisting companies with activities
11 such as—

12 (i) joint industry-university research
13 partnerships;

14 (ii) technology transfer from labora-
15 tories to businesses;

16 (iii) technology-based entrepreneur-
17 ship;

18 (iv) industrial modernization through
19 adoption of best practice technologies and
20 business practices; and

21 (v) incumbent worker training.

22 (3) INNOVATION MEASUREMENT.—The Council
23 shall create methods of measuring innovation and
24 productivity.

1 (4) RESEARCH PROGRAM.—The Council shall
2 carry out a program of research on innovation and
3 productivity.

4 (5) ADVOCACY.—The Council shall recommend
5 specific measures to improve innovation and produc-
6 tivity in the United States.

7 (c) COLLABORATION.—The Council shall collaborate
8 with, and provide funding to, the Census Bureau, the Bu-
9 reau of Economic Analysis, the Bureau of Labor Statis-
10 tics, other major Federal statistical agencies, and the Na-
11 tional Science Foundation to develop—

12 (1) measures of productivity in the service sec-
13 tor;

14 (2) measures of total factor productivity, re-
15 flecting capital, materials, energy, and purchased
16 services, labor, and other relevant factors as produc-
17 tive inputs for all industries;

18 (3) measures of gross product and productivity
19 for counties and metropolitan areas; and

20 (4) measures of private rates of return from re-
21 search and development.

22 (d) DATA COLLECTION AND ANALYSIS.—The Council
23 shall—

1 (1) collect and analyze data necessary to evalu-
2 ate the impact on productivity resulting from the
3 Council's programs; and

4 (2) require recipients of funding or other assist-
5 ance from the Council to provide information nec-
6 essary to measure improvements in productivity re-
7 sulting from such funding or assistance.

8 (e) ANNUAL REPORT.—The Council shall annually
9 submit a report (to be known as the “National Innovation
10 Report”) to Congress, which shall set forth—

11 (1) the current and foreseeable trends in inno-
12 vation and productivity in the Nation;

13 (2) a review and analysis of recent domestic
14 and international developments affecting innovation
15 and productivity in the Nation;

16 (3) goals for improved innovation and produc-
17 tivity in the Nation;

18 (4) a program designed to improve innovation
19 and productivity in the Nation; and

20 (5) such recommendations for legislation as the
21 President considers desirable.

22 **SEC. 414. NATIONAL INNOVATION COUNCIL BOARD.**

23 (a) ESTABLISHMENT.—The Council shall be under
24 the direction of the National Innovation Council Board,
25 which shall be comprised of 11 voting members, who shall

1 be appointed by the President, with the advice and consent
2 of the Senate.

3 (b) APPOINTMENT CRITERIA.—

4 (1) QUALIFICATIONS.—Each voting member of
5 the Board—

6 (A) shall be eminent in the field of busi-
7 ness, economic development, health care, ap-
8 plied sciences, engineering, education, or public
9 affairs;

10 (B) shall have a record of distinguished
11 service in his or her field; and

12 (C) shall have demonstrated knowledge
13 and appreciation of the value of innovation.

14 (2) REPRESENTATION.—In making appoint-
15 ments under this section, the President shall—

16 (A) give due regard to equitable represen-
17 tation of members who are women or who rep-
18 resent minority groups;

19 (B) provide representation of the views of
20 leaders in economic development and innovation
21 in all areas of the Nation; and

22 (C) appoint not fewer than—

23 (i) 1 representative with a background
24 in manufacturing;

1 (ii) 1 representative with a back-
2 ground in the service industry;

3 (iii) 1 representative of higher edu-
4 cation;

5 (iv) 1 representative of State and local
6 government;

7 (v) 1 representative of organized
8 labor;

9 (vi) 1 representative of the nonprofit
10 sector;

11 (vii) 1 representative of economic de-
12 velopment organizations;

13 (viii) 1 representative of professional
14 associations; and

15 (ix) 1 recognized expert in innovation.

16 (3) TERMS.—Voting members of the Board
17 shall be appointed to 4-year terms.

18 (4) EX OFFICIO MEMBERS.—The Secretary of
19 Commerce and the Secretary of Labor shall serve as
20 ex officio members of the Board.

