

In the Senate of the United States,

March 10, 2010.

Resolved, That the bill from the House of Representatives (H.R. 4213) entitled “An Act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;***
2 ***TABLE OF CONTENTS.***

3 *(a) SHORT TITLE.—This Act may be cited as the*
4 *“American Workers, State, and Business Relief Act of*
5 *2010”.*

6 *(b) AMENDMENT OF 1986 CODE.—Except as otherwise*
7 *expressly provided, whenever in this Act an amendment or*
8 *repeal is expressed in terms of an amendment to, or repeal*
9 *of, a section or other provision, the reference shall be consid-*

1 *ered to be made to a section or other provision of the Inter-*
 2 *nal Revenue Code of 1986.*

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

- Sec. 101. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.*
Sec. 102. Incentives for biodiesel and renewable diesel.
Sec. 103. Credit for electricity produced at certain open-loop biomass facilities.
Sec. 104. Credit for refined coal facilities.
Sec. 105. Credit for production of low sulfur diesel fuel.
Sec. 106. Credit for producing fuel from coke or coke gas.
Sec. 107. New energy efficient home credit.
Sec. 108. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
Sec. 109. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
Sec. 110. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

- Sec. 111. Deduction for certain expenses of elementary and secondary school teachers.*
Sec. 112. Additional standard deduction for State and local real property taxes.
Sec. 113. Deduction of State and local sales taxes.
Sec. 114. Contributions of capital gain real property made for conservation purposes.
Sec. 115. Above-the-line deduction for qualified tuition and related expenses.
Sec. 116. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 117. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

PART II—LOW-INCOME HOUSING CREDITS

- Sec. 121. Election for refundable low-income housing credit for 2010.*

Subtitle C—Business Tax Relief

- Sec. 131. Research credit.*
Sec. 132. Indian employment tax credit.
Sec. 133. New markets tax credit.
Sec. 134. Railroad track maintenance credit.
Sec. 135. Mine rescue team training credit.

- Sec. 136. Employer wage credit for employees who are active duty members of the uniformed services.*
- Sec. 137. 5-year depreciation for farming business machinery and equipment.*
- Sec. 138. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.*
- Sec. 139. 7-year recovery period for motorsports entertainment complexes.*
- Sec. 140. Accelerated depreciation for business property on an Indian reservation.*
- Sec. 141. Enhanced charitable deduction for contributions of food inventory.*
- Sec. 142. Enhanced charitable deduction for contributions of book inventories to public schools.*
- Sec. 143. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.*
- Sec. 144. Election to expense mine safety equipment.*
- Sec. 145. Special expensing rules for certain film and television productions.*
- Sec. 146. Expensing of environmental remediation costs.*
- Sec. 147. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.*
- Sec. 148. Modification of tax treatment of certain payments to controlling exempt organizations.*
- Sec. 149. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.*
- Sec. 150. Timber REIT modernization.*
- Sec. 151. Treatment of certain dividends and assets of regulated investment companies.*
- Sec. 152. RIC qualified investment entity treatment under FIRPTA.*
- Sec. 153. Exceptions for active financing income.*
- Sec. 154. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.*
- Sec. 155. Reduction in corporate rate for qualified timber gain.*
- Sec. 156. Basis adjustment to stock of S corps making charitable contributions of property.*
- Sec. 157. Empowerment zone tax incentives.*
- Sec. 158. Tax incentives for investment in the District of Columbia.*
- Sec. 159. Renewal community tax incentives.*
- Sec. 160. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.*
- Sec. 161. American Samoa economic development credit.*

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

- Sec. 171. Waiver of certain mortgage revenue bond requirements.*
- Sec. 172. Losses attributable to federally declared disasters.*
- Sec. 173. Special depreciation allowance for qualified disaster property.*
- Sec. 174. Net operating losses attributable to federally declared disasters.*
- Sec. 175. Expensing of qualified disaster expenses.*

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

- Sec. 181. Special depreciation allowance for nonresidential and residential real property.*
- Sec. 182. Tax-exempt bond financing.*

SUBPART B—GO ZONE

- Sec. 183. Special depreciation allowance.*
Sec. 184. Increase in rehabilitation credit.
Sec. 185. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.

SUBPART C—MIDWESTERN DISASTER AREAS

- Sec. 191. Special rules for use of retirement funds.*
Sec. 192. Exclusion of cancellation of mortgage indebtedness.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

- Sec. 201. Extension of unemployment insurance provisions.*

Subtitle B—Health Provisions

- Sec. 211. Extension and improvement of premium assistance for COBRA benefits.*
Sec. 212. Extension of therapy caps exceptions process.
Sec. 213. Treatment of pharmacies under durable medical equipment accreditation requirements.
Sec. 214. Enhanced payment for mental health services.
Sec. 215. Extension of ambulance add-ons.
Sec. 216. Extension of geographic floor for work.
Sec. 217. Extension of payment for technical component of certain physician pathology services.
Sec. 218. Extension of outpatient hold harmless provision.
Sec. 219. EHR Clarification.
Sec. 220. Extension of reimbursement for all Medicare part B services furnished by certain Indian hospitals and clinics.
Sec. 221. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.
Sec. 222. Extension of the Medicare rural hospital flexibility program.
Sec. 223. Extension of section 508 hospital reclassifications.
Sec. 224. Technical correction related to critical access hospital services.
Sec. 225. Extension for specialized MA plans for special needs individuals.
Sec. 226. Extension of reasonable cost contracts.
Sec. 227. Extension of particular waiver policy for employer group plans.
Sec. 228. Extension of continuing care retirement community program.
Sec. 229. Funding outreach and assistance for low-income programs.
Sec. 230. Family-to-family health information centers.
Sec. 231. Implementation funding.
Sec. 232. Extension of ARRA increase in FMAP.
Sec. 233. Extension of gainsharing demonstration.

Subtitle C—Other Provisions

- Sec. 241. Extension of use of 2009 poverty guidelines.*
Sec. 242. Refunds disregarded in the administration of Federal programs and federally assisted programs.
Sec. 243. State court improvement program.
Sec. 244. Extension of national flood insurance program.

Sec. 245. Emergency disaster assistance.

Sec. 246. Small business loan guarantee enhancement extensions.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

Sec. 301. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.

Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.

Sec. 303. Lookback for certain benefit restrictions.

Sec. 304. Lookback for credit balance rule for plans maintained by charities.

Subtitle B—Multiemployer Plans

Sec. 311. Adjustments to funding standard account rules.

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

Sec. 401. Exclusion of unprocessed fuels from the cellulosic biofuel producer credit.

Sec. 402. Prohibition on alternative fuel credit and alternative fuel mixture credit for black liquor.

Subtitle B—Homebuyer Credit

Sec. 411. Technical modifications to homebuyer credit.

Subtitle C—Economic Substance

Sec. 421. Codification of economic substance doctrine; penalties.

Subtitle D—Additional Provisions

Sec. 431. Revision to the Medicare Improvement Fund.

TITLE V—SATELLITE TELEVISION EXTENSION

Sec. 500. Short title.

Subtitle A—Statutory Licenses

Sec. 501. Reference.

Sec. 502. Modifications to statutory license for satellite carriers.

Sec. 503. Modifications to statutory license for satellite carriers in local markets.

Sec. 504. Modifications to cable system secondary transmission rights under section 111.

Sec. 505. Certain waivers granted to providers of local-into-local service for all DMAs.

Sec. 506. Copyright Office fees.

Sec. 507. Termination of license.

Sec. 508. Construction.

Subtitle B—Communications Provisions

Sec. 521. Reference.

Sec. 522. Extension of authority.

- Sec. 523. Significantly viewed stations.*
- Sec. 524. Digital television transition conforming amendments.*
- Sec. 525. Application pending completion of rulemakings.*
- Sec. 526. Process for issuing qualified carrier certification.*
- Sec. 527. Nondiscrimination in carriage of high definition digital signals of non-commercial educational television stations.*
- Sec. 528. Savings clause regarding definitions.*
- Sec. 529. State public affairs broadcasts.*

Subtitle C—Reports and Savings Provision

- Sec. 531. Definition.*
- Sec. 532. Report on market based alternatives to statutory licensing.*
- Sec. 533. Report on communications implications of statutory licensing modifications.*
- Sec. 534. Report on in-state broadcast programming.*
- Sec. 535. Local network channel broadcast reports.*
- Sec. 536. Savings provision regarding use of negotiated licenses.*
- Sec. 537. Effective date; noninfringement of copyright.*

Subtitle D—Severability

- Sec. 541. Severability.*

TITLE VI—OTHER PROVISIONS

- Sec. 601. Increase in the Medicare physician payment update.*
- Sec. 602. Election to temporarily utilize unused AMT credits determined by domestic investment.*
- Sec. 603. Information reporting for rental property expense payments.*
- Sec. 604. Extension of low-income housing credit rules for buildings in GO zones.*
- Sec. 605. Increase in information return penalties.*
- Sec. 606. Tax-exempt bond financing.*
- Sec. 607. Application of levy to payments to Federal vendors relating to property.*
- Sec. 608. Election for refundable low-income housing credit for 2010.*
- Sec. 609. Low-income housing grant election.*
- Sec. 610. Rollovers from elective deferral plans to Roth designated accounts.*
- Sec. 611. Modification of standards for windows, doors, and skylights with respect to the credit for nonbusiness energy property.*
- Sec. 612. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.*
- Sec. 613. Extension of special allowance for certain property.*
- Sec. 614. Application of bad checks penalty to electronic payments.*
- Sec. 615. Grants for energy efficient appliances in lieu of tax credit.*
- Sec. 616. Budgetary effects of legislation passed by the Senate.*
- Sec. 617. Senate spending disclosure.*
- Sec. 618. Allocation of geothermal receipts.*
- Sec. 619. Qualifying timber contract options.*
- Sec. 620. ARRA planning and reporting.*
- Sec. 621. GAO study.*
- Sec. 622. Extension and modification of section 45 credit for refined coal from steel industry fuel.*
- Sec. 623. Modifications to mine rescue team training credit and election to expense advanced mine safety equipment.*
- Sec. 624. Application of continuous levy to employment tax liability of certain Federal contractors.*

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

Sec. 701. Determination of budgetary effects.

1 **TITLE I—EXTENSION OF**
2 **EXPIRING PROVISIONS**
3 **Subtitle A—Energy**

4 **SEC. 101. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW**
5 **QUALIFIED HYBRID MOTOR VEHICLES OTHER**
6 **THAN PASSENGER AUTOMOBILES AND LIGHT**
7 **TRUCKS.**

8 (a) *IN GENERAL.*—Paragraph (3) of section 30B(k) is
9 amended by striking “December 31, 2009” and inserting
10 “December 31, 2010”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
12 section shall apply to property purchased after December
13 31, 2009.

14 **SEC. 102. INCENTIVES FOR BIODIESEL AND RENEWABLE**
15 **DIESEL.**

16 (a) *CREDITS FOR BIODIESEL AND RENEWABLE DIE-*
17 *SEL USED AS FUEL.*—Subsection (g) of section 40A is
18 amended by striking “December 31, 2009” and inserting
19 “December 31, 2010”.

20 (b) *EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR*
21 *BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.*—

22 (1) Paragraph (6) of section 6426(c) is amended
23 by striking “December 31, 2009” and inserting “De-
24 cember 31, 2010”.

1 (2) *Subparagraph (B) of section 6427(e)(6) is*
2 *amended by striking “December 31, 2009” and insert-*
3 *ing “December 31, 2010”.*

4 (c) *EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply to fuel sold or used after December 31,*
6 *2009.*

7 **SEC. 103. CREDIT FOR ELECTRICITY PRODUCED AT CER-**
8 **TAIN OPEN-LOOP BIOMASS FACILITIES.**

9 (a) *IN GENERAL.—Clause (ii) of section 45(b)(4)(B)*
10 *is amended by striking “5-year period” and inserting “6-*
11 *year period”.*

12 (b) *EFFECTIVE DATE.—The amendment made by this*
13 *section shall apply to electricity produced and sold after*
14 *December 31, 2009.*

15 **SEC. 104. CREDIT FOR REFINED COAL FACILITIES.**

16 (a) *IN GENERAL.—Subparagraphs (A) and (B) of sec-*
17 *tion 45(d)(8) are each amended by striking “January 1,*
18 *2010” and inserting “January 1, 2011”.*

19 (b) *EFFECTIVE DATE.—The amendments made by this*
20 *section shall apply to facilities placed in service after De-*
21 *cember 31, 2009.*

1 **SEC. 105. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**
2 **SEL FUEL.**

3 (a) *APPLICABLE PERIOD.*—Paragraph (4) of section
4 45H(c) is amended by striking “December 31, 2009” and
5 inserting “December 31, 2010”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall take effect as if included in section 339 of the
8 American Jobs Creation Act of 2004.

9 **SEC. 106. CREDIT FOR PRODUCING FUEL FROM COKE OR**
10 **COKE GAS.**

11 (a) *IN GENERAL.*—Paragraph (1) of section 45K(g) is
12 amended by striking “January 1, 2010” and inserting
13 “January 1, 2011”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to facilities placed in service after De-
16 cember 31, 2009.

17 **SEC. 107. NEW ENERGY EFFICIENT HOME CREDIT.**

18 (a) *IN GENERAL.*—Subsection (g) of section 45L is
19 amended by striking “December 31, 2009” and inserting
20 “December 31, 2010”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to homes acquired after December 31,
23 2009.

1 **SEC. 108. EXCISE TAX CREDITS AND OUTLAY PAYMENTS**
2 **FOR ALTERNATIVE FUEL AND ALTERNATIVE**
3 **FUEL MIXTURES.**

4 (a) *IN GENERAL.*—Sections 6426(d)(5), 6426(e)(3),
5 and 6427(e)(6)(C) are each amended by striking “December
6 31, 2009” and inserting “December 31, 2010”.

7 (b) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to fuel sold or used after December 31,
9 2009.

10 **SEC. 109. SPECIAL RULE FOR SALES OR DISPOSITIONS TO**
11 **IMPLEMENT FERC OR STATE ELECTRIC RE-**
12 **STRUCTURING POLICY FOR QUALIFIED ELEC-**
13 **TRIC UTILITIES.**

14 (a) *IN GENERAL.*—Paragraph (3) of section 451(i) is
15 amended by striking “January 1, 2010” and inserting
16 “January 1, 2011”.

17 (b) *EFFECTIVE DATE.*—The amendment made by this
18 section shall apply to transactions after December 31, 2009.

19 **SEC. 110. SUSPENSION OF LIMITATION ON PERCENTAGE**
20 **DEPLETION FOR OIL AND GAS FROM MAR-**
21 **GINAL WELLS.**

22 (a) *IN GENERAL.*—Clause (ii) of section
23 613A(c)(6)(H) is amended by striking “January 1, 2010”
24 and inserting “January 1, 2011”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2009.*

4 ***Subtitle B—Individual Tax Relief***

5 ***PART I—MISCELLANEOUS PROVISIONS***

6 ***SEC. 111. DEDUCTION FOR CERTAIN EXPENSES OF ELEMEN-*** 7 ***TARY AND SECONDARY SCHOOL TEACHERS.***

8 (a) *IN GENERAL.*—*Subparagraph (D) of section*
9 *62(a)(2) is amended by striking “or 2009” and inserting*
10 *“2009, or 2010”.*

11 (b) *EFFECTIVE DATE.*—*The amendment made by this*
12 *section shall apply to taxable years beginning after Decem-*
13 *ber 31, 2009.*

14 ***SEC. 112. ADDITIONAL STANDARD DEDUCTION FOR STATE*** 15 ***AND LOCAL REAL PROPERTY TAXES.***

16 (a) *IN GENERAL.*—*Subparagraph (C) of section*
17 *63(c)(1) is amended by striking “or 2009” and inserting*
18 *“2009, or 2010”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
20 *section shall apply to taxable years beginning after Decem-*
21 *ber 31, 2009.*

22 ***SEC. 113. DEDUCTION OF STATE AND LOCAL SALES TAXES.***

23 (a) *IN GENERAL.*—*Subparagraph (I) of section*
24 *164(b)(5) is amended by striking “January 1, 2010” and*
25 *inserting “January 1, 2011”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2009.*

4 **SEC. 114. CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-**
5 **ERTY MADE FOR CONSERVATION PURPOSES.**

6 **(a) IN GENERAL.**—*Clause (vi) of section 170(b)(1)(E)*
7 *is amended by striking “December 31, 2009” and inserting*
8 *“December 31, 2010”.*

9 **(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARM-**
10 **ERS AND RANCHERS.**—*Clause (iii) of section 170(b)(2)(B)*
11 *is amended by striking “December 31, 2009” and inserting*
12 *“December 31, 2010”.*

13 **(c) EFFECTIVE DATE.**—*The amendments made by this*
14 *section shall apply to contributions made in taxable years*
15 *beginning after December 31, 2009.*

16 **SEC. 115. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
17 **TUITION AND RELATED EXPENSES.**

18 **(a) IN GENERAL.**—*Subsection (e) of section 222 is*
19 *amended by striking “December 31, 2009” and inserting*
20 *“December 31, 2010”.*

21 **(b) EFFECTIVE DATE.**—*The amendment made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2009.*

1 **SEC. 116. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
 2 **TIREMENT PLANS FOR CHARITABLE PUR-**
 3 **POSES.**

4 (a) *IN GENERAL.*—Subparagraph (F) of section
 5 408(d)(8) is amended by striking “December 31, 2009” and
 6 inserting “December 31, 2010”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this
 8 section shall apply to distributions made in taxable years
 9 beginning after December 31, 2009.

10 **SEC. 117. LOOK-THRU OF CERTAIN REGULATED INVEST-**
 11 **MENT COMPANY STOCK IN DETERMINING**
 12 **GROSS ESTATE OF NONRESIDENTS.**

13 (a) *IN GENERAL.*—Paragraph (3) of section 2105(d)
 14 is amended by striking “December 31, 2009” and inserting
 15 “December 31, 2010”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this
 17 section shall apply to estates of decedents dying after De-
 18 cember 31, 2009.