21 **SEC. 415. TRANSFER OF PROGRAMS AND FUNCTIONS.**

22 There shall be transferred to the Council the func-
23 tions, personnel, assets, and liabilities of—

1 (1) the Manufacturing Extension Partnership
2 Program of the National Institute of Standards and
3 Technology;

4 (2) the Technology Innovation Program of the
5 National Institute of Standards and Technology;

6 (3) the Office of Technology Partnerships of
7 the National Institute of Standards and Technology;

8 (4) the Partnerships for Innovation of the Na-
9 tional Science Foundation;

10 (5) the Industry-University Cooperative Re-
11 search Center Program of the National Science
12 Foundation;

13 (6) the Engineering Research Center Program
14 of the National Science Foundation; and

15 (7) the Workforce Innovation in Regional Eco-
16 nomic Development of the Department of Labor.

17 **SEC. 416. CLUSTER INFORMATION CENTER.**

18 (a) ESTABLISHMENT.—There is established within
19 the Council the CLUSTER Information Center.

20 (b) PURPOSES.—The purpose of the CLIC is to pro-
21 mote the collection, development, and dissemination of
22 data and analysis on industry clusters throughout the
23 United States.

1 (c) DATABASES.—The Director of the Council shall
2 compile databases for the CLIC from existing Federal
3 data sets available from—

4 (1) the Census Bureau;

5 (2) the Bureau of Economic Analysis;

6 (3) the Bureau of Labor Statistics;

7 (4) the International Trade Administration;

8 (5) the Statistics of Income Program of the In-
9 ternal Revenue Service;

10 (6) the Office of Patent Resource Administra-
11 tion in the United States Patent and Trademark Of-
12 fice;

13 (7) the National Science Foundation;

14 (8) the National Innovation Council;

15 (9) other Federal agencies; and

16 (10) non-Federal sources, including private
17 databases, as appropriate.

18 (d) FUNCTIONS.—

19 (1) IN GENERAL.—The CLIC shall—

20 (A) support and disseminate research on
21 the formation and evolution of industry clus-
22 ters, CLUSTER Initiatives, and CLUSTER
23 Programs;

24 (B) gather, analyze, and disseminate infor-
25 mation on the best practices for the develop-

1 ment of industry clusters, CLUSTER Initia-
2 tives, and CLUSTER Programs in the United
3 States and in other countries, specifically deter-
4 mining how productivity, innovation, and com-
5 petitive advantage can be maximized through
6 industry clusters, CLUSTER Initiatives, and
7 CLUSTER Programs;

8 (C) develop technical assistance guides for
9 regional cluster analysis and CLUSTER Initia-
10 tive and initiative program development and op-
11 erations; and

12 (D) bring together representatives of in-
13 dustry clusters, CLUSTER Initiatives, and
14 CLUSTER Programs, experts, and scholars to
15 disseminate developments in cluster analysis,
16 initiatives, and programs.

17 (2) DATA COLLECTION.—The CLIC shall col-
18 lect and make available data on cluster activity
19 showing—

20 (A) breadth, a geographically-specific pic-
21 ture of the array of clusters in each key indus-
22 try throughout the United States, with data on
23 size, specialization, and competitiveness of the
24 industry clusters in each State, region, and
25 major metropolitan area;

1 (B) depth, for each cluster, detailed data
2 such as regional domestic product contribution,
3 total jobs and earnings by key occupations, es-
4 tablishment size, nature of specialization, pat-
5 ents, Federal research and development spend-
6 ing, citation patterns, and trade; and

7 (C) flow, estimates of supply chain product
8 and service flows within and between industry
9 clusters.

10 (3) REPORT.—The CLIC shall—

11 (A) monitor the extent to which the data
12 available to it is sufficient for proper analysis of
13 cluster activity; and

14 (B) submit a report to Congress that in-
15 cludes recommendations regarding further au-
16 thorization for data collection, as necessary.

17 (4) LIMITATION.—The CLIC may not collect or
18 analyze data which would otherwise be in violation
19 of Federal privacy laws.

20 (5) DISSEMINATION OF ANALYSES.—Data and
21 analysis compiled by the CLIC shall be made avail-
22 able to other Federal agencies, State and local gov-
23 ernments, and nonprofit and for-profit entities, to
24 guide investments in industry cluster activities that

1 will lead to increased productivity, innovation, and
2 competitive advantage, including—

3 (A) cluster development;

4 (B) economic development;

5 (C) workforce development;

6 (D) research and development;

7 (E) business site locations;

8 (F) analysis of United States competitive-
9 ness, by industry, industry cluster, and geog-
10 raphy; and

11 (G) other appropriate activities.