19 **PART II—LOW-INCOME HOUSING CREDITS**

20 **SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUS-**
 21 **ING CREDIT FOR 2010.**

22 (a) *IN GENERAL.*—Section 42 is amended by redesi-
 23 gnating subsection (n) as subsection (o) and by inserting
 24 after subsection (m) the following new subsection:

25 “(n) *ELECTION FOR REFUNDABLE CREDITS.*—

1 “(1) *IN GENERAL.*—*The housing credit agency of*
2 *each State shall be allowed a credit in an amount*
3 *equal to such State’s 2010 low-income housing refund-*
4 *able credit election amount, which shall be payable by*
5 *the Secretary as provided in paragraph (5).*

6 “(2) *2010 LOW-INCOME HOUSING REFUNDABLE*
7 *CREDIT ELECTION AMOUNT.*—*For purposes of this*
8 *subsection, the term ‘2010 low-income housing refund-*
9 *able credit election amount’ means, with respect to*
10 *any State, such amount as the State may elect which*
11 *does not exceed 85 percent of the product of—*

12 “(A) *the sum of—*

13 “(i) *100 percent of the State housing*
14 *credit ceiling for 2010 which is attributable*
15 *to amounts described in clauses (i) and (iii)*
16 *of subsection (h)(3)(C), and*

17 “(ii) *40 percent of the State housing*
18 *credit ceiling for 2010 which is attributable*
19 *to amounts described in clauses (ii) and*
20 *(iv) of such subsection, multiplied by*

21 “(B) *10.*

22 “(3) *COORDINATION WITH NON-REFUNDABLE*
23 *CREDIT.*—*For purposes of this section, the amounts*
24 *described in clauses (i) through (iv) of subsection*
25 *(h)(3)(C) with respect to any State for 2010 shall*

1 *each be reduced by so much of such amount as is*
2 *taken into account in determining the amount of the*
3 *credit allowed with respect to such State under para-*
4 *graph (1).*

5 “(4) *SPECIAL RULE FOR BASIS.—Basis of a*
6 *qualified low-income building shall not be reduced by*
7 *the amount of any payment made under this sub-*
8 *section.*

9 “(5) *PAYMENT OF CREDIT; USE TO FINANCE*
10 *LOW-INCOME BUILDINGS.—The Secretary shall pay to*
11 *the housing credit agency of each State an amount*
12 *equal to the credit allowed under paragraph (1).*
13 *Rules similar to the rules of subsections (c) and (d)*
14 *of section 1602 of the American Recovery and Rein-*
15 *vestment Tax Act of 2009 shall apply with respect to*
16 *any payment made under this paragraph, except that*
17 *such subsection (d) shall be applied by substituting*
18 *‘January 1, 2012’ for ‘January 1, 2011’.*”

19 (b) *CONFORMING AMENDMENT.—Section 1324(b)(2) of*
20 *title 31, United States Code, is amended by inserting*
21 *“42(n),” after “36A,”.*

1 ***Subtitle C—Business Tax Relief***

2 **SEC. 131. RESEARCH CREDIT.**

3 (a) *IN GENERAL.*—Subparagraph (B) of section
4 41(h)(1) is amended by striking “December 31, 2009” and
5 inserting “December 31, 2010”.

6 (b) *CONFORMING AMENDMENT.*—Subparagraph (D) of
7 section 45C(b)(1) is amended by striking “December 31,
8 2009” and inserting “December 31, 2010”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to amounts paid or incurred after De-
11 cember 31, 2009.

12 **SEC. 132. INDIAN EMPLOYMENT TAX CREDIT.**

13 (a) *IN GENERAL.*—Subsection (f) of section 45A is
14 amended by striking “December 31, 2009” and inserting
15 “December 31, 2010”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this
17 section shall apply to taxable years beginning after Decem-
18 ber 31, 2009.

19 **SEC. 133. NEW MARKETS TAX CREDIT.**

20 (a) *IN GENERAL.*—Subparagraph (F) of section
21 45D(f)(1) is amended by inserting “and 2010” after
22 “2009”.

23 (b) *CONFORMING AMENDMENT.*—Paragraph (3) of sec-
24 tion 45D(f) is amended by striking “2014” and inserting
25 “2015”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to calendar years beginning after 2009.*

3 **SEC. 134. RAILROAD TRACK MAINTENANCE CREDIT.**

4 (a) *IN GENERAL.*—*Subsection (f) of section 45G is*
5 *amended by striking “January 1, 2010” and inserting*
6 *“January 1, 2011”.*

7 (b) *EFFECTIVE DATE.*—*The amendment made by this*
8 *section shall apply to expenditures paid or incurred in tax-*
9 *able years beginning after December 31, 2009.*

10 **SEC. 135. MINE RESCUE TEAM TRAINING CREDIT.**

11 (a) *IN GENERAL.*—*Subsection (e) of section 45N is*
12 *amended by striking “December 31, 2009” and inserting*
13 *“December 31, 2010”.*

14 (b) *EFFECTIVE DATE.*—*The amendment made by this*
15 *section shall apply to taxable years beginning after Decem-*
16 *ber 31, 2009.*

17 **SEC. 136. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
18 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
19 **FORMED SERVICES.**

20 (a) *IN GENERAL.*—*Subsection (f) of section 45P is*
21 *amended by striking “December 31, 2009” and inserting*
22 *“December 31, 2010”.*

23 (b) *EFFECTIVE DATE.*—*The amendment made by this*
24 *section shall apply to payments made after December 31,*
25 *2009.*

1 **SEC. 137. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**
2 **MACHINERY AND EQUIPMENT.**

3 (a) *IN GENERAL.*—Clause (vii) of section 168(e)(3)(B)
4 is amended by striking “January 1, 2010” and inserting
5 “January 1, 2011”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to property placed in service after De-
8 cember 31, 2009.

9 **SEC. 138. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**
10 **QUALIFIED LEASEHOLD IMPROVEMENTS,**
11 **QUALIFIED RESTAURANT BUILDINGS AND IM-**
12 **PROVEMENTS, AND QUALIFIED RETAIL IM-**
13 **PROVEMENTS.**

14 (a) *IN GENERAL.*—Clauses (iv), (v), and (ix) of section
15 168(e)(3)(E) are each amended by striking “January 1,
16 2010” and inserting “January 1, 2011”.

17 (b) *CONFORMING AMENDMENTS.*—

18 (1) Clause (i) of section 168(e)(7)(A) is amended
19 by striking “if such building is placed in service after
20 December 31, 2008, and before January 1, 2010,”.

21 (2) Paragraph (8) of section 168(e) is amended
22 by striking subparagraph (E).

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to property placed in service after De-
25 cember 31, 2009.

1 **SEC. 139. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**
2 **ENTERTAINMENT COMPLEXES.**

3 (a) *IN GENERAL.*—Subparagraph (D) of section
4 168(i)(15) is amended by striking “December 31, 2009” and
5 inserting “December 31, 2010”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to property placed in service after De-
8 cember 31, 2009.

9 **SEC. 140. ACCELERATED DEPRECIATION FOR BUSINESS**
10 **PROPERTY ON AN INDIAN RESERVATION.**

11 (a) *IN GENERAL.*—Paragraph (8) of section 168(j) is
12 amended by striking “December 31, 2009” and inserting
13 “December 31, 2010”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to property placed in service after De-
16 cember 31, 2009.

17 **SEC. 141. ENHANCED CHARITABLE DEDUCTION FOR CON-**
18 **TRIBUTIONS OF FOOD INVENTORY.**

19 (a) *IN GENERAL.*—Clause (iv) of section 170(e)(3)(C)
20 is amended by striking “December 31, 2009” and inserting
21 “December 31, 2010”.

22 (b) *EFFECTIVE DATE.*—The amendment made by this
23 section shall apply to contributions made after December
24 31, 2009.

1 **SEC. 142. ENHANCED CHARITABLE DEDUCTION FOR CON-**
2 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
3 **LIC SCHOOLS.**

4 (a) *IN GENERAL.*—Clause (iv) of section 170(e)(3)(D)
5 is amended by striking “December 31, 2009” and inserting
6 “December 31, 2010”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this
8 section shall apply to contributions made after December
9 31, 2009.

10 **SEC. 143. ENHANCED CHARITABLE DEDUCTION FOR COR-**
11 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
12 **VENTORY FOR EDUCATIONAL PURPOSES.**

13 (a) *IN GENERAL.*—Subparagraph (G) of section
14 170(e)(6) is amended by striking “December 31, 2009” and
15 inserting “December 31, 2010”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this
17 section shall apply to contributions made in taxable years
18 beginning after December 31, 2009.

19 **SEC. 144. ELECTION TO EXPENSE MINE SAFETY EQUIP-**
20 **MENT.**

21 (a) *IN GENERAL.*—Subsection (g) of section 179E is
22 amended by striking “December 31, 2009” and inserting
23 “December 31, 2010”.

24 (b) *EFFECTIVE DATE.*—The amendment made by this
25 section shall apply to property placed in service after De-
26 cember 31, 2009.

1 **SEC. 145. SPECIAL EXPENSING RULES FOR CERTAIN FILM**
2 **AND TELEVISION PRODUCTIONS.**

3 (a) *IN GENERAL.*—Subsection (f) of section 181 is
4 amended by striking “December 31, 2009” and inserting
5 “December 31, 2010”.

6 (b) *EFFECTIVE DATE.*—The amendment made by this
7 section shall apply to productions commencing after Decem-
8 ber 31, 2009.

9 **SEC. 146. EXPENSING OF ENVIRONMENTAL REMEDIATION**
10 **COSTS.**

11 (a) *IN GENERAL.*—Subsection (h) of section 198 is
12 amended by striking “December 31, 2009” and inserting
13 “December 31, 2010”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to expenditures paid or incurred after
16 December 31, 2009.

17 **SEC. 147. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
18 **COME ATTRIBUTABLE TO DOMESTIC PRODUC-**
19 **TION ACTIVITIES IN PUERTO RICO.**

20 (a) *IN GENERAL.*—Subparagraph (C) of section
21 199(d)(8) is amended—

22 (1) by striking “first 4 taxable years” and in-
23 sserting “first 5 taxable years”, and

24 (2) by striking “January 1, 2010” and inserting
25 “January 1, 2011”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2009.*

4 **SEC. 148. MODIFICATION OF TAX TREATMENT OF CERTAIN**
5 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
6 **NIZATIONS.**

7 (a) *IN GENERAL.*—*Clause (iv) of section 512(b)(13)(E)*
8 *is amended by striking “December 31, 2009” and inserting*
9 *“December 31, 2010”.*

10 (b) *EFFECTIVE DATE.*—*The amendment made by this*
11 *section shall apply to payments received or accrued after*
12 *December 31, 2009.*

13 **SEC. 149. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**
14 **CHANGE OF CERTAIN BROWNFIELD SITES**
15 **FROM UNRELATED BUSINESS INCOME.**

16 (a) *IN GENERAL.*—*Subparagraph (K) of section*
17 *512(b)(19) is amended by striking “December 31, 2009”*
18 *and inserting “December 31, 2010”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
20 *section shall apply to property acquired after December 31,*
21 *2009.*

22 **SEC. 150. TIMBER REIT MODERNIZATION.**

23 (a) *IN GENERAL.*—*Paragraph (8) of section 856(c) is*
24 *amended by striking “means” and all that follows and in-*
25 *serting “means December 31, 2010.”.*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *Subparagraph (I) of section 856(c)(2) is*
3 *amended by striking “the first taxable year beginning*
4 *after the date of the enactment of this subparagraph”*
5 *and inserting “in a taxable year beginning on or be-*
6 *fore the termination date”.*

7 (2) *Clause (iii) of section 856(c)(5)(H) is*
8 *amended by inserting “in taxable years beginning”*
9 *after “dispositions”.*

10 (3) *Clause (v) of section 857(b)(6)(D) is amended*
11 *by inserting “in a taxable year beginning” after*
12 *“sale”.*

13 (4) *Subparagraph (G) of section 857(b)(6) is*
14 *amended by inserting “in a taxable year beginning”*
15 *after “In the case of a sale”.*

16 (c) *EFFECTIVE DATE.*—*The amendments made by this*
17 *section shall apply to taxable years ending after May 22,*
18 *2009.*

19 **SEC. 151. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS**
20 **OF REGULATED INVESTMENT COMPANIES.**

21 (a) *IN GENERAL.*—*Paragraphs (1)(C) and (2)(C) of*
22 *section 871(k) are each amended by striking “December 31,*
23 *2009” and inserting “December 31, 2010”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2009.*

4 **SEC. 152. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**
5 **UNDER FIRPTA.**

6 (a) *IN GENERAL.*—*Clause (ii) of section 897(h)(4)(A)*
7 *is amended by striking “December 31, 2009” and inserting*
8 *“December 31, 2010”.*

9 (b) *EFFECTIVE DATE.*—

10 (1) *IN GENERAL.*—*The amendment made by sub-*
11 *section (a) shall take effect on January 1, 2010. Not-*
12 *withstanding the preceding sentence, such amendment*
13 *shall not apply with respect to the withholding re-*
14 *quirement under section 1445 of the Internal Revenue*
15 *Code of 1986 for any payment made before the date*
16 *of the enactment of this Act.*

17 (2) *AMOUNTS WITHHELD ON OR BEFORE DATE*
18 *OF ENACTMENT.*—*In the case of a regulated invest-*
19 *ment company—*

20 (A) *which makes a distribution after De-*
21 *cember 31, 2009, and before the date of the enact-*
22 *ment of this Act, and*

23 (B) *which would (but for the second sen-*
24 *tence of paragraph (1)) have been required to*

1 *withhold with respect to such distribution under*
2 *section 1445 of such Code,*
3 *such investment company shall not be liable to any*
4 *person to whom such distribution was made for any*
5 *amount so withheld and paid over to the Secretary of*
6 *the Treasury.*

7 **SEC. 153. EXCEPTIONS FOR ACTIVE FINANCING INCOME.**

8 *(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9)*
9 *are each amended by striking “January 1, 2010” and in-*
10 *serting “January 1, 2011”.*

11 *(b) CONFORMING AMENDMENT.—Section 953(e)(10) is*
12 *amended by striking “December 31, 2009” and inserting*
13 *“December 31, 2010”.*

14 *(c) EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to taxable years of foreign corporations*
16 *beginning after December 31, 2009, and to taxable years*
17 *of United States shareholders with or within which any*
18 *such taxable year of such foreign corporation ends.*

19 **SEC. 154. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN**
20 **RELATED CONTROLLED FOREIGN CORPORA-**
21 **TIONS UNDER FOREIGN PERSONAL HOLDING**
22 **COMPANY RULES.**

23 *(a) IN GENERAL.—Subparagraph (C) of section*
24 *954(c)(6) is amended by striking “January 1, 2010” and*
25 *inserting “January 1, 2011”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by this*
2 *section shall apply to taxable years of foreign corporations*
3 *beginning after December 31, 2009, and to taxable years*
4 *of United States shareholders with or within which any*
5 *such taxable year of such foreign corporation ends.*

6 **SEC. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED**
7 **TIMBER GAIN.**

8 **(a) IN GENERAL.**—*Paragraph (1) of section 1201(b)*
9 *is amended by striking “ending” and all that follows*
10 *through “such date”.*

11 **(b) CONFORMING AMENDMENT.**—*Paragraph (3) of sec-*
12 *tion 1201(b) is amended to read as follows:*

13 **“(3) APPLICATION OF SUBSECTION.**—*The quali-*
14 *fied timber gain for any taxable year shall not exceed*
15 *the qualified timber gain which would be determined*
16 *by not taking into account any portion of such tax-*
17 *able year after December 31, 2010.”.*

18 **(c) EFFECTIVE DATE.**—*The amendments made by this*
19 *section shall apply to taxable years ending after May 22,*
20 *2009.*

1 **SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**
2 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
3 **ERTY.**

4 (a) *IN GENERAL.*—Paragraph (2) of section 1367(a)
5 is amended by striking “December 31, 2009” and inserting
6 “December 31, 2010”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this
8 section shall apply to contributions made in taxable years
9 beginning after December 31, 2009.

10 **SEC. 157. EMPOWERMENT ZONE TAX INCENTIVES.**

11 (a) *IN GENERAL.*—Section 1391 is amended—

12 (1) by striking “December 31, 2009” in sub-
13 section (d)(1)(A)(i) and inserting “December 31,
14 2010”, and

15 (2) by striking the last sentence of subsection
16 (h)(2).

17 (b) *INCREASED EXCLUSION OF GAIN ON STOCK OF EM-*
18 *POWERMENT ZONE BUSINESSES.*—Subparagraph (C) of
19 section 1202(a)(2) is amended—

20 (1) by striking “December 31, 2014” and insert-
21 ing “December 31, 2015”, and

22 (2) by striking “2014” in the heading and insert-
23 ing “2015”.

24 (c) *TREATMENT OF CERTAIN TERMINATION DATES*
25 *SPECIFIED IN NOMINATIONS.*—In the case of a designation
26 of an empowerment zone the nomination for which included

1 *a termination date which is contemporaneous with the date*
2 *specified in subparagraph (A)(i) of section 1391(d)(1) of*
3 *the Internal Revenue Code of 1986 (as in effect before the*
4 *enactment of this Act), subparagraph (B) of such section*
5 *shall not apply with respect to such designation unless,*
6 *after the date of the enactment of this section, the entity*
7 *which made such nomination reconfirms such termination*
8 *date, or amends the nomination to provide for a new termi-*
9 *nation date, in such manner as the Secretary of the Treas-*
10 *ury (or the Secretary's designee) may provide.*

11 *(d) EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to periods after December 31, 2009.*

13 **SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
14 **TRICT OF COLUMBIA.**

15 *(a) IN GENERAL.—Subsection (f) of section 1400 is*
16 *amended by striking “December 31, 2009” each place it ap-*
17 *pears and inserting “December 31, 2010”.*

18 *(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—*
19 *Subsection (b) of section 1400A is amended by striking “De-*
20 *cember 31, 2009” and inserting “December 31, 2010”.*

21 *(c) ZERO-PERCENT CAPITAL GAINS RATE.—*

22 *(1) ACQUISITION DATE.—Paragraphs (2)(A)(i),*
23 *(3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b)*
24 *are each amended by striking “January 1, 2010” and*
25 *inserting “January 1, 2011”.*

1 (2) *LIMITATION ON PERIOD OF GAINS.*—

2 (A) *IN GENERAL.*—*Paragraph (2) of section*
3 1400B(e) *is amended—*

4 (i) *by striking “December 31, 2014”*
5 *and inserting “December 31, 2015”, and*

6 (ii) *by striking “2014” in the heading*
7 *and inserting “2015”.*

8 (B) *PARTNERSHIPS AND S-CORPS.*—*Para-*
9 *graph (2) of section 1400B(g) is amended by*
10 *striking “December 31, 2014” and inserting “De-*
11 *cember 31, 2015”.*

12 (d) *FIRST-TIME HOMEBUYER CREDIT.*—*Subsection (i)*
13 *of section 1400C is amended by striking “January 1, 2010”*
14 *and inserting “January 1, 2011”.*

15 (e) *EFFECTIVE DATES.*—

16 (1) *IN GENERAL.*—*Except as otherwise provided*
17 *in this subsection, the amendments made by this sec-*
18 *tion shall apply to periods after December 31, 2009.*

19 (2) *TAX-EXEMPT DC EMPOWERMENT ZONE*
20 *BONDS.*—*The amendment made by subsection (b)*
21 *shall apply to bonds issued after December 31, 2009.*

22 (3) *ACQUISITION DATES FOR ZERO-PERCENT*
23 *CAPITAL GAINS RATE.*—*The amendments made by*
24 *subsection (c) shall apply to property acquired or sub-*
25 *stantially improved after December 31, 2009.*

1 (4) *HOMEBUYER CREDIT.*—*The amendment*
2 *made by subsection (d) shall apply to homes pur-*
3 *chased after December 31, 2009.*

4 **SEC. 159. RENEWAL COMMUNITY TAX INCENTIVES.**

5 (a) *IN GENERAL.*—*Subsection (b) of section 1400E is*
6 *amended—*

7 (1) *by striking “December 31, 2009” in para-*
8 *graphs (1)(A) and (3) and inserting “December 31,*
9 *2010”, and*

10 (2) *by striking “January 1, 2010” in paragraph*
11 *(3) and inserting “January 1, 2011”.*

12 (b) *ZERO-PERCENT CAPITAL GAINS RATE.*—

13 (1) *ACQUISITION DATE.*—*Paragraphs (2)(A)(i),*
14 *(3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b)*
15 *are each amended by striking “January 1, 2010” and*
16 *inserting “January 1, 2011”.*

17 (2) *LIMITATION ON PERIOD OF GAINS.*—*Para-*
18 *graph (2) of section 1400F(c) is amended—*

19 (A) *by striking “December 31, 2014” and*
20 *inserting “December 31, 2015”, and*

21 (B) *by striking “2014” in the heading and*
22 *inserting “2015”.*

23 (3) *CLERICAL AMENDMENT.*—*Subsection (d) of*
24 *section 1400F is amended by striking “and ‘December*
25 *31, 2014’ for ‘December 31, 2014’”.*

1 (c) *COMMERCIAL REVITALIZATION DEDUCTION.*—

2 (1) *IN GENERAL.*—Subsection (g) of section
3 1400I is amended by striking “December 31, 2009”
4 and inserting “December 31, 2010”.