12 (e) CLUSTER INITIATIVE AND CLUSTER PROGRAM
13 REGISTRY.—

14 (1) IN GENERAL.—The CLIC shall maintain a
15 publicly available registry of CLUSTER Initiatives
16 and CLUSTER Programs that contain information
17 that is useful to the study and analysis of CLUS-
18 TER Initiatives and CLUSTER Programs, includ-
19 ing—

20 (A) organizational structure;

21 (B) membership;

22 (C) activities;

23 (D) funding; and

24 (E) perceived impacts of registered CLUS-
25 TER Initiatives and CLUSTER Programs.

1 (2) INFORMATION COLLECTED.—At the time a
2 CLUSTER Initiative is registered, the CLIC shall
3 collect sufficient information to demonstrate that the
4 CLUSTER Initiative—

5 (A) is an industry-led effort with not fewer
6 than 5 member firms and 1 lead organizing en-
7 tity;

8 (B) involves not fewer than 3 cluster sup-
9 port organizations, such workforce boards, com-
10 munity colleges, universities, and industry asso-
11 ciations; and

12 (C) has a strategy to enhance the competi-
13 tive position of the cluster.

14 (3) PRIORITY FUNDING.—Registered CLUS-
15 TER Initiatives and CLUSTER Programs shall re-
16 ceive priority for funding from the Council and the
17 CLIC.

18 (4) USE OF INFORMATION.—Information con-
19 tained in the CLUSTER Initiative and CLUSTER
20 Program Registry shall be made available to other
21 Federal agencies, State and local governments, and
22 nonprofit and for-profit entities.

23 (f) OUTSIDE CONTRACTS.—The Director of the
24 Council may contract out the operation of the CLIC to
25 an external organization such as another Federal agency,

1 a university, a nonprofit research entity, or a private com-
2 pany.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated \$20,000,000 to carry
5 out this section.

6 **SEC. 417. GRANT PROGRAMS.**

7 (a) CLUSTER GRANT PROGRAM.—

8 (1) AUTHORIZATION.—The Council shall award
9 grants to eligible grantees to operate a CLUSTER
10 Grant Program for the purpose of awarding grants
11 to CLUSTER Initiatives in accordance with the re-
12 quirements under this subsection.

13 (2) ELIGIBLE GRANTEES.—A grant may be
14 awarded under this subsection to—

15 (A) a State; or

16 (B) an entity designated by a State or a
17 group of States, which may be a city, a county,
18 another political subdivision of a State, a non-
19 profit organization, or any other economic de-
20 velopment organization.

21 (3) USE OF GRANT FUNDS.—All entities receiv-
22 ing grant funds under this subsection shall ensure
23 that CLUSTER Initiatives supported by such
24 funds—

1 (A) are operated in a manner consistent
2 with the “best practices” established by the
3 CLUSTER Program;

4 (B) are industry-led;

5 (C) are inclusive, seeking any and all orga-
6 nizations that might find benefit from partici-
7 pation, including startups, firms not locally
8 owned, and firms rival to existing members;

9 (D) encourage broad participation by and
10 collaboration among all types of participants;

11 (E) involve key State and local government
12 actors; and

13 (F) participate in the CLIC registry and
14 research activities described in section 416(e).

15 (4) GRANT TYPES.—

16 (A) FEASIBILITY STUDY GRANTS.—

17 (i) IN GENERAL.—A grant in an
18 amount not to exceed \$250,000 shall be
19 awarded to eligible grantees for Cluster
20 Program feasibility studies, planning, and
21 operations.

22 (ii) CONDITIONS.—A feasibility study
23 grant shall be awarded to not fewer than
24 1 eligible grantee in each State on a 1-time
25 basis, with no matching funds required.

1 (B) START UP AND ANNUAL GRANTS.—

2 (i) START UP GRANT.—A 1-year grant
3 in an amount not to exceed \$1,000,000
4 shall be awarded to not fewer than 1 new
5 cluster program in each State to support
6 planning studies, provide technical assist-
7 ance, and fund start-up activities.

8 (ii) ANNUAL GRANT.—An annual
9 grant shall be awarded to not fewer than
10 1 early-stage cluster programs in each
11 State to provide technical assistance and
12 fund operating activities.

13 (iii) RENEWAL.—Grants awarded
14 under clause (ii) may be renewed for a
15 total period not to exceed 5 years (includ-
16 ing any start up grant).

17 (iv) MATCHING FUNDS REQUIRE-
18 MENT.—

19 (I) INITIAL PERIOD.—During the
20 first 2 years in which an eligible enti-
21 ty receives grant funding under this
22 subparagraph, the eligible entity shall
23 provide matching funds in an amount
24 equal to the amount of funds received
25 under this subparagraph.

1 (II) SUBSEQUENT PERIOD.—If
2 the Council determines, in accordance
3 with criteria established by the
4 CLUSTER Program, that an eligible
5 grantee has demonstrated greater ef-
6 fectiveness than other grant recipients
7 during the period described in sub-
8 clause (I), the non-Federal matching
9 requirement for such eligible grantee
10 in future years may be reduced.

11 (C) MATCHING GRANTS FOR CLUSTER INI-
12 TIATIVES.—

13 (i) IN GENERAL.—A grant of between
14 \$1,000,000 and \$15,000,000 may be
15 awarded, on a competitive basis, to CLUS-
16 TER Programs for the purpose of sup-
17 porting CLUSTER Initiatives.

18 (ii) MATCHING REQUIREMENT.—An
19 eligible entity receiving a grant under this
20 subparagraph shall provide matching funds
21 in an amount equal to the amount of grant
22 funds received under this subparagraph.

23 (iii) SELECTION CRITERIA.—In select-
24 ing grant recipients under this subpara-
25 graph, the Council shall consider—

1 (I) the probable impact of the
2 proposed effort on the competitiveness
3 of the area's traded sector;

4 (II) if the proposed effort fits
5 within a broader achievable economic
6 development strategy;

7 (III) the capacity and commit-
8 ment of the sponsoring organization;

9 (IV) the degree of support and
10 involvement from relevant State and
11 regional economic and workforce de-
12 velopment organizations, other public
13 purpose institutions (such as univer-
14 sities, community colleges, workforce
15 boards), and the private sector, in-
16 cluding industry associations;

17 (V) the eligible grantee's ex-
18 pected ability to access additional
19 funds from Federal, State, and local
20 sources;

21 (VI) the eligible grantee's capac-
22 ity to sustain activities once grant
23 funds have been expended; and

24 (VII) the extent to which eco-
25 nomic diversity across regions of the

1 United States would be increased
2 through the grant.

3 (5) APPLICATION PROCESS.—The application
4 process for grants awarded under this subsection
5 shall be on a rolling basis.

6 (6) AUTHORIZATION OF APPROPRIATIONS.—
7 There are authorized to be appropriated
8 \$350,000,000 for fiscal year 2012 and each subse-
9 quent fiscal year to carry out this subsection.

10 (b) NATIONAL SECTOR RESEARCH GRANTS.—

11 (1) GRANTS AUTHORIZED.—The Council shall
12 award competitive grants to eligible companies and
13 joint ventures to encourage innovation through re-
14 search partnerships between academic institutions in
15 the United States and industry research alliances.

16 (2) ELIGIBILITY.—Each company and joint
17 venture desiring a grant under this subsection
18 shall—

19 (A) submit an application to the Council
20 containing such information as the Council may
21 reasonably require;

22 (B) form an industry-led research consor-
23 tium consisting of at least 5 companies; and

1 (C) agree to develop a 3- to 10-year tech-
 2 nology roadmap that charts out generic science
 3 and technology needs that the companies share.

4 (3) FEDERAL COST SHARE.—The Federal share
 5 of a project funded by a grant under this subsection
 6 shall be not more than 50 percent of the total
 7 project costs.

8 (e) PRODUCTIVITY ENHANCEMENT RESEARCH
 9 GRANTS.—The Council shall award grants to academic in-
 10 stitutions in the United States and to joint ventures com-
 11 prised of academic institutions and private companies to
 12 support early-stage research into methods of increasing
 13 productivity and innovation, with broad application for a
 14 range of industries, including—

- 15 (1) automated manufacturing or service proc-
 16 esses;
 17 (2) technology-enabled remote service delivery;
 18 (3) quality improvement; and
 19 (4) other methods of improving productivity
 20 and innovation.

21 (d) STATE INNOVATION-BASED ECONOMIC DEVEL-
 22 OPMENT PARTNERSHIP GRANTS.—

23 (1) GRANTS AUTHORIZED.—The Council shall
 24 award innovation-based economic development part-

1 nership grants to State economic development enti-
2 ties designated by each State.