5 (2) *CONFORMING AMENDMENT.*—Subparagraph
6 (A) of section 1400I(d)(2) is amended by striking
7 “after 2001 and before 2010” and inserting “which
8 begins after 2001 and before the date referred to in
9 subsection (g)”.

10 (d) *INCREASED EXPENSING UNDER SECTION 179.*—
11 Subparagraph (A) of section 1400J(b)(1) is amended by
12 striking “January 1, 2010” and inserting “January 1,
13 2011”.

14 (e) *TREATMENT OF CERTAIN TERMINATION DATES*
15 *SPECIFIED IN NOMINATIONS.*—In the case of a designation
16 of a renewal community the nomination for which included
17 a termination date which is contemporaneous with the date
18 specified in subparagraph (A) of section 1400E(b)(1) of the
19 Internal Revenue Code of 1986 (as in effect before the enact-
20 ment of this Act), subparagraph (B) of such section shall
21 not apply with respect to such designation unless, after the
22 date of the enactment of this section, the entity which made
23 such nomination reconfirms such termination date, or
24 amends the nomination to provide for a new termination

1 *date, in such manner as the Secretary of the Treasury (or*
2 *the Secretary’s designee) may provide.*

3 (f) *EFFECTIVE DATES.—*

4 (1) *IN GENERAL.—Except as otherwise provided*
5 *in this subsection, the amendments made by this sec-*
6 *tion shall apply to periods after December 31, 2009.*

7 (2) *ACQUISITIONS.—The amendments made by*
8 *subsections (b)(1) and (d) shall apply to acquisitions*
9 *after December 31, 2009.*

10 (3) *COMMERCIAL REVITALIZATION DEDUCTION.—*

11 (A) *IN GENERAL.—The amendment made*
12 *by subsection (c)(1) shall apply to buildings*
13 *placed in service after December 31, 2009.*

14 (B) *CONFORMING AMENDMENT.—The*
15 *amendment made by subsection (c)(2) shall*
16 *apply to calendar years beginning after Decem-*
17 *ber 31, 2009.*

18 **SEC. 160. TEMPORARY INCREASE IN LIMIT ON COVER OVER**
19 **OF RUM EXCISE TAXES TO PUERTO RICO AND**
20 **THE VIRGIN ISLANDS.**

21 (a) *IN GENERAL.—Paragraph (1) of section 7652(f) is*
22 *amended by striking “January 1, 2010” and inserting*
23 *“January 1, 2011”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to distilled spirits brought into the*
 3 *United States after December 31, 2009.*

4 **SEC. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT**
 5 **CREDIT.**

6 (a) *IN GENERAL.*—*Subsection (d) of section 119 of di-*
 7 *vision A of the Tax Relief and Health Care Act of 2006*
 8 *is amended—*

9 (1) *by striking “first 4 taxable years” and in-*
 10 *serting “first 5 taxable years”, and*

11 (2) *by striking “January 1, 2010” and inserting*
 12 *“January 1, 2011”.*

13 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 14 *section shall apply to taxable years beginning after Decem-*
 15 *ber 31, 2009.*

16 **Subtitle D—Temporary Disaster**
 17 **Relief Provisions**

18 **PART I—NATIONAL DISASTER RELIEF**

19 **SEC. 171. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
 20 **REQUIREMENTS.**

21 (a) *IN GENERAL.*—*Paragraph (11) of section 143(k)*
 22 *is amended by striking “January 1, 2010” and inserting*
 23 *“January 1, 2011”.*

24 (b) *SPECIAL RULE FOR RESIDENCES DESTROYED IN*
 25 *FEDERALLY DECLARED DISASTERS.*—*Paragraph (13) of*

1 *section 143(k), as redesignated by subsection (c), is amended*
 2 *by striking “January 1, 2010” in subparagraphs (A)(i) and*
 3 *(B)(i) and inserting “January 1, 2011”.*

4 *(c) TECHNICAL AMENDMENT.—Subsection (k) of sec-*
 5 *tion 143 is amended by redesignating the second paragraph*
 6 *(12) (relating to special rules for residences destroyed in*
 7 *federally declared disasters) as paragraph (13).*

8 *(d) EFFECTIVE DATES.—*

9 *(1) IN GENERAL.—Except as otherwise provided*
 10 *in this subsection, the amendment made by this sec-*
 11 *tion shall apply to bonds issued after December 31,*
 12 *2009.*

13 *(2) RESIDENCES DESTROYED IN FEDERALLY DE-*
 14 *CLARED DISASTERS.—The amendments made by sub-*
 15 *section (b) shall apply with respect to disasters occur-*
 16 *ring after December 31, 2009.*

17 *(3) TECHNICAL AMENDMENT.—The amendment*
 18 *made by subsection (c) shall take effect as if included*
 19 *in section 709 of the Tax Extenders and Alternative*
 20 *Minimum Tax Relief Act of 2008.*

21 **SEC. 172. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
 22 **CLARED DISASTERS.**

23 *(a) IN GENERAL.—Subclause (I) of section*
 24 *165(h)(3)(B)(i) is amended by striking “January 1, 2010”*
 25 *and inserting “January 1, 2011”.*

1 (b) *\$500 LIMITATION.*—*Paragraph (1) of section*
2 *165(h) is amended by striking “December 31, 2009” and*
3 *inserting “December 31, 2010”.*

4 (c) *EFFECTIVE DATE.*—

5 (1) *IN GENERAL.*—*The amendment made by sub-*
6 *section (a) shall apply to federally declared disasters*
7 *occurring after December 31, 2009.*

8 (2) *\$500 LIMITATION.*—*The amendment made by*
9 *subsection (b) shall apply to taxable years beginning*
10 *after December 31, 2009.*

11 **SEC. 173. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
12 **FIED DISASTER PROPERTY.**

13 (a) *IN GENERAL.*—*Subclause (I) of section*
14 *168(n)(2)(A)(ii) is amended by striking “January 1, 2010”*
15 *and inserting “January 1, 2011”.*

16 (b) *EFFECTIVE DATE.*—*The amendment made by this*
17 *section shall apply to disasters occurring after December 31,*
18 *2009.*

19 **SEC. 174. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**
20 **ERALLY DECLARED DISASTERS.**

21 (a) *IN GENERAL.*—*Subclause (I) of section*
22 *172(j)(1)(A)(i) is amended by striking “January 1, 2010”*
23 *and inserting “January 1, 2011”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to losses attributable to disasters occur-*
 3 *ring after December 31, 2009.*

4 **SEC. 175. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

5 (a) *IN GENERAL.*—*Subparagraph (A) of section*
 6 *198A(b)(2) is amended by striking “January 1, 2010” and*
 7 *inserting “January 1, 2011”.*

8 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 9 *section shall apply to expenditures on account of disasters*
 10 *occurring after December 31, 2009.*

11 **PART II—REGIONAL PROVISIONS**

12 **Subpart A—New York Liberty Zone**

13 **SEC. 181. SPECIAL DEPRECIATION ALLOWANCE FOR NON-**
 14 **RESIDENTIAL AND RESIDENTIAL REAL PROP-**
 15 **ERTY.**

16 (a) *IN GENERAL.*—*Subparagraph (A) of section*
 17 *1400L(b)(2) is amended by striking “December 31, 2009”*
 18 *and inserting “December 31, 2010”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 20 *section shall apply to property placed in service after De-*
 21 *cember 31, 2009.*

22 **SEC. 182. TAX-EXEMPT BOND FINANCING.**

23 (a) *IN GENERAL.*—*Subparagraph (D) of section*
 24 *1400L(d)(2) is amended by striking “January 1, 2010” and*
 25 *inserting “January 1, 2011”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to bonds issued after December 31, 2009.*

3 **Subpart B—GO Zone**

4 **SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.**

5 (a) *IN GENERAL.*—*Paragraph (6) of section*
6 *1400N(d)(6) is amended by striking subparagraph (D).*

7 (b) *EFFECTIVE DATE.*—*The amendment made by this*
8 *section shall apply to property placed in service after De-*
9 *cember 31, 2009.*

10 **SEC. 184. INCREASE IN REHABILITATION CREDIT.**

11 (a) *IN GENERAL.*—*Subsection (h) of section 1400N is*
12 *amended by striking “December 31, 2009” and inserting*
13 *“December 31, 2010”.*

14 (b) *EFFECTIVE DATE.*—*The amendment made by this*
15 *section shall apply to amounts paid or incurred after De-*
16 *cember 31, 2009.*

17 **SEC. 185. WORK OPPORTUNITY TAX CREDIT WITH RESPECT**
18 **TO CERTAIN INDIVIDUALS AFFECTED BY**
19 **HURRICANE KATRINA FOR EMPLOYERS IN-**
20 **SIDE DISASTER AREAS.**

21 (a) *IN GENERAL.*—*Paragraph (1) of section 201(b) of*
22 *the Katrina Emergency Tax Relief Act of 2005 is amended*
23 *by striking “4-year” and inserting “5-year”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall apply to individuals hired after August*
3 *27, 2009.*

4 ***Subpart C—Midwestern Disaster Areas***

5 ***SEC. 191. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.***

6 (a) *IN GENERAL.*—*Section 702(d)(10) of the Heart-*
7 *land Disaster Tax Relief Act of 2008 (Public Law 110–343;*
8 *122 Stat. 3918) is amended—*

9 (1) *by striking “January 1, 2010” both places it*
10 *appears and inserting “January 1, 2011”, and*

11 (2) *by striking “December 31, 2009” both places*
12 *it appears and inserting “December 31, 2010”.*

13 (b) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall take effect as if included in section 702(d)(10)*
15 *of the Heartland Disaster Tax Relief Act of 2008.*

16 ***SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE IN-***
17 ***DEBTEDNESS.***

18 (a) *IN GENERAL.*—*Section 702(e)(4)(C) of the Heart-*
19 *land Disaster Tax Relief Act of 2008 (Public Law 110–343;*
20 *122 Stat. 3918) is amended by striking “January 1, 2010”*
21 *and inserting “January 1, 2011”.*

22 (b) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall apply to discharges of indebtedness after De-*
24 *cember 31, 2009.*

1 **TITLE II—UNEMPLOYMENT IN-**
2 **SURANCE, HEALTH, AND**
3 **OTHER PROVISIONS**

4 **Subtitle A—Unemployment**
5 **Insurance**

6 **SEC. 201. EXTENSION OF UNEMPLOYMENT INSURANCE**
7 **PROVISIONS.**

8 (a) *IN GENERAL.*—(1) *Section 4007 of the Supple-*
9 *mental Appropriations Act, 2008 (Public Law 110–252; 26*
10 *U.S.C. 3304 note) is amended—*

11 (A) *by striking “April 5, 2010” each place it ap-*
12 *pears and inserting “December 31, 2010”;*

13 (B) *in the heading for subsection (b)(2), by strik-*
14 *ing “APRIL 5, 2010” and inserting “DECEMBER 31,*
15 *2010”; and*

16 (C) *in subsection (b)(3), by striking “September*
17 *4, 2010” and inserting “May 31, 2011”.*

18 (2) *Section 2002(e) of the Assistance for Unemployed*
19 *Workers and Struggling Families Act, as contained in Pub-*
20 *lic Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is*
21 *amended—*

22 (A) *in paragraph (1)(B), by striking “April 5,*
23 *2010” and inserting “December 31, 2010”;*

1 (B) in the heading for paragraph (2), by strik-
2 ing “APRIL 5, 2010” and inserting “DECEMBER 31,
3 2010”; and

4 (C) in paragraph (3), by striking “October 5,
5 2010” and inserting “June 30, 2011”.

6 (3) Section 2005 of the Assistance for Unemployed
7 Workers and Struggling Families Act, as contained in Pub-
8 lic Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is
9 amended—

10 (A) by striking “April 5, 2010” each place it ap-
11 pears and inserting “January 1, 2011”; and

12 (B) in subsection (c), by striking “September 4,
13 2010” and inserting “June 1, 2011”.

14 (4) Section 5 of the Unemployment Compensation Ex-
15 tension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304
16 note) is amended by striking “September 4, 2010” and in-
17 serting “May 31, 2011”.

18 (b) FUNDING.—Section 4004(e)(1) of the Supplemental
19 Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C.
20 3304 note) is amended—

21 (1) in subparagraph (C), by striking “and” at
22 the end; and

23 (2) by inserting after subparagraph (D) the fol-
24 lowing new subparagraph:

1 “(E) the amendments made by section
2 201(a)(1) of the American Workers, State, and
3 Business Relief Act of 2010; and”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
5 section shall take effect as if included in the enactment of
6 the Temporary Extension Act of 2010.

7 **Subtitle B—Health Provisions**

8 **SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM AS-** 9 **SISTANCE FOR COBRA BENEFITS.**

10 (a) *EXTENSION OF ELIGIBILITY PERIOD.*—Subsection
11 (a)(3)(A) of section 3001 of division B of the American Re-
12 covery and Reinvestment Act of 2009 (Public Law 111–5),
13 as amended by section 3 of the Temporary Extension Act
14 of 2010, is amended by striking “March 31, 2010” and in-
15 serting “December 31, 2010”.

16 (b) *RULES RELATING TO 2010 EXTENSION.*—Sub-
17 section (a) of section 3001 of division B of the American
18 Recovery and Reinvestment Act of 2009 (Public Law 111–
19 5), as amended by subsection (b)(1)(C), is further amended
20 by adding at the end the following:

21 “(18) *RULES RELATED TO 2010 EXTENSION.*—

22 “(A) *ELECTION TO PAY PREMIUMS RETRO-*
23 *ACTIVELY AND MAINTAIN COBRA COVERAGE.*—In
24 the case of any premium for a period of coverage
25 during an assistance eligible individual’s 2010

1 *transition period, such individual shall be treat-*
2 *ed for purposes of any COBRA continuation*
3 *provision as having timely paid the amount of*
4 *such premium if—*

5 “(i) *such individual’s qualifying event*
6 *was on or after April 1, 2010 and prior to*
7 *the date of enactment of this paragraph,*
8 *and*

9 “(ii) *such individual pays, by the lat-*
10 *est of 60 days after the date of the enact-*
11 *ment of this paragraph, 30 days after the*
12 *date of provision of the notification required*
13 *under paragraph (16)(D)(ii) (as applied by*
14 *subparagraph (D) of this paragraph), or the*
15 *period described in section*
16 *4980B(f)(2)(B)(iii) of the Internal Revenue*
17 *Code of 1986, the amount of such premium,*
18 *after the application of paragraph (1)(A).*

19 “(B) *REFUNDS AND CREDITS FOR RETRO-*
20 *ACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In*
21 *the case of an assistance eligible individual who*
22 *pays, with respect to any period of COBRA con-*
23 *tinuation coverage during such individual’s 2010*
24 *transition period, the premium amount for such*
25 *coverage without regard to paragraph (1)(A),*

1 *rules similar to the rules of paragraph (12)(E)*
2 *shall apply.*

3 “(C) 2010 TRANSITION PERIOD.—

4 “(i) IN GENERAL.—*For purposes of*
5 *this paragraph, the term ‘transition period’*
6 *means, with respect to any assistance eligi-*
7 *ble individual, any period of coverage if—*

8 “(I) *such assistance eligible indi-*
9 *vidual experienced an involuntary ter-*
10 *mination that was a qualifying event*
11 *prior to the date of enactment of the*
12 *American Workers, State, and Business*
13 *Relief Act of 2010, and*

14 “(II) *paragraph (1)(A) applies to*
15 *such period by reason of the amend-*
16 *ments made by section 211 of the*
17 *American Workers, State, and Business*
18 *Relief Act of 2010.*

19 “(ii) CONSTRUCTION.—*Any period*
20 *during the period described in subclauses*
21 *(I) and (II) of clause (i) for which the ap-*
22 *plicable premium has been paid pursuant*
23 *to subparagraph (A) shall be treated as a*
24 *period of coverage referred to in such para-*
25 *graph, irrespective of any failure to timely*

1 *pay the applicable premium (other than*
 2 *pursuant to subparagraph (A)) for such pe-*
 3 *riod.*

4 “(D) *NOTIFICATION.*—*Notification provi-*
 5 *sions similar to the provisions of paragraph*
 6 *(16)(E) shall apply for purposes of this para-*
 7 *graph.”.*

8 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 9 *section shall take effect as if included in the provisions of*
 10 *section 3001 of division B of the American Recovery and*
 11 *Reinvestment Act of 2009.*

12 **SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS**
 13 **PROCESS.**

14 *Section 1833(g)(5) of the Social Security Act (42*
 15 *U.S.C. 1395l(g)(5)) is amended by striking “March 31,*
 16 *2010” and inserting “December 31, 2010”.*

17 **SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE**
 18 **MEDICAL EQUIPMENT ACCREDITATION RE-**
 19 **QUIREMENTS.**

20 (a) *IN GENERAL.*—*Section 1834(a)(20) of the Social*
 21 *Security Act (42 U.S.C. 1395m(a)(20)) is amended—*