3 (2) GRANT TYPES.—

4 (A) FEASIBILITY STUDY GRANTS.—

5 (i) IN GENERAL.—A grant of up to
6 \$250,000 shall be awarded to States for
7 feasibility studies, planning, and oper-
8 ations.

9 (ii) CONDITIONS.—A feasibility study
10 grant shall be awarded to not fewer than
11 1 eligible grantee in each State on a 1-time
12 basis, with no matching funds required.

13 (B) START-UP AND ANNUAL GRANTS.—

14 (i) START UP GRANT.—A 1-year grant
15 in an amount not to exceed \$2,000,000
16 shall be awarded to States to support plan-
17 ning studies, provide technical assistance,
18 and fund start-up activities.

19 (ii) ANNUAL GRANTS.—In addition to
20 the grants authorized under clause (i), an-
21 nual grants shall be awarded to States to
22 provide technical assistance and fund oper-
23 ating activities. Grants awarded under this
24 clause may be renewed indefinitely.

1 (iii) MINIMUM GRANTS.—Each State
2 shall be awarded not fewer than 1 grant
3 under this subparagraph.

4 (iv) MATCHING FUNDS REQUIRE-
5 MENT.—A State receiving a start-up grant
6 under this subparagraph shall provide—

7 (I) for the first \$1,000,000 in
8 grant funds, a match of \$1 for every
9 \$2 received in grant funds; and

10 (II) for any additional amount in
11 grant funds, a match of \$2 for every
12 \$1 received in grant funds.

13 (3) IBED PLANS.—

14 (A) INITIAL PLANS.—Each State desiring
15 a grant under this subsection shall submit to
16 the Council an initial innovation-based economic
17 development plan (referred to in this paragraph
18 as an “IBED Plan”), which describes—

19 (i) how grant funds would be used to
20 support the creation of alliances for the
21 dissemination of innovation among local
22 governments, businesses, educational insti-
23 tutions, and other institutions;

1 (ii) how companies within the State
2 would benefit from the activities funded
3 through a grant under this subsection; and

4 (iii) how innovation would be dissemi-
5 nated through the activities described in
6 paragraph (4) to companies within the
7 State.

8 (B) REVIEW.—The Council and an outside
9 panel of experts shall—

10 (i) review the initial IBED Plans sub-
11 mitted under subparagraph (A); and

12 (ii) notify the States of any suggested
13 modifications to such plans.

14 (C) RESUBMISSION OF PLANS.—States
15 may submit modified IBED Plans to the Coun-
16 cil.

17 (D) USE OF PLANS.—The Council shall
18 score IBED Plans submitted under this para-
19 graph and award competitive grants to States
20 under this subsection, to the extent available,
21 on the basis of such scores. In scoring plans
22 under this subparagraph, the Council shall
23 award additional points for multi-State and re-
24 gional innovation-based economic development
25 efforts.

1 (4) USE OF FUNDS.—Grant funds received
2 under this subsection may be used to establish—

3 (A) technology commercialization centers;

4 (B) industry-university research centers;

5 (C) regional cluster development programs;

6 (D) regional skills alliances;

7 (E) entrepreneurial support programs;

8 (F) science parks; and

9 (G) related activities to spur innovation or
10 productivity.

11 (5) FEDERAL COST SHARE.—The Federal share
12 of a project funded by a grant under this subsection
13 shall be not more than $\frac{1}{3}$ of the total project costs.

14 (6) NONCOMPETITIVE GRANTS.—The Council
15 shall award noncompetitive planning and technical
16 assistance grants to States that do not receive a
17 competitive grant under this subsection, which shall
18 be used to improve the quality of the States' pro-
19 posals for subsequent grants under this section.

20 (e) TECHNOLOGY DIFFUSION GRANTS.—

21 (1) GRANTS AUTHORIZED.—The Council shall
22 award grants to manufacturing extension partner-
23 ship centers in each State to promote the diffusion
24 of existing technological innovations to companies in
25 which such innovations are underutilized. Notwith-

1 standing any other provision of law, a manufac-
2 turing extension partnership may use grant funds
3 awarded under this subsection for activities in the
4 service sector that comply with the requirements
5 under this subsection.

6 (2) GRANT TYPES.—

7 (A) FEASIBILITY STUDY GRANTS.—

8 (i) IN GENERAL.—A grant of up to
9 \$250,000 shall be awarded to manufac-
10 turing extension partnership centers for
11 feasibility studies, planning, and oper-
12 ations.

13 (ii) CONDITIONS.—A feasibility study
14 grant shall be awarded to not fewer than
15 1 eligible grantee in each State on a 1-time
16 basis, with no matching funds required.

17 (B) START UP AND ANNUAL GRANTS.—

18 (i) START UP GRANT.—A 1-year grant
19 of up to \$2,000,000 shall be awarded to a
20 manufacturing extension partnership cen-
21 ter in each State to support planning stud-
22 ies, provide technical assistance, and fund
23 start-up activities.

24 (ii) ANNUAL GRANTS.—In addition to
25 the grants authorized under clause (i), an-

1 nual grants shall be awarded to manufac-
2 turing extension partnership centers in
3 each State provide technical assistance and
4 fund operating activities. Grants awarded
5 under this clause may be renewed indefi-
6 nitely.

7 (iii) MATCHING FUNDS REQUIRE-
8 MENT.—A manufacturing extension part-
9 nership center receiving a grant under this
10 subparagraph shall provide—

11 (I) for the first \$1,000,000 in
12 grant funds, a match of \$1 for every
13 \$2 received in grant funds; and

14 (II) for any additional amount in
15 grant funds, a match of \$2 for every
16 \$1 received in grant funds.

17 (3) USE OF FUNDS.—Grants funds received
18 under this subsection may be used—

19 (A) to establish manufacturing extension
20 partnership centers in each State to provide—

21 (i) support for manufacturing and
22 services; and

23 (ii) innovation awards; and

1 (B) to support the diffusion of innovation
2 in any sector of the economy, including the
3 service sector.

4 (4) EVALUATION PROCESS.—In evaluating pro-
5 posals for grants under this subsection, the Council
6 shall—

7 (A) determine the degree to which measur-
8 able productivity gains are expected to be
9 achieved through each applicant's proposed dif-
10 fusion of innovation;

11 (B) follow the 2-step process established
12 under subsection (d)(3) for grants to carry out
13 the activities described in paragraph (3)(A);
14 and

15 (C) require manufacturing extension part-
16 nership centers to submit a plan to carry out
17 the activities described in paragraph (3)(B).

18 (f) USE OF GRANTS.—Grant funds received under
19 this section shall be used to—

20 (1) perform Council-supported grant work in
21 the United States; and

22 (2) promote the production of any resulting
23 goods or services in the United States.

24 (g) AWARD CRITERIA.—In evaluating proposals for
25 grants under this section, the Council shall—

1 (1) determine, as 1 award factor, the extent to
2 which a grant to each State or manufacturing exten-
3 sion partnership center is expected to increase pro-
4 duction, wages, or employment in the United States;

5 (2) not award any grant which the Council be-
6 lieves could result in a decrease in production,
7 wages, or employment in the United States; and

8 (3) consult with technology-specific boards
9 staffed with experts in fields appropriate to the pro-
10 posals for grants being evaluated.

11 (h) MINIMUM FUNDING LEVEL.—

12 (1) IN GENERAL.—For each of the grant pro-
13 grams established under subsections (a), (d), and
14 (e)—

15 (A) not fewer than 1 grant shall be award-
16 ed to a grantee in each State; and

17 (B) the amount of each grant shall be not
18 less than 80 percent of the average grant
19 awarded in such grant program.

20 (2) POPULATION-BASED ALLOCATIONS.—In
21 each State, the total amount of grant funds awarded
22 to grantees in such State under subsections (a)
23 through (e) shall be not less than 50 percent of the
24 product of—

1 (A) the percentage of the population of the
 2 United States who are residents of such State,
 3 according to the most recent decennial census;
 4 and

5 (B) the total amount of grant funds
 6 awarded under subsections (a) through (e).

7 (i) COORDINATION OF FUNDS.—Recipients of grants
 8 under this section may use, as matching funds, amounts
 9 received from the agencies listed in section 415, to the
 10 extent approved by the Council and such agencies.

11 **SEC. 418. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to the Na-
 13 tional Innovation Council, for each of the fiscal years 2012
 14 through 2016, such sums as may be necessary to carry
 15 out this subtitle.

16 **TITLE V—OFFSETS**
 17 **Subtitle A—Surtax on High-income**
 18 **Taxpayers**

19 **SEC. 501. SURTAX ON MILLIONAIRES.**

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

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

“Sec. 59B. Surtax on millionaires.