22 (1) *in subparagraph (F)—*

23 (A) *in clause (i)—*

24 (i) *by striking “clause (ii)” and insert-*
 25 *ing “clauses (ii) and (iii)”;*

1 (ii) by striking “January 1, 2010”

2 and inserting “January 1, 2011”; and

3 (iii) by striking “and” at the end;

4 (B) in clause (ii)(II), by striking the period
5 at the end and inserting “; and”;

6 (C) by inserting after clause (ii)(II) the fol-
7 lowing new clause:

8 “(iii)(I) subject to subclause (II), with
9 respect to items and services furnished on or
10 after January 1, 2011, the accreditation re-
11 quirement of clause (i) shall not apply to a
12 pharmacy described in subparagraph (G);
13 and

14 “(II) effective with respect to items and
15 services furnished on or after the date of the
16 enactment of this subparagraph, the Sec-
17 retary may apply to pharmacies quality
18 standards and an accreditation requirement
19 established by the Secretary that are an al-
20 ternative to the quality standards and ac-
21 creditation requirement otherwise applicable
22 under this paragraph if the Secretary deter-
23 mines such alternative quality standards
24 and accreditation requirement are appro-
25 priate for pharmacies.”; and

1 (D) by adding at the end the following flush
2 sentence:

3 *“If determined appropriate by the Secretary,*
4 *any alternative quality standards and accredita-*
5 *tion requirement established under clause*
6 *(iii)(II) may differ for categories of pharmacies*
7 *established by the Secretary (such as pharmacies*
8 *described in subparagraph (G)).”;* and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 *“(G) PHARMACY DESCRIBED.—A pharmacy*
12 *described in this subparagraph is a pharmacy*
13 *that meets each of the following criteria:*

14 *“(i) The total billings by the pharmacy*
15 *for such items and services under this title*
16 *are less than 5 percent of total pharmacy*
17 *sales for a previous period (of not less than*
18 *24 months) specified by the Secretary.*

19 *“(ii) The pharmacy has been enrolled*
20 *under section 1866(j) as a supplier of dura-*
21 *ble medical equipment, prosthetics,*
22 *orthotics, and supplies, has been issued*
23 *(which may include the renewal of) a pro-*
24 *vider number for at least 2 years, and for*
25 *which a final adverse action (as defined in*

1 *section 424.57(a) of title 42, Code of Federal*
2 *Regulations) has not been imposed in the*
3 *past 2 years.*

4 “(iii) *The pharmacy submits to the*
5 *Secretary an attestation, in a form and*
6 *manner, and at a time, specified by the*
7 *Secretary, that the pharmacy meets the cri-*
8 *teria described in clauses (i) and (ii).*

9 “(iv) *The pharmacy agrees to submit*
10 *materials as requested by the Secretary, or*
11 *during the course of an audit conducted on*
12 *a random sample of pharmacies selected an-*
13 *nually, to verify that the pharmacy meets*
14 *the criteria described in clauses (i) and (ii).*
15 *Materials submitted under the preceding*
16 *sentence shall include a certification by an*
17 *independent accountant on behalf of the*
18 *pharmacy or the submission of tax returns*
19 *filed by the pharmacy during the relevant*
20 *periods, as requested by the Secretary.”.*

21 (b) *CONFORMING AMENDMENTS.—Section*
22 *1834(a)(20)(E) of the Social Security Act (42 U.S.C.*
23 *1395m(a)(20)(E)) is amended—*

1 (1) *in the first sentence, by striking “The” and*
2 *inserting “Except as provided in the third sentence,*
3 *the”;* and

4 (2) *by adding at the end the following new sen-*
5 *tences: “Notwithstanding the preceding sentences, any*
6 *alternative quality standards and accreditation re-*
7 *quirement established under subparagraph (F)(iii)(II)*
8 *shall be established through notice and comment rule-*
9 *making. The Secretary may implement by program*
10 *instruction or otherwise subparagraph (G) after con-*
11 *sultation with representatives of relevant parties. The*
12 *specifications developed by the Secretary in order to*
13 *implement subparagraph (G) shall be posted on the*
14 *Internet website of the Centers for Medicare & Med-*
15 *icaid Services.”.*

16 (c) *ADMINISTRATION.—Chapter 35 of title 44, United*
17 *States Code, shall not apply to this section.*

18 (d) *RULE OF CONSTRUCTION.—Nothing in the provi-*
19 *sions of, or amendments made by, this section shall be con-*
20 *strued as affecting the application of an accreditation re-*
21 *quirement for pharmacies to qualify for bidding in a com-*
22 *petitive acquisition area under section 1847 of the Social*
23 *Security Act (42 U.S.C. 1395w–3).*

24 (e) *WAIVER OF 1-YEAR REENROLLMENT BAR.—In the*
25 *case of a pharmacy described in subparagraph (G) of sec-*

1 *tion 1834(a)(20) of the Social Security Act, as added by*
 2 *subsection (a), whose billing privileges were revoked prior*
 3 *to January 1, 2011, by reason of noncompliance with sub-*
 4 *paragraph (F)(i) of such section, the Secretary of Health*
 5 *and Human Services shall waive any reenrollment bar im-*
 6 *posed pursuant to section 424.535(d) of title 42, Code of*
 7 *Federal Regulations (as in effect on the date of the enact-*
 8 *ment of this Act) for such pharmacy to reapply for such*
 9 *privileges.*

10 **SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH**
 11 **SERVICES.**

12 *Section 138(a)(1) of the Medicare Improvements for*
 13 *Patients and Providers Act of 2008 (Public Law 110–275)*
 14 *is amended by striking “December 31, 2009” and inserting*
 15 *“December 31, 2010”.*

16 **SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.**

17 *(a) IN GENERAL.—Section 1834(l)(13) of the Social*
 18 *Security Act (42 U.S.C. 1395m(l)(13)) is amended—*

19 *(1) in subparagraph (A)—*

20 *(A) in the matter preceding clause (i), by*
 21 *striking “before January 1, 2010” and inserting*
 22 *“before January 1, 2011”; and*

23 *(B) in each of clauses (i) and (ii), by strik-*
 24 *ing “before January 1, 2010” and inserting “be-*
 25 *fore January 1, 2011”.*

1 (b) *AIR AMBULANCE IMPROVEMENTS*.—Section
2 *146(b)(1) of the Medicare Improvements for Patients and*
3 *Providers Act of 2008 (Public Law 110–275) is amended*
4 *by striking “ending on December 31, 2009” and inserting*
5 *“ending on December 31, 2010”.*

6 (c) *SUPER RURAL AMBULANCE*.—Section
7 *1834(l)(12)(A) of the Social Security Act (42 U.S.C.*
8 *1395m(l)(12)(A)) is amended—*

9 (1) *in the first sentence, by striking “2010” and*
10 *inserting “2011”; and*

11 (2) *by adding at the end the following new sen-*
12 *tence: “For purposes of applying this subparagraph*
13 *for ground ambulance services furnished on or after*
14 *January 1, 2010, and before January 1, 2011, the*
15 *Secretary shall use the percent increase that was ap-*
16 *plicable under this subparagraph to ground ambu-*
17 *lance services furnished during 2009.”.*

18 **SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.**

19 Section *1848(e)(1)(E) of the Social Security Act (42*
20 *U.S.C. 1395w–4(e)(1)(E)) is amended by striking “before*
21 *January 1, 2010” and inserting “before January 1, 2011”.*

1 **SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
 2 **PONENT OF CERTAIN PHYSICIAN PATHOLOGY**
 3 **SERVICES.**

4 *Section 542(c) of the Medicare, Medicaid, and SCHIP*
 5 *Benefits Improvement and Protection Act of 2000 (as en-*
 6 *acted into law by section 1(a)(6) of Public Law 106–554),*
 7 *as amended by section 732 of the Medicare Prescription*
 8 *Drug, Improvement, and Modernization Act of 2003 (42*
 9 *U.S.C. 1395w–4 note), section 104 of division B of the Tax*
 10 *Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4*
 11 *note), section 104 of the Medicare, Medicaid, and SCHIP*
 12 *Extension Act of 2007 (Public Law 110–173), and section*
 13 *136 of the Medicare Improvements for Patients and Pro-*
 14 *viders Act of 2008 (Public Law 110–275), is amended by*
 15 *striking “and 2009” and inserting “2009, and 2010”.*

16 **SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS**
 17 **PROVISION.**

18 *(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the So-*
 19 *cial Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amend-*
 20 *ed—*

21 *(1) in subclause (II)—*

22 *(A) in the first sentence, by striking*
 23 *“2010” and inserting “2011”; and*

24 *(B) in the second sentence, by striking “or*
 25 *2009” and inserting “, 2009, or 2010”; and*

1 (2) *in subclause (III), by striking “January 1,*
2 *2010” and inserting “January 1, 2011”.*

3 **(b) PERMITTING ALL SOLE COMMUNITY HOSPITALS**
4 **TO BE ELIGIBLE FOR HOLD HARMLESS.**—*Section*
5 *1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C.*
6 *1395l(t)(7)(D)(i)(III)) is amended by adding at the end the*
7 *following new sentence: “In the case of covered OPD services*
8 *furnished on or after January 1, 2010, and before January*
9 *1, 2011, the preceding sentence shall be applied without re-*
10 *gard to the 100-bed limitation.”.*

11 **SEC. 219. EHR CLARIFICATION.**

12 **(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.**—
13 **(1) MEDICARE.**—*Section 1848(o)(1)(C)(ii) of the*
14 *Social Security Act (42 U.S.C. 1395w-4(o)(1)(C)(ii))*
15 *is amended by striking “setting (whether inpatient or*
16 *outpatient)” and inserting “inpatient or emergency*
17 *room setting”.*

18 **(2) MEDICAID.**—*Section 1903(t)(3)(D) of the So-*
19 *cial Security Act (42 U.S.C. 1396b(t)(3)(D)) is*
20 *amended by striking “setting (whether inpatient or*
21 *outpatient)” and inserting “inpatient or emergency*
22 *room setting”.*

23 **(b) EFFECTIVE DATE.**—*The amendments made by sub-*
24 *section (a) shall be effective as if included in the enactment*

1 of the *HITECH Act* (included in the *American Recovery*
2 *and Reinvestment Act of 2009* (Public Law 111–5)).

3 (c) *IMPLEMENTATION.*—Notwithstanding any other
4 provision of law, the Secretary may implement the amend-
5 ments made by this section by program instruction or other-
6 wise.

7 **SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDI-**
8 **CARE PART B SERVICES FURNISHED BY CER-**
9 **TAIN INDIAN HOSPITALS AND CLINICS.**

10 Section 1880(e)(1)(A) of the *Social Security Act* (42
11 *U.S.C. 1395qq(e)(1)(A)*) is amended by striking “5-year pe-
12 riod” and inserting “6-year period”.

13 **SEC. 221. EXTENSION OF CERTAIN PAYMENT RULES FOR**
14 **LONG-TERM CARE HOSPITAL SERVICES AND**
15 **OF MORATORIUM ON THE ESTABLISHMENT**
16 **OF CERTAIN HOSPITALS AND FACILITIES.**

17 (a) *EXTENSION OF CERTAIN PAYMENT RULES.*—Sec-
18 tion 114(c) of the *Medicare, Medicaid, and SCHIP Exten-*
19 *sion Act of 2007* (42 *U.S.C. 1395ww note*), as amended by
20 section 4302(a) of the *American Recovery and Reinvestment*
21 *Act* (Public Law 111–5), is amended by striking “3-year
22 period” each place it appears and inserting “4-year pe-
23 riod”.

24 (b) *EXTENSION OF MORATORIUM.*—Section 114(d)(1)
25 of such Act (42 *U.S.C. 1395ww note*), as amended by section

1 4302(b) of the American Recovery and Reinvestment Act
2 (Public Law 111–5), in the matter preceding subparagraph
3 (A), is amended by striking “3-year period” and inserting
4 “4-year period”.

5 **SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL**
6 **FLEXIBILITY PROGRAM.**

7 Section 1820(j) of the Social Security Act (42 U.S.C.
8 1395i–4(j)) is amended—

9 (1) by striking “2010, and for” and inserting
10 “2010, for”; and

11 (2) by inserting “and for making grants to all
12 States under subsection (g), such sums as may be nec-
13 essary in fiscal year 2011, to remain available until
14 expended” before the period at the end.

15 **SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSI-**
16 **FICATIONS.**

17 (a) *IN GENERAL.*—Subsection (a) of section 106 of di-
18 vision B of the Tax Relief and Health Care Act of 2006
19 (42 U.S.C. 1395 note), as amended by section 117 of the
20 Medicare, Medicaid, and SCHIP Extension Act of 2007
21 (Public Law 110–173) and section 124 of the Medicare Im-
22 provements for Patients and Providers Act of 2008 (Public
23 Law 110–275), is amended by striking “September 30,
24 2009” and inserting “September 30, 2010”.

1 **(b) SPECIAL RULE FOR FISCAL YEAR 2010.**—For pur-
2 poses of implementation of the amendment made by sub-
3 section (a), including (notwithstanding paragraph (3) of
4 section 117(a) of the Medicare, Medicaid, and SCHIP Ex-
5 tension Act of 2007 (Public Law 110–173), as amended by
6 section 124(b) of the Medicare Improvements for Patients
7 and Providers Act of 2008 (Public Law 110–275)) for pur-
8 poses of the implementation of paragraph (2) of such section
9 117(a), during fiscal year 2010, the Secretary of Health
10 and Human Services (in this subsection referred to as the
11 “Secretary”) shall use the hospital wage index that was pro-
12 mulgated by the Secretary in the Federal Register on Au-
13 gust 27, 2009 (74 Fed. Reg. 43754), and any subsequent
14 corrections.

15 **SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL**
16 **ACCESS HOSPITAL SERVICES.**

17 **(a) IN GENERAL.**—Subsections (g)(2)(A) and (l)(8) of
18 section 1834 of the Social Security Act (42 U.S.C. 1395m)
19 are each amended by inserting “101 percent of” before “the
20 reasonable costs”.

21 **(b) EFFECTIVE DATE.**—The amendments made by sub-
22 section (a) shall take effect as if included in the enactment
23 of section 405(a) of the Medicare Prescription Drug, Im-
24 provement, and Modernization Act of 2003 (Public Law
25 108–173; 117 Stat. 2266).

1 **SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR**
2 **SPECIAL NEEDS INDIVIDUALS.**

3 (a) *IN GENERAL.*—Section 1859(f)(1) of the Social Se-
4 curity Act (42 U.S.C. 1395w–28(f)(1)) is amended by strik-
5 ing “2011” and inserting “2012”.

6 (b) *TEMPORARY EXTENSION OF AUTHORITY TO OPER-*
7 *ATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPE-*
8 *CIAL NEEDS PLANS THAT DO NOT MEET CERTAIN RE-*
9 *QUIREMENTS.*—Section 164(c)(2) of the Medicare Improve-
10 ments for Patients and Providers Act of 2008 (Public Law
11 110–275) is amended by striking “December 31, 2010” and
12 inserting “December 31, 2011”.

13 **SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.**

14 Section 1876(h)(5)(C)(ii) of the Social Security Act
15 (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter
16 preceding subclause (I), by striking “January 1, 2010” and
17 inserting “January 1, 2011”.

18 **SEC. 227. EXTENSION OF PARTICULAR WAIVER POLICY FOR**
19 **EMPLOYER GROUP PLANS.**

20 For plan year 2011 and subsequent plan years, to the
21 extent that the Secretary of Health and Human Services
22 is applying the 2008 service area extension waiver policy
23 (as modified in the April 11, 2008, Centers for Medicare
24 & Medicaid Services’ memorandum with the subject “2009
25 Employer Group Waiver-Modification of the 2008 Service
26 Area Extension Waiver Granted to Certain MA Local Co-

1 *ordinated Care Plans”) to Medicare Advantage coordinated*
 2 *care plans, the Secretary shall extend the application of*
 3 *such waiver policy to employers who contract directly with*
 4 *the Secretary as a Medicare Advantage private fee-for-serv-*
 5 *ice plan under section 1857(i)(2) of the Social Security Act*
 6 *(42 U.S.C. 1395w–27(i)(2)) and that had enrollment as of*
 7 *January 1, 2010.*

8 **SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT**
 9 **COMMUNITY PROGRAM.**

10 *Notwithstanding any other provision of law, the Sec-*
 11 *retary of Health and Human Services shall continue to con-*
 12 *duct the Erickson Advantage Continuing Care Retirement*
 13 *Community (CCRC) program under part C of title XVIII*
 14 *of the Social Security Act through December 31, 2011.*

15 **SEC. 229. FUNDING OUTREACH AND ASSISTANCE FOR LOW-**
 16 **INCOME PROGRAMS.**

17 *(a) ADDITIONAL FUNDING FOR STATE HEALTH INSUR-*
 18 *ANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of*
 19 *the Medicare Improvements for Patients and Providers Act*
 20 *of 2008 (42 U.S.C. 1395b–3 note) is amended by striking*
 21 *“(42 U.S.C. 1395w–23(f))” and all that follows through the*
 22 *period at the end and inserting “(42 U.S.C. 1395w–23(f)),*
 23 *to the Centers for Medicare & Medicaid Services Program*
 24 *Management Account—*

1 “(i) for fiscal year 2009, of \$7,500,000;
2 and
3 “(ii) for fiscal year 2010, of
4 \$6,000,000.

5 *Amounts appropriated under this subparagraph*
6 *shall remain available until expended.”.*

7 (b) *ADDITIONAL FUNDING FOR AREA AGENCIES ON*
8 *AGING.—Subsection (b)(1)(B) of such section 119 is amend-*
9 *ed by striking “(42 U.S.C. 1395w–23(f))” and all that fol-*
10 *lows through the period at the end and inserting “(42*
11 *U.S.C. 1395w–23(f)), to the Administration on Aging—*

12 “(i) for fiscal year 2009, of \$7,500,000;
13 and
14 “(ii) for fiscal year 2010, of
15 \$6,000,000.

16 *Amounts appropriated under this subparagraph*
17 *shall remain available until expended.”.*

18 (c) *ADDITIONAL FUNDING FOR AGING AND DISABILITY*
19 *RESOURCE CENTERS.—Subsection (c)(1)(B) of such section*
20 *119 is amended by striking “(42 U.S.C. 1395w–23(f))” and*
21 *all that follows through the period at the end and inserting*
22 *“(42 U.S.C. 1395w–23(f)), to the Administration on*
23 *Aging—*

24 “(i) for fiscal year 2009, of \$5,000,000;
25 and

1 “(ii) for fiscal year 2010, of
2 \$6,000,000.