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

2 “(a) GENERAL RULE.—In the case of a taxpayer
3 other than a corporation for any taxable year beginning
4 after 2012 and before 2023, there is hereby imposed (in
5 addition to any other tax imposed by this subtitle) a tax
6 equal to 2 percent of so much of the modified adjusted
7 gross income of the taxpayer for such taxable year as ex-
8 ceeds \$1,000,000 (\$500,000, in the case of a married indi-
9 vidual filing a separate return).

10 “(b) INFLATION ADJUSTMENT.—

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

15 “(A) such dollar amount, multiplied by

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

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

1 “(c) MODIFIED ADJUSTED GROSS INCOME.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘modified ad-
4 justed gross income’ means adjusted gross income
5 reduced by the excess of—

6 “(A) gross income from a small business
7 (as defined in section 6654(d)(1)(D)(iii))—

8 “(i) which is not a passive activity
9 (within the meaning of section 469(c)),
10 and

11 “(ii) with respect to which the tax-
12 payer pays wages to at least 1 full-time
13 equivalent employee (as defined in section
14 45R(d)(2)), other than the taxpayer, the
15 taxpayer’s spouse, or an individual who
16 bears a relationship to the taxpayer de-
17 scribed in section 152(d)(2), over

18 “(B) the deductions which are properly al-
19 locable to such income.

20 “(2) REGULATIONS.—The Secretary shall pre-
21 scribe regulations similar to the regulations under
22 section 469(l) for determining the income that is
23 taken into account under paragraph (1)(A).

24 “(d) SPECIAL RULES.—

1 “(1) NONRESIDENT ALIEN.—In the case of a
2 nonresident alien individual, only amounts taken
3 into account in connection with the tax imposed
4 under section 871(b) shall be taken into account
5 under this section.

6 “(2) CITIZENS AND RESIDENTS LIVING
7 ABROAD.—The dollar amount in effect under sub-
8 section (b) shall be decreased by the excess of—

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

11 “(B) the amounts of any deductions or ex-
12 clusions disallowed under section 911(d)(6)
13 with respect to the amounts described in sub-
14 paragraph (A).

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

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

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

“PART VIII. SURTAX ON MILLIONAIRES.”.

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

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

12 **Subtitle B—Closing Big Oil Tax**
 13 **Loopholes**

14 **SEC. 511. SHORT TITLE.**

15 (a) SHORT TITLE.—This subtitle may be cited as the
 16 “Close Big Oil Tax Loopholes Act”.

17 **PART I—CLOSE BIG OIL TAX LOOPHOLES**

18 **SEC. 521. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**

19 **APPLICABLE TO MAJOR INTEGRATED OIL**
 20 **COMPANIES WHICH ARE DUAL CAPACITY**
 21 **TAXPAYERS.**

22 (a) IN GENERAL.—Section 901 of the Internal Rev-
 23 enue Code of 1986 is amended by redesignating subsection
 24 (n) as subsection (o) and by inserting after subsection (m)
 25 the following new subsection:

1 “(n) SPECIAL RULES RELATING TO MAJOR INTE-
2 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
3 TAXPAYERS.—

4 “(1) GENERAL RULE.—Notwithstanding any
5 other provision of this chapter, any amount paid or
6 accrued by a dual capacity taxpayer which is a
7 major integrated oil company (as defined in section
8 167(h)(5)(B)) to a foreign country or possession of
9 the United States for any period shall not be consid-
10 ered a tax—

11 “(A) if, for such period, the foreign coun-
12 try or possession does not impose a generally
13 applicable income tax, or

14 “(B) to the extent such amount exceeds
15 the amount (determined in accordance with reg-
16 ulations) which—

17 “(i) is paid by such dual capacity tax-
18 payer pursuant to the generally applicable
19 income tax imposed by the country or pos-
20 session, or

21 “(ii) would be paid if the generally ap-
22 plicable income tax imposed by the country
23 or possession were applicable to such dual
24 capacity taxpayer.

1 Nothing in this paragraph shall be construed to
2 imply the proper treatment of any such amount not
3 in excess of the amount determined under subpara-
4 graph (B).

5 “(2) DUAL CAPACITY TAXPAYER.—For pur-
6 poses of this subsection, the term ‘dual capacity tax-
7 payer’ means, with respect to any foreign country or
8 possession of the United States, a person who—

9 “(A) is subject to a levy of such country or
10 possession, and

11 “(B) receives (or will receive) directly or
12 indirectly a specific economic benefit (as deter-
13 mined in accordance with regulations) from
14 such country or possession.