3 *Amounts appropriated under this subparagraph*
4 *shall remain available until expended.”.*

5 (d) *ADDITIONAL FUNDING FOR CONTRACT WITH THE*
6 *NATIONAL CENTER FOR BENEFITS AND OUTREACH EN-*
7 *ROLLMENT.*—*Subsection (d)(2) of such section 119 is*
8 *amended by striking “(42 U.S.C. 1395w–23(f))” and all*
9 *that follows through the period at the end and inserting*
10 *“(42 U.S.C. 1395w–23(f)), to the Administration on*
11 *Aging—*

12 “(i) for fiscal year 2009, of \$5,000,000;
13 and
14 “(ii) for fiscal year 2010, of
15 \$2,000,000.

16 *Amounts appropriated under this subparagraph*
17 *shall remain available until expended.”.*

18 **SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CEN-**
19 **TERS.**

20 *Section 501(c)(1)(A)(iii) of the Social Security Act (42*
21 *U.S.C. 701(c)(1)(A)(iii)) is amended by striking “fiscal*
22 *year 2009” and inserting “each of fiscal years 2009 through*
23 *2011”.*

1 **SEC. 231. IMPLEMENTATION FUNDING.**

2 *For purposes of carrying out the provisions of, and*
3 *amendments made by, this Act that relate to titles XVIII*
4 *and XIX of the Social Security Act, there are appropriated*
5 *to the Secretary of Health and Human Services for the Cen-*
6 *ters for Medicare & Medicaid Services Program Manage-*
7 *ment Account, from amounts in the general fund of the*
8 *Treasury not otherwise appropriated, \$100,000,000.*
9 *Amounts appropriated under the preceding sentence shall*
10 *remain available until expended.*

11 **SEC. 232. EXTENSION OF ARRA INCREASE IN FMAP.**

12 *Section 5001 of the American Recovery and Reinvest-*
13 *ment Act of 2009 (Public Law 111–5) is amended—*

14 *(1) in subsection (a)(3), by striking “first cal-*
15 *endar quarter” and inserting “first 3 calendar quar-*
16 *ters”;*

17 *(2) in subsection (c)—*

18 *(A) in paragraph (2)(B), by striking “July*
19 *1, 2010” and inserting “January 1, 2011”;*

20 *(B) in paragraph (3)(B)(i), by striking*
21 *“July 1, 2010” each place it appears and insert-*
22 *ing “January 1, 2011”; and*

23 *(C) in paragraph (4)(C)(ii), by striking*
24 *“the 3-consecutive-month period beginning with*
25 *January 2010” and inserting “any 3-consecu-*

1 *tive-month period that begins after December*
2 *2009 and ends before January 2011”;*

3 *(3) in subsection (g)—*

4 *(A) in paragraph (1), by striking “Sep-*
5 *tember 30, 2011” and inserting “March 31,*
6 *2012”;*

7 *(B) in paragraph (2)—*

8 *(i) by inserting “of such Act” after*
9 *“1923”; and*

10 *(ii) by adding at the end the following*
11 *new sentence: “Voluntary contributions by a*
12 *political subdivision to the non-Federal*
13 *share of expenditures under the State Med-*
14 *icaid plan or to the non-Federal share of*
15 *payments under section 1923 of the Social*
16 *Security Act shall not be considered to be*
17 *required contributions for purposes of this*
18 *section.”; and*

19 *(C) by adding at the end the following:*

20 *“(3) CERTIFICATION BY CHIEF EXECUTIVE OFFI-*
21 *CER.—No additional Federal funds shall be paid to a*
22 *State as a result of this section with respect to a cal-*
23 *endar quarter occurring during the period beginning*
24 *on January 1, 2011, and ending on June 30, 2011,*
25 *unless, not later than 45 days after the date of enact-*

1 *ment of this paragraph, the chief executive officer of*
2 *the State certifies that the State will request and use*
3 *such additional Federal funds.”; and*

4 *(4) in subsection (h)(3), by striking “December*
5 *31, 2010” and inserting “June 30, 2011”.*

6 **SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.**

7 *(a) IN GENERAL.—Subsection (d)(3) of section 5007*
8 *of the Deficit Reduction Act of 2005 (Public Law 109–171)*
9 *is amended by inserting “(or 21 months after the date of*
10 *the enactment of the American Workers, State, and Business*
11 *Relief Act of 2010, in the case of a demonstration project*
12 *in operation as of October 1, 2008)” after “December 31,*
13 *2009”.*

14 *(b) FUNDING.—*

15 *(1) IN GENERAL.—Subsection (f)(1) of such sec-*
16 *tion is amended by inserting “and for fiscal year*
17 *2010, \$1,600,000,” after “\$6,000,000,”.*

18 *(2) AVAILABILITY.—Subsection (f)(2) of such sec-*
19 *tion is amended by striking “2010” and inserting*
20 *“2014 or until expended”.*

21 *(c) REPORTS.—*

22 *(1) QUALITY IMPROVEMENT AND SAVINGS.—Sub-*
23 *section (e)(3) of such section is amended by striking*
24 *“December 1, 2008” and inserting “18 months after*

1 *the date of the enactment of the American Workers,*
 2 *State, and Business Relief Act of 2010”.*

3 (2) *FINAL REPORT.*—*Subsection (e)(4) of such*
 4 *section is amended by striking “May 1, 2010” and*
 5 *inserting “42 months after the date of the enactment*
 6 *of the American Workers, State, and Business Relief*
 7 *Act of 2010”.*

8 ***Subtitle C—Other Provisions***

9 ***SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDE-*** 10 ***LINES.***

11 *Section 1012 of the Department of Defense Appropria-*
 12 *tions Act, 2010 (Public Law 111–118) is amended—*

13 (1) *by striking “before March 31, 2010”; and*

14 (2) *by inserting “for 2011” after “until updated*
 15 *poverty guidelines”.*

16 ***SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRA-*** 17 ***TION OF FEDERAL PROGRAMS AND FEDER-*** 18 ***ALLY ASSISTED PROGRAMS.***

19 (a) *IN GENERAL.*—*Subchapter A of chapter 65 is*
 20 *amended by adding at the end the following new section:*

21 ***“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-*** 22 ***TION OF FEDERAL PROGRAMS AND FEDER-*** 23 ***ALLY ASSISTED PROGRAMS.***

24 “*(a) IN GENERAL.*—*Notwithstanding any other provi-*
 25 *sion of law, any refund (or advance payment with respect*

1 to a refundable credit) made to any individual under this
2 title shall not be taken into account as income, and shall
3 not be taken into account as resources for a period of 12
4 months from receipt, for purposes of determining the eligi-
5 bility of such individual (or any other individual) for bene-
6 fits or assistance (or the amount or extent of benefits or
7 assistance) under any Federal program or under any State
8 or local program financed in whole or in part with Federal
9 funds.

10 “(b) *TERMINATION*.—Subsection (a) shall not apply to
11 any amount received after December 31, 2010.”.

12 (b) *CLERICAL AMENDMENT*.—The table of sections for
13 such subchapter is amended by adding at the end the fol-
14 lowing new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs and
federally assisted programs.”.

15 (c) *EFFECTIVE DATE*.—The amendments made by this
16 section shall apply to amounts received after December 31,
17 2009.

18 **SEC. 243. STATE COURT IMPROVEMENT PROGRAM.**

19 Section 438 of the Social Security Act (42 U.S.C.
20 629h) is amended—

21 (1) in subsection (c)(2)(A), by striking “2010”
22 and inserting “2011”; and

23 (2) in subsection (e), by striking “2010” and in-
24 serting “2011”.

1 **SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE**
2 **PROGRAM.**

3 *Section 129 of the Continuing Appropriations Resolu-*
4 *tion, 2010 (Public Law 111–68), as amended by section*
5 *1005 of Public Law 111–118, is further amended by strik-*
6 *ing “by substituting” and all that follows through the pe-*
7 *riod at the end, and inserting “by substituting December*
8 *31, 2010, for the date specified in each such section.”. The*
9 *amendment made by this section shall be considered to have*
10 *taken effect on February 28, 2010.*

11 **SEC. 245. EMERGENCY DISASTER ASSISTANCE.**

12 *(a) DEFINITIONS.—Except as otherwise provided in*
13 *this section, in this section:*

14 *(1) DISASTER COUNTY.—*

15 *(A) IN GENERAL.—The term “disaster coun-*
16 *ty” means a county included in the geographic*
17 *area covered by a qualifying natural disaster*
18 *declaration for the 2009 crop year.*

19 *(B) EXCLUSION.—The term “disaster coun-*
20 *ty” does not include a contiguous county.*

21 *(2) ELIGIBLE AQUACULTURE PRODUCER.—The*
22 *term “eligible aquaculture producer” means an aqua-*
23 *culture producer that during the 2009 calendar year,*
24 *as determined by the Secretary—*

25 *(A) produced an aquaculture species for*
26 *which feed costs represented a substantial per-*

1 *centage of the input costs of the aquaculture op-*
2 *eration; and*

3 *(B) experienced a substantial price increase*
4 *of feed costs above the previous 5-year average.*

5 (3) *ELIGIBLE PRODUCER.*—*The term “eligible*
6 *producer” means an agricultural producer in a dis-*
7 *aster county.*

8 (4) *ELIGIBLE SPECIALTY CROP PRODUCER.*—*The*
9 *term “eligible specialty crop producer” means an ag-*
10 *ricultural producer that, for the 2009 crop year, as*
11 *determined by the Secretary—*

12 *(A) produced, or was prevented from plant-*
13 *ing, a specialty crop; and*

14 *(B) experienced crop losses in a disaster*
15 *county due to drought, excessive rainfall, or a re-*
16 *lated condition.*

17 (5) *QUALIFYING NATURAL DISASTER DECLARA-*
18 *TION.*—*The term “qualifying natural disaster dec-*
19 *laration” means a natural disaster declared by the*
20 *Secretary for production losses under section 321(a)*
21 *of the Consolidated Farm and Rural Development Act*
22 *(7 U.S.C. 1961(a)).*

23 (6) *SECRETARY.*—*The term “Secretary” means*
24 *the Secretary of Agriculture.*

1 (7) *SPECIALTY CROP.*—*The term “specialty*
2 *crop” has the meaning given the term in section 3 of*
3 *the Specialty Crops Competitiveness Act of 2004*
4 *(Public Law 108–465; 7 U.S.C. 1621 note).*

5 (b) *SUPPLEMENTAL DIRECT PAYMENT.*—

6 (1) *IN GENERAL.*—*Of the funds of the Com-*
7 *modity Credit Corporation, the Secretary shall use*
8 *such sums as are necessary to make supplemental*
9 *payments under sections 1103 and 1303 of the Food,*
10 *Conservation, and Energy Act of 2008 (7 U.S.C.*
11 *8713, 8753) to eligible producers on farms located in*
12 *disaster counties that had at least 1 crop of economic*
13 *significance (other than fruits and vegetables or crops*
14 *intended for grazing) suffer at least a 5-percent crop*
15 *loss due to a natural disaster, including quality*
16 *losses, as determined by the Secretary, in an amount*
17 *equal to 90 percent of the direct payment the eligible*
18 *producers received for the 2009 crop year on the farm.*

19 (2) *ACRE PROGRAM.*—*Eligible producers that*
20 *received payments under section 1105 of the Food,*
21 *Conservation, and Energy Act of 2008 (7 U.S.C.*
22 *8715) for the 2009 crop year and that otherwise meet*
23 *the requirements of paragraph (1) shall be eligible to*
24 *receive supplemental payments under that paragraph*
25 *in an amount equal to 112.5 percent of the reduced*

1 *direct payment the eligible producers received for the*
2 *2009 crop year under section 1103 or 1303 of the*
3 *Food, Conservation, and Energy Act of 2008 (7*
4 *U.S.C. 8713, 8753).*

5 (3) *RELATIONSHIP TO OTHER LAW.—Assistance*
6 *received under this subsection shall be included in the*
7 *calculation of farm revenue for the 2009 crop year*
8 *under section 531(b)(4)(A) of the Federal Crop Insur-*
9 *ance Act (7 U.S.C. 1531(b)(4)(A)) and section*
10 *901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.*
11 *2497(b)(4)(A)).*

12 (c) *SPECIALTY CROP ASSISTANCE.—*

13 (1) *IN GENERAL.—Of the funds of the Com-*
14 *modity Credit Corporation, the Secretary shall use*
15 *not more than \$300,000,000, to remain available*
16 *until September 30, 2011, to carry out a program of*
17 *grants to States to assist eligible specialty crop pro-*
18 *ducers for losses due to a natural disaster affecting*
19 *the 2009 crops, of which not more than—*

20 (A) *\$150,000,000 shall be used to assist eli-*
21 *gible specialty crop producers in counties that*
22 *have been declared a disaster as the result of*
23 *drought; and*

24 (B) *\$150,000,000 shall be used to assist eli-*
25 *gible specialty crop producers in counties that*

1 *have been declared a disaster as the result of ex-*
2 *cessive rainfall or a related condition.*

3 (2) *NOTIFICATION.*—*Not later than 60 days after*
4 *the date of enactment of this Act, the Secretary shall*
5 *notify the State department of agriculture (or similar*
6 *entity) in each State of the availability of funds to*
7 *assist eligible specialty crop producers, including such*
8 *terms as are determined by the Secretary to be nec-*
9 *essary for the equitable treatment of eligible specialty*
10 *crop producers.*

11 (3) *PROVISION OF GRANTS.*—

12 (A) *IN GENERAL.*—*The Secretary shall*
13 *make grants to States for disaster counties on a*
14 *pro rata basis based on the value of specialty*
15 *crop losses in those counties during the 2009 cal-*
16 *endar year, as determined by the Secretary.*

17 (B) *TIMING.*—*Not later than 120 days after*
18 *the date of enactment of this Act, the Secretary*
19 *shall make grants to States to provide assistance*
20 *under this subsection.*

21 (C) *MAXIMUM GRANT.*—*The maximum*
22 *amount of a grant made to a State for counties*
23 *described in paragraph (1)(B) may not exceed*
24 *\$40,000,000.*

1 (4) *REQUIREMENTS.*—*The Secretary shall make*
2 *grants under this subsection only to States that dem-*
3 *onstrate to the satisfaction of the Secretary that the*
4 *State will—*

5 (A) *use grant funds to assist eligible spe-*
6 *cialty crop producers;*

7 (B) *provide assistance to eligible specialty*
8 *crop producers not later than 90 days after the*
9 *date on which the State receives grant funds;*
10 *and*

11 (C) *not later than 30 days after the date on*
12 *which the State provides assistance to eligible*
13 *specialty crop producers, submit to the Secretary*
14 *a report that describes—*

15 (i) *the manner in which the State pro-*
16 *vided assistance;*

17 (ii) *the amounts of assistance provided*
18 *by type of specialty crop; and*

19 (iii) *the process by which the State de-*
20 *termined the levels of assistance to eligible*
21 *specialty crop producers.*

22 (5) *PROHIBITION.*—*An eligible specialty crop*
23 *producer that receives assistance under this subsection*
24 *shall be ineligible to receive assistance under sub-*
25 *section (b).*

1 (6) *RELATION TO OTHER LAW.*—Assistance re-
2 ceived under this subsection shall be included in the
3 calculation of farm revenue for the 2009 crop year
4 under section 531(b)(4)(A) of the Federal Crop Insur-
5 ance Act (7 U.S.C. 1531(b)(4)(A)) and section
6 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.
7 2497(b)(4)(A)).

8 (d) *COTTONSEED ASSISTANCE.*—

9 (1) *IN GENERAL.*—Of the funds of the Com-
10 modity Credit Corporation, the Secretary shall use
11 not more than \$42,000,000 to provide supplemental
12 assistance to eligible producers and first-handlers of
13 the 2009 crop of cottonseed in a disaster county.

14 (2) *GENERAL TERMS.*—Except as otherwise pro-
15 vided in this subsection, the Secretary shall provide
16 disaster assistance under this subsection under the
17 same terms and conditions as assistance provided
18 under section 3015 of the Emergency Agricultural
19 Disaster Assistance Act of 2006 (title III of Public
20 Law 109–234; 120 Stat. 477).

21 (3) *DISTRIBUTION OF ASSISTANCE.*—The Sec-
22 retary shall distribute assistance to first handlers for
23 the benefit of eligible producers in a disaster county
24 in an amount equal to the product obtained by multi-
25 plying—

1 (A) the payment rate, as determined under
2 paragraph (4); and

3 (B) the county-eligible production, as deter-
4 mined under paragraph (5).

5 (4) *PAYMENT RATE.*—The payment rate shall be
6 equal to the quotient obtained by dividing—

7 (A) the sum of the county-eligible produc-
8 tion, as determined under paragraph (5); by

9 (B) the total funds made available to carry
10 out this subsection.

11 (5) *COUNTY-ELIGIBLE PRODUCTION.*—The coun-
12 ty-eligible production shall be equal to the product ob-
13 tained by multiplying—

14 (A) the number of acres planted to cotton in
15 the disaster county, as reported to the Secretary
16 by first-handlers;

17 (B) the expected cotton lint yield for the dis-
18 aster county, as determined by the Secretary
19 based on the best available information; and

20 (C) the national average seed-to-lint ratio,
21 as determined by the Secretary based on the best
22 available information for the 5 crop years imme-
23 diately preceding the 2009 crop, excluding the
24 year in which the average ratio was the highest

1 *and the year in which the average ratio was the*
2 *lowest in such period.*

3 (e) *AQUACULTURE ASSISTANCE.*—

4 (1) *GRANT PROGRAM.*—

5 (A) *IN GENERAL.*—*Of the funds of the Com-*
6 *modity Credit Corporation, the Secretary shall*
7 *use not more than \$25,000,000, to remain avail-*
8 *able until September 30, 2011, to carry out a*
9 *program of grants to States to assist eligible*
10 *aquaculture producers for losses associated with*
11 *high feed input costs during the 2009 calendar*
12 *year.*

13 (B) *NOTIFICATION.*—*Not later than 60 days*
14 *after the date of enactment of this Act, the Sec-*
15 *retary shall notify the State department of agri-*
16 *culture (or similar entity) in each State of the*
17 *availability of funds to assist eligible aqua-*
18 *culture producers, including such terms as are*
19 *determined by the Secretary to be necessary for*
20 *the equitable treatment of eligible aquaculture*
21 *producers.*

22 (C) *PROVISION OF GRANTS.*—

23 (i) *IN GENERAL.*—*The Secretary shall*
24 *make grants to States under this subsection*
25 *on a pro rata basis based on the amount of*

1 *aquaculture feed used in each State during*
2 *the 2008 calendar year, as determined by*
3 *the Secretary.*

4 (ii) *TIMING.*—*Not later than 120 days*
5 *after the date of enactment of this Act, the*
6 *Secretary shall make grants to States to*
7 *provide assistance under this subsection.*

8 (D) *REQUIREMENTS.*—*The Secretary shall*
9 *make grants under this subsection only to States*
10 *that demonstrate to the satisfaction of the Sec-*
11 *retary that the State will—*

12 (i) *use grant funds to assist eligible*
13 *aquaculture producers;*

14 (ii) *provide assistance to eligible aqua-*
15 *culture producers not later than 60 days*
16 *after the date on which the State receives*
17 *grant funds; and*

18 (iii) *not later than 30 days after the*
19 *date on which the State provides assistance*
20 *to eligible aquaculture producers, submit to*
21 *the Secretary a report that describes—*

22 (I) *the manner in which the State*
23 *provided assistance;*

1 (II) *the amounts of assistance*
2 *provided per species of aquaculture;*
3 *and*

4 (III) *the process by which the*
5 *State determined the levels of assist-*
6 *ance to eligible aquaculture producers.*

7 (2) *REDUCTION IN PAYMENTS.—An eligible*
8 *aquaculture producer that receives assistance under*
9 *this subsection shall not be eligible to receive any*
10 *other assistance under the supplemental agricultural*
11 *disaster assistance program established under section*
12 *531 of the Federal Crop Insurance Act (7 U.S.C.*
13 *1531) and section 901 of the Trade Act of 1974 (19*
14 *U.S.C. 2497) for any losses in 2009 relating to the*
15 *same species of aquaculture.*

16 (3) *REPORT TO CONGRESS.—Not later than 240*
17 *days after the date of enactment of this Act, the Sec-*
18 *retary shall submit to the appropriate committees of*
19 *Congress a report that—*

20 (A) *describes in detail the manner in which*
21 *this subsection has been carried out; and*

22 (B) *includes the information reported to the*
23 *Secretary under paragraph (1)(D)(iii).*

24 (f) *HAWAII TRANSPORTATION COOPERATIVE.—Not-*
25 *withstanding any other provision of law, the Secretary shall*

1 use \$21,000,000 of funds of the Commodity Credit Corpora-
2 tion to make a payment to an agricultural transportation
3 cooperative in the State of Hawaii, the members of which
4 are eligible to participate in the commodity loan program
5 of the Farm Service Agency, for assistance to maintain and
6 develop employment.