15 “(3) GENERALLY APPLICABLE INCOME TAX.—
16 For purposes of this subsection—

17 “(A) IN GENERAL.—The term ‘generally
18 applicable income tax’ means an income tax (or
19 a series of income taxes) which is generally im-
20 posed under the laws of a foreign country or
21 possession on income derived from the conduct
22 of a trade or business within such country or
23 possession.

1 “(B) EXCEPTIONS.—Such term shall not
2 include a tax unless it has substantial applica-
3 tion, by its terms and in practice, to—

4 “(i) persons who are not dual capacity
5 taxpayers, and

6 “(ii) persons who are citizens or resi-
7 dents of the foreign country or posses-
8 sion.”.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to taxes paid or accrued in
12 taxable years beginning after the date of the enact-
13 ment of this Act.

14 (2) CONTRARY TREATY OBLIGATIONS
15 UPHELD.—The amendments made by this section
16 shall not apply to the extent contrary to any treaty
17 obligation of the United States.

18 **SEC. 522. LIMITATION ON SECTION 199 DEDUCTION ATTRIB-**
19 **UTABLE TO OIL, NATURAL GAS, OR PRIMARY**
20 **PRODUCTS THEREOF.**

21 (a) DENIAL OF DEDUCTION.—Paragraph (4) of sec-
22 tion 199(c) of the Internal Revenue Code of 1986 is
23 amended by adding at the end the following new subpara-
24 graph:

1 “(E) SPECIAL RULE FOR CERTAIN OIL
2 AND GAS INCOME.—In the case of any taxpayer
3 who is a major integrated oil company (as de-
4 fined in section 167(h)(5)(B)) for the taxable
5 year, the term ‘domestic production gross re-
6 ceipts’ shall not include gross receipts from the
7 production, transportation, or distribution of
8 oil, natural gas, or any primary product (within
9 the meaning of subsection (d)(9)) thereof.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2011.

13 **SEC. 523. LIMITATION ON DEDUCTION FOR INTANGIBLE**
14 **DRILLING AND DEVELOPMENT COSTS.**

15 (a) IN GENERAL.—Section 263(c) of the Internal
16 Revenue Code of 1986 is amended by adding at the end
17 the following new sentence: “This subsection shall not
18 apply to amounts paid or incurred by a taxpayer in any
19 taxable year in which such taxpayer is a major integrated
20 oil company (as defined in section 167(h)(5)(B)).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to amounts paid or incurred in tax-
23 able years beginning after December 31, 2011.

1 **SEC. 524. LIMITATION ON PERCENTAGE DEPLETION AL-**
2 **LOWANCE FOR OIL AND GAS WELLS.**

3 (a) IN GENERAL.—Section 613A of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new subsection:

6 “(f) APPLICATION WITH RESPECT TO MAJOR INTE-
7 GRATED OIL COMPANIES.—In the case of any taxable year
8 in which the taxpayer is a major integrated oil company
9 (as defined in section 167(h)(5)(B)), the allowance for
10 percentage depletion shall be zero.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to taxable years beginning after
13 December 31, 2011.

14 **SEC. 525. LIMITATION ON DEDUCTION FOR TERTIARY**
15 **INJECTANTS.**

16 (a) IN GENERAL.—Section 193 of the Internal Rev-
17 enue Code of 1986 is amended by adding at the end the
18 following new subsection:

19 “(d) APPLICATION WITH RESPECT TO MAJOR INTE-
20 GRATED OIL COMPANIES.—This section shall not apply to
21 amounts paid or incurred by a taxpayer in any taxable
22 year in which such taxpayer is a major integrated oil com-
23 pany (as defined in section 167(h)(5)(B)).”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to amounts paid or incurred in tax-
26 able years beginning after December 31, 2011.

1 **PART II—OUTER CONTINENTAL SHELF OIL AND**
2 **NATURAL GAS**

3 **SEC. 531. REPEAL OF OUTER CONTINENTAL SHELF DEEP**
4 **WATER AND DEEP GAS ROYALTY RELIEF.**

5 (a) IN GENERAL.—Sections 344 and 345 of the En-
6 ergy Policy Act of 2005 (42 U.S.C. 15904, 15905) are
7 repealed.

8 (b) ADMINISTRATION.—The Secretary of the Interior
9 shall not be required to provide for royalty relief in the
10 lease sale terms beginning with the first lease sale held
11 on or after the date of enactment of this Act for which
12 a final notice of sale has not been published.

○