7 (g) *LIVESTOCK FORAGE DISASTER PROGRAM.*—

8 (1) *DEFINITION OF DISASTER COUNTY.*—In this
9 subsection:

10 (A) *IN GENERAL.*—The term “disaster coun-
11 ty” means a county included in the geographic
12 area covered by a qualifying natural disaster
13 declaration announced by the Secretary in cal-
14 endar year 2009.

15 (B) *INCLUSION.*—The term “disaster coun-
16 ty” includes a contiguous county.

17 (2) *PAYMENTS.*—Of the funds of the Commodity
18 Credit Corporation, the Secretary shall use not more
19 than \$50,000,000 to carry out a program to make
20 payments to eligible producers that had grazing losses
21 in disaster counties in calendar year 2009.

22 (3) *CRITERIA.*—

23 (A) *IN GENERAL.*—Except as provided in
24 subparagraph (B), assistance under this sub-
25 section shall be determined under the same cri-

1 *teria as are used to carry out the programs*
2 *under section 531(d) of the Federal Crop Insur-*
3 *ance Act (7 U.S.C. 1531(d)) and section 901(d)*
4 *of the Trade Act of 1974 (19 U.S.C. 2497(d)).*

5 *(B) DROUGHT INTENSITY.—For purposes of*
6 *this subsection, an eligible producer shall not be*
7 *required to meet the drought intensity require-*
8 *ments of section 531(d)(3)(D)(ii) of the Federal*
9 *Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii))*
10 *and section 901(d)(3)(D)(ii) of the Trade Act of*
11 *1974 (19 U.S.C. 2497(d)(3)(D)(ii)).*

12 *(4) AMOUNT.—Assistance under this subsection*
13 *shall be in an amount equal to 1 monthly payment*
14 *using the monthly payment rate under section*
15 *531(d)(3)(B) of the Federal Crop Insurance Act (7*
16 *U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the*
17 *Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).*

18 *(5) RELATION TO OTHER LAW.—An eligible pro-*
19 *ducer that receives assistance under this subsection*
20 *shall be ineligible to receive assistance for 2009 graz-*
21 *ing losses under the program carried out under sec-*
22 *tion 531(d) of the Federal Crop Insurance Act (7*
23 *U.S.C. 1531(d)) and section 901(d) of the Trade Act*
24 *of 1974 (19 U.S.C. 2497(d)).*

25 *(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—*

1 (1) *DEFINITIONS.*—*In this subsection:*

2 (A) *ANNOUNCEMENT DATE.*—*The term “an-*
3 *ouncement date” means the date on which the*
4 *Secretary announces the emergency loan pro-*
5 *gram under this subsection.*

6 (B) *POULTRY INTEGRATOR.*—*The term*
7 *“poultry integrator” means a poultry integrator*
8 *that filed proceedings under chapter 11 of title*
9 *11, United States Code, in United States Bank-*
10 *ruptcy Court during the 30-day period begin-*
11 *ning on December 1, 2008.*

12 (2) *LOAN PROGRAM.*—

13 (A) *IN GENERAL.*—*Of the funds of the Com-*
14 *modity Credit Corporation, the Secretary shall*
15 *use not more than \$75,000,000, to remain avail-*
16 *able until expended, for the cost of making no-*
17 *interest emergency loans available to poultry*
18 *producers that meet the requirements of this sub-*
19 *section.*

20 (B) *TERMS AND CONDITIONS.*—*Except as*
21 *otherwise provided in this subsection, emergency*
22 *loans under this subsection shall be subject to*
23 *such terms and conditions as are determined by*
24 *the Secretary.*

25 (3) *LOANS.*—

1 (A) *IN GENERAL.*—*An emergency loan made*
2 *to a poultry producer under this subsection shall*
3 *be for the purpose of providing financing to the*
4 *poultry producer in response to financial losses*
5 *associated with the termination or nonrenewal of*
6 *any contract between the poultry producer and a*
7 *poultry integrator.*

8 (B) *ELIGIBILITY.*—

9 (i) *IN GENERAL.*—*To be eligible for an*
10 *emergency loan under this subsection, not*
11 *later than 90 days after the announcement*
12 *date, a poultry producer shall submit to the*
13 *Secretary evidence that—*

14 (I) *the contract of the poultry pro-*
15 *ducer described in subparagraph (A)*
16 *was not continued; and*

17 (II) *no similar contract has been*
18 *awarded subsequently to the poultry*
19 *producer.*

20 (ii) *REQUIREMENT TO OFFER*
21 *LOANS.*—*Notwithstanding any other provi-*
22 *sion of law, if a poultry producer meets the*
23 *eligibility requirements described in clause*
24 *(i), subject to the availability of funds*
25 *under paragraph (2)(A), the Secretary shall*

1 offer to make a loan under this subsection
2 to the poultry producer with a minimum
3 term of 2 years.

4 (4) *ADDITIONAL REQUIREMENTS.*—

5 (A) *IN GENERAL.*—A poultry producer that
6 receives an emergency loan under this subsection
7 may use the emergency loan proceeds only to
8 repay the amount that the poultry producer owes
9 to any lender for the purchase, improvement, or
10 operation of the poultry farm.

11 (B) *CONVERSION OF THE LOAN.*—A poultry
12 producer that receives an emergency loan under
13 this subsection shall be eligible to have the bal-
14 ance of the emergency loan converted, but not re-
15 financed, to a loan that has the same terms and
16 conditions as an operating loan under subtitle B
17 of the Consolidated Farm and Rural Develop-
18 ment Act (7 U.S.C. 1941 et seq.).

19 (i) *STATE AND LOCAL GOVERNMENTS.*—Section
20 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C.
21 1308(f)(6)(A)) is amended by inserting “(other than the
22 conservation reserve program established under subchapter
23 B of chapter 1 of subtitle D of title XII of this Act)” before
24 the period at the end.

25 (j) *ADMINISTRATION.*—

1 (1) *REGULATIONS.*—

2 (A) *IN GENERAL.*—*As soon as practicable*
3 *after the date of enactment of this Act, the Sec-*
4 *retary shall promulgate such regulations as are*
5 *necessary to implement this section and the*
6 *amendment made by this section.*

7 (B) *PROCEDURE.*—*The promulgation of the*
8 *regulations and administration of this section*
9 *and the amendment made by this section shall be*
10 *made without regard to—*

11 (i) *the notice and comment provisions*
12 *of section 553 of title 5, United States Code;*

13 (ii) *the Statement of Policy of the Sec-*
14 *retary of Agriculture effective July 24, 1971*
15 *(36 Fed. Reg. 13804), relating to notices of*
16 *proposed rulemaking and public participa-*
17 *tion in rulemaking; and*

18 (iii) *chapter 35 of title 44, United*
19 *States Code (commonly known as the “Pa-*
20 *perwork Reduction Act”).*

21 (C) *CONGRESSIONAL REVIEW OF AGENCY*
22 *RULEMAKING.*—*In carrying out this paragraph,*
23 *the Secretary shall use the authority provided*
24 *under section 808 of title 5, United States Code.*

1 (2) *ADMINISTRATIVE COSTS.*—*Of the funds of the*
2 *Commodity Credit Corporation, the Secretary may*
3 *use up to \$10,000,000 to pay administrative costs in-*
4 *curring by the Secretary that are directly related to*
5 *carrying out this Act.*

6 (3) *PROHIBITION.*—*None of the funds of the Ag-*
7 *ricultural Disaster Relief Trust Fund established*
8 *under section 902 of the Trade Act of 1974 (19 U.S.C.*
9 *2497a) may be used to carry out this Act.*

10 **SEC. 246. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**
11 **MENT EXTENSIONS.**

12 (a) *APPROPRIATION.*—*There is appropriated, out of*
13 *any funds in the Treasury not otherwise appropriated, for*
14 *an additional amount for “Small Business Administration*
15 *– Business Loans Program Account”, \$560,000,000, to re-*
16 *main available through December 31, 2010, for the cost of—*

17 (1) *fee reductions and eliminations under section*
18 *501 of division A of the American Recovery and Re-*
19 *investment Act of 2009 (Public Law 111–5; 123 Stat.*
20 *151), as amended by this section, for loans guaran-*
21 *teed under section 7(a) of the Small Business Act (15*
22 *U.S.C. 636(a)), title V of the Small Business Invest-*
23 *ment Act of 1958 (15 U.S.C. 695 et seq.), or section*
24 *502 of division A of the American Recovery and Re-*

1 *investment Act of 2009 (Public Law 111–5; 123 Stat.*
2 *152), as amended by this section; and*

3 *(2) loan guarantees under section 502 of division*
4 *A of the American Recovery and Reinvestment Act of*
5 *2009 (Public Law 111–5; 123 Stat. 152), as amended*
6 *by this section,*

7 *Provided, That such costs, including the cost of modifying*
8 *such loans, shall be as defined in section 502 of the Congres-*
9 *sional Budget Act of 1974.*

10 *(b) EXTENSION OF PROGRAMS.—*

11 *(1) FEES.—Section 501 of division A of the*
12 *American Recovery and Reinvestment Act of 2009*
13 *(Public Law 111–5; 123 Stat. 151) is amended by*
14 *striking “September 30, 2010” each place it appears*
15 *and inserting “December 31, 2010”.*

16 *(2) LOAN GUARANTEES.—Section 502(f) of divi-*
17 *sion A of the American Recovery and Reinvestment*
18 *Act of 2009 (Public Law 111–5; 123 Stat. 153) is*
19 *amended by striking “March 28, 2010” and inserting*
20 *“December 31, 2010”.*

21 *(3) EFFECTIVE DATE FOR LOAN GUARANTEES.—*
22 *The amendment made by paragraph (2) shall take ef-*
23 *fect on February 27, 2010.*

1 **TITLE III—PENSION FUNDING**
2 **RELIEF**
3 **Subtitle A—Single Employer Plans**

4 **SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-**
5 **FINED BENEFIT PLANS TO AMORTIZE CER-**
6 **TAIN SHORTFALL AMORTIZATION BASES.**

7 *(a) AMENDMENTS TO ERISA.—*

8 *(1) IN GENERAL.—Paragraph (2) of section*
9 *303(c) of the Employee Retirement Income Security*
10 *Act of 1974 (29 U.S.C. 1083(c)) is amended by add-*
11 *ing at the end the following subparagraph:*

12 *“(D) SPECIAL ELECTION FOR ELIGIBLE*
13 *PLAN YEARS.—*

14 *“(i) IN GENERAL.—If a plan sponsor*
15 *elects to apply this subparagraph with re-*
16 *spect to the shortfall amortization base of a*
17 *plan for any eligible plan year (in this sub-*
18 *paragraph and paragraph (7) referred to as*
19 *an ‘election year’), then, notwithstanding*
20 *subparagraphs (A) and (B)—*

21 *“(I) the shortfall amortization in-*
22 *stallments with respect to such base*
23 *shall be determined under clause (ii) or*
24 *(iii), whichever is specified in the elec-*
25 *tion, and*

1 “(II) the shortfall amortization
2 installment for any plan year in the 9-
3 plan-year period described in clause
4 (ii) or the 15-plan-year period de-
5 scribed in clause (iii), respectively,
6 with respect to such shortfall amortiza-
7 tion base is the annual installment de-
8 termined under the applicable clause
9 for that year for that base.

10 “(ii) 2 PLUS 7 AMORTIZATION SCHED-
11 ULE.—The shortfall amortization install-
12 ments determined under this clause are—

13 “(I) in the case of the first 2 plan
14 years in the 9-plan-year period begin-
15 ning with the election year, interest on
16 the shortfall amortization base of the
17 plan for the election year (determined
18 using the effective interest rate for the
19 plan for the election year), and

20 “(II) in the case of the last 7 plan
21 years in such 9-plan-year period, the
22 amounts necessary to amortize the re-
23 maining balance of the shortfall amor-
24 tization base of the plan for the elec-
25 tion year in level annual installments

1 *over such last 7 plan years (using the*
2 *segment rates under subparagraph (C)*
3 *for the election year).*

4 “(iii) 15-YEAR AMORTIZATION.—*The*
5 *shortfall amortization installments deter-*
6 *mined under this subparagraph are the*
7 *amounts necessary to amortize the shortfall*
8 *amortization base of the plan for the elec-*
9 *tion year in level annual installments over*
10 *the 15-plan-year period beginning with the*
11 *election year (using the segment rates under*
12 *subparagraph (C) for the election year).*

13 “(iv) ELECTION.—

14 “(I) IN GENERAL.—*The plan*
15 *sponsor of a plan may elect to have*
16 *this subparagraph apply to not more*
17 *than 2 eligible plan years with respect*
18 *to the plan, except that in the case of*
19 *a plan described in section 106 of the*
20 *Pension Protection Act of 2006, the*
21 *plan sponsor may only elect to have*
22 *this subparagraph apply to a plan*
23 *year beginning in 2011.*

24 “(II) AMORTIZATION SCHED-
25 *ULE.—Such election shall specify*

1 *whether the amortization schedule*
2 *under clause (ii) or (iii) shall apply to*
3 *an election year, except that if a plan*
4 *sponsor elects to have this subpara-*
5 *graph apply to 2 eligible plan years,*
6 *the plan sponsor must elect the same*
7 *schedule for both years.*

8 “(III) *OTHER RULES.*—*Such elec-*
9 *tion shall be made at such time, and in*
10 *such form and manner, as shall be pre-*
11 *scribed by the Secretary of the Treas-*
12 *ury, and may be revoked only with the*
13 *consent of the Secretary of the Treas-*
14 *ury. The Secretary of the Treasury*
15 *shall, before granting a revocation re-*
16 *quest, provide the Pension Benefit*
17 *Guaranty Corporation an opportunity*
18 *to comment on the conditions applica-*
19 *ble to the treatment of any portion of*
20 *the election year shortfall amortization*
21 *base that remains unamortized as of*
22 *the revocation date.*

23 “(v) *ELIGIBLE PLAN YEAR.*—*For pur-*
24 *poses of this subparagraph, the term ‘eligi-*
25 *ble plan year’ means any plan year begin-*

1 *ning in 2008, 2009, 2010, or 2011, except*
2 *that a plan year shall only be treated as an*
3 *eligible plan year if the due date under sub-*
4 *section (j)(1) for the payment of the min-*
5 *imum required contribution for such plan*
6 *year occurs on or after the date of the enact-*
7 *ment of this subparagraph.*

8 *“(vi) REPORTING.—A plan sponsor of*
9 *a plan who makes an election under clause*
10 *(i) shall—*

11 *“(I) give notice of the election to*
12 *participants and beneficiaries of the*
13 *plan, and*

14 *“(II) inform the Pension Benefit*
15 *Guaranty Corporation of such election*
16 *in such form and manner as the Direc-*
17 *tor of the Pension Benefit Guaranty*
18 *Corporation may prescribe.*

19 *“(vii) INCREASES IN REQUIRED IN-*
20 *STALLMENTS IN CERTAIN CASES.—For in-*
21 *creases in required contributions in cases of*
22 *excess compensation or extraordinary divi-*
23 *dends or stock redemptions, see paragraph*
24 *(7).”.*

1 (2) *INCREASES IN REQUIRED INSTALLMENTS IN*
2 *CERTAIN CASES.*—Section 303(c) of the *Employee Re-*
3 *irement Income Security Act of 1974* (29 U.S.C.
4 *1083(c)*) is amended by adding at the end the fol-
5 *lowing paragraph:*

6 “(7) *INCREASES IN ALTERNATE REQUIRED IN-*
7 *STALLMENTS IN CASES OF EXCESS COMPENSATION OR*
8 *EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-*
9 *TIONS.*—

10 “(A) *IN GENERAL.*—If there is an install-
11 *ment acceleration amount with respect to a plan*
12 *for any plan year in the restriction period with*
13 *respect to an election year under paragraph*
14 *(2)(D), then the shortfall amortization install-*
15 *ment otherwise determined and payable under*
16 *such paragraph for such plan year shall, subject*
17 *to the limitation under subparagraph (B), be in-*
18 *creased by such amount.*

19 “(B) *TOTAL INSTALLMENTS LIMITED TO*
20 *SHORTFALL BASE.*—Subject to rules prescribed
21 *by the Secretary of the Treasury, if a shortfall*
22 *amortization installment with respect to any*
23 *shortfall amortization base for an election year*
24 *is required to be increased for any plan year*
25 *under subparagraph (A)—*

1 “(i) such increase shall not result in
2 the amount of such installment exceeding
3 the present value of such installment and all
4 succeeding installments with respect to such
5 base (determined without regard to such in-
6 crease but after application of clause (ii)),
7 and

8 “(ii) subsequent shortfall amortization
9 installments with respect to such base shall,
10 in reverse order of the otherwise required in-
11 stallments, be reduced to the extent nec-
12 essary to limit the present value of such
13 subsequent shortfall amortization install-
14 ments (after application of this paragraph)
15 to the present value of the remaining
16 unamortized shortfall amortization base.

17 “(C) INSTALLMENT ACCELERATION
18 AMOUNT.—For purposes of this paragraph—

19 “(i) IN GENERAL.—The term ‘install-
20 ment acceleration amount’ means, with re-
21 spect to any plan year in a restriction pe-
22 riod with respect to an election year, the
23 sum of—

24 “(I) the aggregate amount of ex-
25 cess employee compensation determined

1 *under subparagraph (D) with respect*
2 *to all employees for the plan year, plus*

3 *“(II) the aggregate amount of ex-*
4 *traordinary dividends and redemp-*
5 *tions determined under subparagraph*
6 *(E) for the plan year.*

7 *“(ii) ANNUAL LIMITATION.—The in-*
8 *stallment acceleration amount for any plan*
9 *year shall not exceed the excess (if any) of—*

10 *“(I) the sum of the shortfall amor-*
11 *tization installments for the plan year*
12 *and all preceding plan years in the*
13 *amortization period elected under*
14 *paragraph (2)(D) with respect to the*
15 *shortfall amortization base with respect*
16 *to an election year, determined without*
17 *regard to paragraph (2)(D) and this*
18 *paragraph, over*

19 *“(II) the sum of the shortfall am-*
20 *ortization installments for such plan*
21 *year and all such preceding plan*
22 *years, determined after application of*
23 *paragraph (2)(D) (and in the case of*
24 *any preceding plan year, after appli-*
25 *cation of this paragraph).*

1 “(iii) *CARRYOVER OF EXCESS INSTALL-*
2 *MENT ACCELERATION AMOUNTS.*—

3 “(I) *IN GENERAL.*—*If the install-*
4 *ment acceleration amount for any plan*
5 *year (determined without regard to*
6 *clause (ii)) exceeds the limitation*
7 *under clause (ii), then, subject to sub-*
8 *clause (II), such excess shall be treated*
9 *as an installment acceleration amount*
10 *with respect to the succeeding plan*
11 *year.*

12 “(II) *CAP TO APPLY.*—*If any*
13 *amount treated as an installment ac-*
14 *celeration amount under subclause (I)*
15 *or this subclause with respect any suc-*
16 *ceeding plan year, when added to other*
17 *installment acceleration amounts (de-*
18 *termined without regard to clause (ii))*
19 *with respect to the plan year, exceeds*
20 *the limitation under clause (ii), the*
21 *portion of such amount representing*
22 *such excess shall be treated as an in-*
23 *stallment acceleration amount with re-*
24 *spect to the next succeeding plan year.*

1 “(III) *LIMITATION ON YEARS TO*
2 *WHICH AMOUNTS CARRIED FOR.—No*
3 *amount shall be carried under sub-*
4 *clause (I) or (II) to a plan year which*
5 *begins after the first plan year fol-*
6 *lowing the last plan year in the re-*
7 *striction period (or after the second*
8 *plan year following such last plan year*
9 *in the case of an election year with re-*
10 *spect to which 15-year amortization*
11 *was elected under paragraph (2)(D)).*

12 “(IV) *ORDERING RULES.—For*
13 *purposes of applying subclause (II),*
14 *installment acceleration amounts for*
15 *the plan year (determined without re-*
16 *gard to any carryover under this*
17 *clause) shall be applied first against*
18 *the limitation under clause (ii) and*
19 *then carryovers to such plan year shall*
20 *be applied against such limitation on*
21 *a first-in, first-out basis.*

22 “(D) *EXCESS EMPLOYEE COMPENSATION.—*
23 *For purposes of this paragraph—*

24 “(i) *IN GENERAL.—The term ‘excess*
25 *employee compensation’ means, with respect*

1 to any employee for any plan year, the ex-
2 cess (if any) of—

3 “(I) the aggregate amount includ-
4 ible in income under chapter 1 of the
5 Internal Revenue Code of 1986 for re-
6 muneration during the calendar year
7 in which such plan year begins for
8 services performed by the employee for
9 the plan sponsor (whether or not per-
10 formed during such calendar year),
11 over

12 “(II) \$1,000,000.

13 “(ii) AMOUNTS SET ASIDE FOR NON-
14 QUALIFIED DEFERRED COMPENSATION.—If
15 during any calendar year assets are set
16 aside or reserved (directly or indirectly) in
17 a trust (or other arrangement as determined
18 by the Secretary of the Treasury), or trans-
19 ferred to such a trust or other arrangement,
20 by a plan sponsor for purposes of paying
21 deferred compensation of an employee under
22 a nonqualified deferred compensation plan
23 (as defined in section 409A of such Code) of
24 the plan sponsor, then, for purposes of
25 clause (i), the amount of such assets shall be

1 *treated as remuneration of the employee in-*
2 *cludible in income for the calendar year un-*
3 *less such amount is otherwise includible in*
4 *income for such year. An amount to which*
5 *the preceding sentence applies shall not be*
6 *taken into account under this paragraph for*
7 *any subsequent calendar year.*

8 “(iii) *ONLY REMUNERATION FOR CER-*
9 *TAIN POST-2009 SERVICES COUNTED.—Re-*
10 *muneration shall be taken into account*
11 *under clause (i) only to the extent attrib-*
12 *utable to services performed by the employee*
13 *for the plan sponsor after February 28,*
14 *2010.*

15 “(iv) *EXCEPTION FOR CERTAIN EQUITY*
16 *PAYMENTS.—*

17 “(I) *IN GENERAL.—There shall*
18 *not be taken into account under clause*
19 *(i)(I) any amount includible in income*
20 *with respect to the granting after Feb-*
21 *ruary 28, 2010, of service recipient*
22 *stock (within the meaning of section*
23 *409A of the Internal Revenue Code of*
24 *1986) that, upon such grant, is subject*
25 *to a substantial risk of forfeiture (as*

1 *defined under section 83(c)(1) of such*
2 *Code) for at least 5 years from the date*
3 *of such grant.*

4 “(II) *SECRETARIAL AUTHORITY.—The Secretary of the Treasury*
5 *may by regulation provide for the ap-*
6 *plication of this clause in the case of a*
7 *person other than a corporation.*

8 “(v) *OTHER EXCEPTIONS.—The fol-*
9 *lowing amounts includible in income shall*
10 *not be taken into account under clause*
11 *(i)(I):*

12 “(I) *COMMISSIONS.—Any remun-*
13 *eration payable on a commission*
14 *basis solely on account of income di-*
15 *rectly generated by the individual per-*
16 *formance of the individual to whom*
17 *such remuneration is payable.*

18 “(II) *CERTAIN PAYMENTS UNDER*
19 *EXISTING CONTRACTS.—Any remun-*
20 *eration consisting of nonqualified de-*
21 *ferred compensation, restricted stock,*
22 *stock options, or stock appreciation*
23 *rights payable or granted under a*
24 *written binding contract that was in*
25

1 effect on March 1, 2010, and which
2 was not modified in any material re-
3 spect before such remuneration is paid.

4 “(vi) SELF-EMPLOYED INDIVIDUAL
5 TREATED AS EMPLOYEE.—The term ‘em-
6 ployee’ includes, with respect to a calendar
7 year, a self-employed individual who is
8 treated as an employee under section 401(c)
9 of such Code for the taxable year ending
10 during such calendar year, and the term
11 ‘compensation’ shall include earned income
12 of such individual with respect to such self-
13 employment.

14 “(vii) INDEXING OF AMOUNT.—In the
15 case of any calendar year beginning after
16 2010, the dollar amount under clause (i)(II)
17 shall be increased by an amount equal to—

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjustment
21 determined under section 1(f)(3) of
22 such Code for the calendar year, deter-
23 mined by substituting ‘calendar year
24 2009’ for ‘calendar year 1992’ in sub-
25 paragraph (B) thereof.

1 *If the amount of any increase under clause*
2 *(i) is not a multiple of \$1,000, such in-*
3 *crease shall be rounded to the next lowest*
4 *multiple of \$1,000.*

5 “(E) *EXTRAORDINARY DIVIDENDS AND RE-*
6 *DEMPTIONS.—*

7 “(i) *IN GENERAL.—The amount deter-*
8 *mined under this subparagraph for any*
9 *plan year is the excess (if any) of the sum*
10 *of the dividends declared during the plan*
11 *year by the plan sponsor plus the aggregate*
12 *amount paid for the redemption of stock of*
13 *the plan sponsor redeemed during the plan*
14 *year over the greater of—*

15 “(I) *the adjusted net income*
16 *(within the meaning of section 4043) of*
17 *the plan sponsor for the preceding plan*
18 *year, determined without regard to*
19 *any reduction by reason of interest,*
20 *taxes, depreciation, or amortization, or*

21 “(II) *in the case of a plan sponsor*
22 *that determined and declared dividends*
23 *in the same manner for at least 5 con-*
24 *secutive years immediately preceding*
25 *such plan year, the aggregate amount*

1 *of dividends determined and declared*
2 *for such plan year using such manner.*

3 “(ii) *ONLY CERTAIN POST-2009 DIVI-*
4 *DENDS AND REDEMPTIONS COUNTED.—For*
5 *purposes of clause (i), there shall only be*
6 *taken into account dividends declared, and*
7 *redemptions occurring, after February 28,*
8 *2010.*

9 “(iii) *EXCEPTION FOR INTRA-GROUP*
10 *DIVIDENDS.—Dividends paid by one mem-*
11 *ber of a controlled group (as defined in sec-*
12 *tion 302(d)(3)) to another member of such*
13 *group shall not be taken into account under*
14 *clause (i).*

15 “(iv) *EXCEPTION FOR CERTAIN RE-*
16 *DEMPTIONS.—Redemptions that are made*
17 *pursuant to a plan maintained with respect*
18 *to employees, or that are made on account*
19 *of the death, disability, or termination of*
20 *employment of an employee or shareholder,*
21 *shall not be taken into account under clause*
22 *(i).*

23 “(v) *EXCEPTION FOR CERTAIN PRE-*
24 *FERRED STOCK.—*

1 “(I) *IN GENERAL.*—*Dividends*
2 *and redemptions with respect to appli-*
3 *cable preferred stock shall not be taken*
4 *into account under clause (i) to the ex-*
5 *tent that dividends accrue with respect*
6 *to such stock at a specified rate in all*
7 *events and without regard to the plan*
8 *sponsor’s income, and interest accrues*
9 *on any unpaid dividends with respect*
10 *to such stock.*

11 “(II) *APPLICABLE PREFERRED*
12 *STOCK.*—*For purposes of subclause (I),*
13 *the term ‘applicable preferred stock’*
14 *means preferred stock which was issued*
15 *before March 1, 2010 (or which was*
16 *issued after such date and is held by*
17 *an employee benefit plan subject to the*
18 *provisions of this title).*

19 “(F) *OTHER DEFINITIONS AND RULES.*—
20 *For purposes of this paragraph—*

21 “(i) *PLAN SPONSOR.*—*The term ‘ plan*
22 *sponsor’ includes any member of the plan*
23 *sponsor’s controlled group (as defined in*
24 *section 302(d)(3)).*

1 “(ii) *RESTRICTION PERIOD.*—*The term*
2 *‘restriction period’ means, with respect to*
3 *any election year—*

4 “(I) *except as provided in sub-*
5 *clause (II), the 3-year period beginning*
6 *with the election year (or, if later, the*
7 *first plan year beginning after Decem-*
8 *ber 31, 2009), and*

9 “(II) *if the plan sponsor elects 15-*
10 *year amortization for the shortfall am-*
11 *ortization base for the election year, the*
12 *5-year period beginning with the elec-*
13 *tion year (or, if later, the first plan*
14 *year beginning after December 31,*
15 *2009).*

16 “(iii) *ELECTIONS FOR MULTIPLE*
17 *PLANS.*—*If a plan sponsor makes elections*
18 *under paragraph (2)(D) with respect to 2*
19 *or more plans, the Secretary of the Treas-*
20 *ury shall provide rules for the application*
21 *of this paragraph to such plans, including*
22 *rules for the ratable allocation of any in-*
23 *stallment acceleration amount among such*
24 *plans on the basis of each plan’s relative re-*
25 *duction in the plan’s shortfall amortization*

1 *installment for the first plan year in the*
2 *amortization period described in subpara-*
3 *graph (A) (determined without regard to*
4 *this paragraph).*

5 “(iv) *MERGERS AND ACQUISITIONS.—*
6 *The Secretary of the Treasury shall pre-*
7 *scribe rules for the application of paragraph*
8 *(2)(D) and this paragraph in any case*
9 *where there is a merger or acquisition in-*
10 *volving a plan sponsor making the election*
11 *under paragraph (2)(D).”.*

12 (3) *CONFORMING AMENDMENTS.—Section 303 of*
13 *such Act (29 U.S.C. 1083) is amended—*

14 (A) *in subsection (c)(1), by striking “the*
15 *shortfall amortization bases for such plan year*
16 *and each of the 6 preceding plan years” and in-*
17 *serting “any shortfall amortization base which*
18 *has not been fully amortized under this sub-*
19 *section”, and*

20 (B) *in subsection (j)(3), by adding at the*
21 *end the following:*

22 “(F) *QUARTERLY CONTRIBUTIONS NOT TO*
23 *INCLUDE CERTAIN INCREASED CONTRIBU-*
24 *TIONS.—Subparagraph (D) shall be applied*

1 *without regard to any increase under subsection*
 2 *(c)(7).”.*

3 **(b) AMENDMENTS TO INTERNAL REVENUE CODE OF**
 4 *1986.—*

5 **(1) IN GENERAL.—***Paragraph (2) of section*
 6 *430(c) is amended by adding at the end the following*
 7 *subparagraph:*

8 **“(D) SPECIAL ELECTION FOR ELIGIBLE**
 9 **PLAN YEARS.—**

10 **“(i) IN GENERAL.—***If a plan sponsor*
 11 *elects to apply this subparagraph with re-*
 12 *spect to the shortfall amortization base of a*
 13 *plan for any eligible plan year (in this sub-*
 14 *paragraph and paragraph (7) referred to as*
 15 *an ‘election year’), then, notwithstanding*
 16 *subparagraphs (A) and (B)—*

17 **“(I) the shortfall amortization in-**
 18 *stallments with respect to such base*
 19 *shall be determined under clause (ii) or*
 20 *(iii), whichever is specified in the elec-*
 21 *tion, and*

22 **“(II) the shortfall amortization**
 23 *installment for any plan year in the 9-*
 24 *plan-year period described in clause*
 25 *(ii) or the 15-plan-year period de-*

1 *scribed in clause (iii), respectively,*
2 *with respect to such shortfall amortiza-*
3 *tion base is the annual installment de-*
4 *termined under the applicable clause*
5 *for that year for that base.*

6 “(ii) 2 PLUS 7 AMORTIZATION SCHED-
7 *ULE.—The shortfall amortization install-*
8 *ments determined under this clause are—*

9 “(I) *in the case of the first 2 plan*
10 *years in the 9-plan-year period begin-*
11 *ning with the election year, interest on*
12 *the shortfall amortization base of the*
13 *plan for the election year (determined*
14 *using the effective interest rate for the*
15 *plan for the election year), and*

16 “(II) *in the case of the last 7 plan*
17 *years in such 9-plan-year period, the*
18 *amounts necessary to amortize the re-*
19 *maining balance of the shortfall amor-*
20 *tization base of the plan for the elec-*
21 *tion year in level annual installments*
22 *over such last 7 plan years (using the*
23 *segment rates under subparagraph (C)*
24 *for the election year).*

1 “(iii) 15-YEAR AMORTIZATION.—The
2 shortfall amortization installments deter-
3 mined under this subparagraph are the
4 amounts necessary to amortize the shortfall
5 amortization base of the plan for the elec-
6 tion year in level annual installments over
7 the 15-plan-year period beginning with the
8 election year (using the segment rates under
9 subparagraph (C) for the election year).

10 “(iv) ELECTION.—

11 “(I) IN GENERAL.—The plan
12 sponsor of a plan may elect to have
13 this subparagraph apply to not more
14 than 2 eligible plan years with respect
15 to the plan, except that in the case of
16 a plan described in section 106 of the
17 Pension Protection Act of 2006, the
18 plan sponsor may only elect to have
19 this subparagraph apply to a plan
20 year beginning in 2011.

21 “(II) AMORTIZATION SCHED-
22 ULE.—Such election shall specify
23 whether the amortization schedule
24 under clause (ii) or (iii) shall apply to
25 an election year, except that if a plan

1 *sponsor elects to have this subpara-*
2 *graph apply to 2 eligible plan years,*
3 *the plan sponsor must elect the same*
4 *schedule for both years.*

5 “(III) *OTHER RULES.*—*Such elec-*
6 *tion shall be made at such time, and in*
7 *such form and manner, as shall be pre-*
8 *scribed by the Secretary, and may be*
9 *revoked only with the consent of the*
10 *Secretary. The Secretary shall, before*
11 *granting a revocation request, provide*
12 *the Pension Benefit Guaranty Cor-*
13 *poration an opportunity to comment*
14 *on the conditions applicable to the*
15 *treatment of any portion of the election*
16 *year shortfall amortization base that*
17 *remains unamortized as of the revoca-*
18 *tion date.*

19 “(v) *ELIGIBLE PLAN YEAR.*—*For pur-*
20 *poses of this subparagraph, the term ‘eligi-*
21 *ble plan year’ means any plan year begin-*
22 *ning in 2008, 2009, 2010, or 2011, except*
23 *that a plan year shall only be treated as an*
24 *eligible plan year if the due date under sub-*
25 *section (j)(1) for the payment of the min-*

1 *imum required contribution for such plan*
2 *year occurs on or after the date of the enact-*
3 *ment of this subparagraph.*

4 “(vi) *REPORTING.*—*A plan sponsor of*
5 *a plan who makes an election under clause*
6 *(i) shall—*

7 “(I) *give notice of the election to*
8 *participants and beneficiaries of the*
9 *plan, and*

10 “(II) *inform the Pension Benefit*
11 *Guaranty Corporation of such election*
12 *in such form and manner as the Direc-*
13 *tor of the Pension Benefit Guaranty*
14 *Corporation may prescribe.*

15 “(vii) *INCREASES IN REQUIRED IN-*
16 *STALLMENTS IN CERTAIN CASES.*—*For in-*
17 *creases in required contributions in cases of*
18 *excess compensation or extraordinary divi-*
19 *dends or stock redemptions, see paragraph*
20 *(7).”.*

21 (2) *INCREASES IN REQUIRED CONTRIBUTIONS IF*
22 *EXCESS COMPENSATION PAID.*—*Section 430(c) is*
23 *amended by adding at the end the following para-*
24 *graph:*

1 “(7) *INCREASES IN ALTERNATE REQUIRED IN-*
2 *STALLMENTS IN CASES OF EXCESS COMPENSATION OR*
3 *EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-*
4 *TIONS.—*

5 “(A) *IN GENERAL.—If there is an install-*
6 *ment acceleration amount with respect to a plan*
7 *for any plan year in the restriction period with*
8 *respect to an election year under paragraph*
9 *(2)(D), then the shortfall amortization install-*
10 *ment otherwise determined and payable under*
11 *such paragraph for such plan year shall, subject*
12 *to the limitation under subparagraph (B), be in-*
13 *creased by such amount.*

14 “(B) *TOTAL INSTALLMENTS LIMITED TO*
15 *SHORTFALL BASE.—Subject to rules prescribed*
16 *by the Secretary, if a shortfall amortization in-*
17 *stallment with respect to any shortfall amortiza-*
18 *tion base for an election year is required to be*
19 *increased for any plan year under subparagraph*
20 *(A)—*

21 “(i) *such increase shall not result in*
22 *the amount of such installment exceeding*
23 *the present value of such installment and all*
24 *succeeding installments with respect to such*
25 *base (determined without regard to such in-*

1 crease but after application of clause (ii)),
2 and

3 “(ii) subsequent shortfall amortization
4 installments with respect to such base shall,
5 in reverse order of the otherwise required in-
6 stallments, be reduced to the extent nec-
7 essary to limit the present value of such
8 subsequent shortfall amortization install-
9 ments (after application of this paragraph)
10 to the present value of the remaining
11 unamortized shortfall amortization base.

12 “(C) INSTALLMENT ACCELERATION
13 AMOUNT.—For purposes of this paragraph—

14 “(i) IN GENERAL.—The term ‘install-
15 ment acceleration amount’ means, with re-
16 spect to any plan year in a restriction pe-
17 riod with respect to an election year, the
18 sum of—

19 “(I) the aggregate amount of ex-
20 cess employee compensation determined
21 under subparagraph (D) with respect
22 to all employees for the plan year, plus

23 “(II) the aggregate amount of ex-
24 traordinary dividends and redemp-

1 *tions determined under subparagraph*
2 *(E) for the plan year.*

3 “(ii) *ANNUAL LIMITATION.—The in-*
4 *stallment acceleration amount for any plan*
5 *year shall not exceed the excess (if any) of—*

6 “(I) *the sum of the shortfall amor-*
7 *tization installments for the plan year*
8 *and all preceding plan years in the*
9 *amortization period elected under*
10 *paragraph (2)(D) with respect to the*
11 *shortfall amortization base with respect*
12 *to an election year, determined without*
13 *regard to paragraph (2)(D) and this*
14 *paragraph, over*

15 “(II) *the sum of the shortfall am-*
16 *ortization installments for such plan*
17 *year and all such preceding plan*
18 *years, determined after application of*
19 *paragraph (2)(D) (and in the case of*
20 *any preceding plan year, after appli-*
21 *cation of this paragraph).*

22 “(iii) *CARRYOVER OF EXCESS INSTALL-*
23 *MENT ACCELERATION AMOUNTS.—*

24 “(I) *IN GENERAL.—If the install-*
25 *ment acceleration amount for any plan*

1 *year (determined without regard to*
2 *clause (ii)) exceeds the limitation*
3 *under clause (ii), then, subject to sub-*
4 *clause (II), such excess shall be treated*
5 *as an installment acceleration amount*
6 *with respect to the succeeding plan*
7 *year.*

8 “(II) *CAP TO APPLY.—If any*
9 *amount treated as an installment ac-*
10 *celeration amount under subclause (I)*
11 *or this subclause with respect any suc-*
12 *ceeding plan year, when added to other*
13 *installment acceleration amounts (de-*
14 *termined without regard to clause (ii))*
15 *with respect to the plan year, exceeds*
16 *the limitation under clause (ii), the*
17 *portion of such amount representing*
18 *such excess shall be treated as an in-*
19 *stallment acceleration amount with re-*
20 *spect to the next succeeding plan year.*

21 “(III) *LIMITATION ON YEARS TO*
22 *WHICH AMOUNTS CARRIED FOR.—No*
23 *amount shall be carried under sub-*
24 *clause (I) or (II) to a plan year which*
25 *begins after the first plan year fol-*

1 *lowing the last plan year in the re-*
2 *striction period (or after the second*
3 *plan year following such last plan year*
4 *in the case of an election year with re-*
5 *spect to which 15-year amortization*
6 *was elected under paragraph (2)(D)).*

7 *“(IV) ORDERING RULES.—For*
8 *purposes of applying subclause (II),*
9 *installment acceleration amounts for*
10 *the plan year (determined without re-*
11 *gard to any carryover under this*
12 *clause) shall be applied first against*
13 *the limitation under clause (ii) and*
14 *then carryovers to such plan year shall*
15 *be applied against such limitation on*
16 *a first-in, first-out basis.*

17 *“(D) EXCESS EMPLOYEE COMPENSATION.—*

18 *For purposes of this paragraph—*

19 *“(i) IN GENERAL.—The term ‘excess*
20 *employee compensation’ means, with respect*
21 *to any employee for any plan year, the ex-*
22 *cess (if any) of—*

23 *“(I) the aggregate amount includ-*
24 *ible in income under this chapter for*
25 *remuneration during the calendar year*

1 *in which such plan year begins for*
2 *services performed by the employee for*
3 *the plan sponsor (whether or not per-*
4 *formed during such calendar year),*
5 *over*

6 “(II) \$1,000,000.

7 “(i) AMOUNTS SET ASIDE FOR NON-
8 *QUALIFIED DEFERRED COMPENSATION.—If*
9 *during any calendar year assets are set*
10 *aside or reserved (directly or indirectly) in*
11 *a trust (or other arrangement as determined*
12 *by the Secretary), or transferred to such a*
13 *trust or other arrangement, by a plan spon-*
14 *sor for purposes of paying deferred com-*
15 *penetration of an employee under a non-*
16 *qualified deferred compensation plan (as de-*
17 *defined in section 409A) of the plan sponsor,*
18 *then, for purposes of clause (i), the amount*
19 *of such assets shall be treated as remunera-*
20 *tion of the employee includible in income*
21 *for the calendar year unless such amount is*
22 *otherwise includible in income for such*
23 *year. An amount to which the preceding*
24 *sentence applies shall not be taken into ac-*

1 *count under this paragraph for any subse-*
2 *quent calendar year.*

3 “(iii) *ONLY REMUNERATION FOR CER-*
4 *TAIN POST-2009 SERVICES COUNTED.—Re-*
5 *muneration shall be taken into account*
6 *under clause (i) only to the extent attrib-*
7 *utable to services performed by the employee*
8 *for the plan sponsor after February 28,*
9 *2010.*

10 “(iv) *EXCEPTION FOR CERTAIN EQUITY*
11 *PAYMENTS.—*

12 “(I) *IN GENERAL.—There shall*
13 *not be taken into account under clause*
14 *(i)(I) any amount includible in income*
15 *with respect to the granting after Feb-*
16 *ruary 28, 2010, of service recipient*
17 *stock (within the meaning of section*
18 *409A) that, upon such grant, is subject*
19 *to a substantial risk of forfeiture (as*
20 *defined under section 83(c)(1)) for at*
21 *least 5 years from the date of such*
22 *grant.*

23 “(II) *SECRETARIAL AUTHOR-*
24 *ITY.—The Secretary may by regulation*
25 *provide for the application of this*

1 *clause in the case of a person other*
2 *than a corporation.*

3 “(v) *OTHER EXCEPTIONS.—The fol-*
4 *lowing amounts includible in income shall*
5 *not be taken into account under clause*
6 *(i)(I):*

7 “(I) *COMMISSIONS.—Any remun-*
8 *eration payable on a commission*
9 *basis solely on account of income di-*
10 *rectly generated by the individual per-*
11 *formance of the individual to whom*
12 *such remuneration is payable.*

13 “(II) *CERTAIN PAYMENTS UNDER*
14 *EXISTING CONTRACTS.—Any remun-*
15 *eration consisting of nonqualified de-*
16 *ferred compensation, restricted stock,*
17 *stock options, or stock appreciation*
18 *rights payable or granted under a*
19 *written binding contract that was in*
20 *effect on March 1, 2010, and which*
21 *was not modified in any material re-*
22 *spect before such remuneration is paid.*

23 “(vi) *SELF-EMPLOYED INDIVIDUAL*
24 *TREATED AS EMPLOYEE.—The term ‘em-*
25 *ployee’ includes, with respect to a calendar*

1 *year, a self-employed individual who is*
2 *treated as an employee under section 401(c)*
3 *for the taxable year ending during such cal-*
4 *endar year, and the term ‘compensation’*
5 *shall include earned income of such indi-*
6 *vidual with respect to such self-employment.*

7 “(vii) *INDEXING OF AMOUNT.—In the*
8 *case of any calendar year beginning after*
9 *2010, the dollar amount under clause (i)(II)*
10 *shall be increased by an amount equal to—*

11 “(I) *such dollar amount, multi-*
12 *plied by*

13 “(II) *the cost-of-living adjustment*
14 *determined under section 1(f)(3) for*
15 *the calendar year, determined by sub-*
16 *stituting ‘calendar year 2009’ for ‘cal-*
17 *endar year 1992’ in subparagraph (B)*
18 *thereof.*

19 *If the amount of any increase under clause*
20 *(i) is not a multiple of \$1,000, such in-*
21 *crease shall be rounded to the next lowest*
22 *multiple of \$1,000.*

23 “(E) *EXTRAORDINARY DIVIDENDS AND RE-*
24 *DEMPTIONS.—*

1 “(i) *IN GENERAL.*—*The amount deter-*
2 *mined under this subparagraph for any*
3 *plan year is the excess (if any) of the sum*
4 *of the dividends declared during the plan*
5 *year by the plan sponsor plus the aggregate*
6 *amount paid for the redemption of stock of*
7 *the plan sponsor redeemed during the plan*
8 *year over the greater of—*

9 “(I) *the adjusted net income*
10 *(within the meaning of section 4043 of*
11 *the Employee Retirement Income Secu-*
12 *rity Act of 1974) of the plan sponsor*
13 *for the preceding plan year, deter-*
14 *mined without regard to any reduction*
15 *by reason of interest, taxes, deprecia-*
16 *tion, or amortization, or*

17 “(II) *in the case of a plan sponsor*
18 *that determined and declared dividends*
19 *in the same manner for at least 5 con-*
20 *secutive years immediately preceding*
21 *such plan year, the aggregate amount*
22 *of dividends determined and declared*
23 *for such plan year using such manner.*

24 “(ii) *ONLY CERTAIN POST-2009 DIVI-*
25 *DENDS AND REDEMPTIONS COUNTED.*—*For*

1 *purposes of clause (i), there shall only be*
2 *taken into account dividends declared, and*
3 *redemptions occurring, after February 28,*
4 *2010.*

5 “(iii) *EXCEPTION FOR INTRA-GROUP*
6 *DIVIDENDS.—Dividends paid by one mem-*
7 *ber of a controlled group (as defined in sec-*
8 *tion 412(d)(3)) to another member of such*
9 *group shall not be taken into account under*
10 *clause (i).*

11 “(iv) *EXCEPTION FOR CERTAIN RE-*
12 *DEMPTIONS.—Redemptions that are made*
13 *pursuant to a plan maintained with respect*
14 *to employees, or that are made on account*
15 *of the death, disability, or termination of*
16 *employment of an employee or shareholder,*
17 *shall not be taken into account under clause*
18 *(i).*

19 “(v) *EXCEPTION FOR CERTAIN PRE-*
20 *FERRED STOCK.—*

21 “(I) *IN GENERAL.—Dividends*
22 *and redemptions with respect to appli-*
23 *cable preferred stock shall not be taken*
24 *into account under clause (i) to the ex-*
25 *tent that dividends accrue with respect*

1 to such stock at a specified rate in all
2 events and without regard to the plan
3 sponsor's income, and interest accrues
4 on any unpaid dividends with respect
5 to such stock.

6 “(II) *APPLICABLE PREFERRED*
7 *STOCK.*—For purposes of subclause (I),
8 the term ‘applicable preferred stock’
9 means preferred stock which was issued
10 before March 1, 2010 (or which was
11 issued after such date and is held by
12 an employee benefit plan subject to the
13 provisions of title I of Employee Re-
14 tirement Income Security Act of 1974).

15 “(F) *OTHER DEFINITIONS AND RULES.*—
16 For purposes of this paragraph—

17 “(i) *PLAN SPONSOR.*—The term ‘plan
18 sponsor’ includes any member of the plan
19 sponsor's controlled group (as defined in
20 section 412(d)(3)).

21 “(ii) *RESTRICTION PERIOD.*—The term
22 ‘restriction period’ means, with respect to
23 any election year—

24 “(I) except as provided in sub-
25 clause (II), the 3-year period beginning

1 *with the election year (or, if later, the*
2 *first plan year beginning after Decem-*
3 *ber 31, 2009), and*

4 “(II) *if the plan sponsor elects 15-*
5 *year amortization for the shortfall am-*
6 *ortization base for the election year, the*
7 *5-year period beginning with the elec-*
8 *tion year (or, if later, the first plan*
9 *year beginning after December 31,*
10 *2009).*

11 “(iii) *ELECTIONS FOR MULTIPLE*
12 *PLANS.—If a plan sponsor makes elections*
13 *under paragraph (2)(D) with respect to 2*
14 *or more plans, the Secretary shall provide*
15 *rules for the application of this paragraph*
16 *to such plans, including rules for the ratable*
17 *allocation of any installment acceleration*
18 *amount among such plans on the basis of*
19 *each plan’s relative reduction in the plan’s*
20 *shortfall amortization installment for the*
21 *first plan year in the amortization period*
22 *described in subparagraph (A) (determined*
23 *without regard to this paragraph).*

24 “(iv) *MERGERS AND ACQUISITIONS.—*
25 *The Secretary shall prescribe rules for the*

1 *application of paragraph (2)(D) and this*
2 *paragraph in any case where there is a*
3 *merger or acquisition involving a plan*
4 *sponsor making the election under para-*
5 *graph (2)(D).”.*

6 (3) *CONFORMING AMENDMENTS.—Section 430 is*
7 *amended—*

8 (A) *in subsection (c)(1), by striking “the*
9 *shortfall amortization bases for such plan year*
10 *and each of the 6 preceding plan years” and in-*
11 *serting “any shortfall amortization base which*
12 *has not been fully amortized under this sub-*
13 *section”, and*

14 (B) *in subsection (j)(3), by adding at the*
15 *end the following:*

16 “(F) *QUARTERLY CONTRIBUTIONS NOT TO*
17 *INCLUDE CERTAIN INCREASED CONTRIBU-*
18 *TIONS.—Subparagraph (D) shall be applied*
19 *without regard to any increase under subsection*
20 *(c)(7).”.*

21 (c) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to plan years beginning after December*
23 *31, 2007.*

1 **SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PE-**
 2 **RIOD TO PLANS SUBJECT TO PRIOR LAW**
 3 **FUNDING RULES.**

4 (a) *IN GENERAL.*—Title I of the Pension Protection
 5 Act of 2006 is amended by redesignating section 107 as sec-
 6 tion 108 and by inserting the following after section 106:

7 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**
 8 **RIODS TO PLANS WITH DELAYED EFFECTIVE**
 9 **DATE.**

10 “(a) *IN GENERAL.*—If the plan sponsor of a plan to
 11 which section 104, 105, or 106 of this Act applies elects
 12 to have this section apply for any eligible plan year (in
 13 this section referred to as an ‘election year’), section 302
 14 of the Employee Retirement Income Security Act of 1974
 15 and section 412 of the Internal Revenue Code of 1986 (as
 16 in effect before the amendments made by this subtitle and
 17 subtitle B) shall apply to such year in the manner described
 18 in subsection (b) or (c), whichever is specified in the elec-
 19 tion. All references in this section to ‘such Act’ or ‘such
 20 Code’ shall be to such Act or such Code as in effect before
 21 the amendments made by this subtitle and subtitle B.

22 “(b) *APPLICATION OF 2 AND 7 RULE.*—In the case of
 23 an election year to which this subsection applies—

24 “(1) *2-YEAR LOOKBACK FOR DETERMINING DEF-*
 25 *ICIT REDUCTION CONTRIBUTIONS FOR CERTAIN*
 26 *PLANS.*—For purposes of applying section 302(d)(9)

1 *of such Act and section 412(l)(9) of such Code, the*
2 *funded current liability percentage (as defined in sub-*
3 *paragraph (C) thereof) for such plan for such plan*
4 *year shall be such funded current liability percentage*
5 *of such plan for the second plan year preceding the*
6 *first election year of such plan.*

7 “(2) *CALCULATION OF DEFICIT REDUCTION CON-*
8 *TRIBUTION.—For purposes of applying section 302(d)*
9 *of such Act and section 412(l) of such Code to a plan*
10 *to which such sections apply (after taking into ac-*
11 *count paragraph (1))—*

12 “(A) *in the case of the increased unfunded*
13 *new liability of the plan, the applicable percent-*
14 *age described in section 302(d)(4)(C) of such Act*
15 *and section 412(l)(4)(C) of such Code shall be the*
16 *third segment rate described in sections 104(b),*
17 *105(b), and 106(b) of this Act, and*

18 “(B) *in the case of the excess of the un-*
19 *funded new liability over the increased unfunded*
20 *new liability, such applicable percentage shall be*
21 *determined without regard to this section.*

22 “(c) *APPLICATION OF 15-YEAR AMORTIZATION.—In*
23 *the case of an election year to which this subsection applies,*
24 *for purposes of applying section 302(d) of such Act and sec-*
25 *tion 412(l) of such Code—*

1 “(1) *in the case of the increased unfunded new*
2 *liability of the plan, the applicable percentage de-*
3 *scribed in section 302(d)(4)(C) of such Act and sec-*
4 *tion 412(l)(4)(C) of such Code for any pre-effective*
5 *date plan year beginning with or after the first elec-*
6 *tion year shall be the ratio of—*

7 “(A) *the annual installments payable in*
8 *each year if the increased unfunded new liability*
9 *for such plan year were amortized over 15 years,*
10 *using an interest rate equal to the third segment*
11 *rate described in sections 104(b), 105(b), and*
12 *106(b) of this Act, to*

13 “(B) *the increased unfunded new liability*
14 *for such plan year, and*

15 “(2) *in the case of the excess of the unfunded new*
16 *liability over the increased unfunded new liability,*
17 *such applicable percentage shall be determined with-*
18 *out regard to this section.*

19 “(d) *ELECTION.—*

20 “(1) *IN GENERAL.—The plan sponsor of a plan*
21 *may elect to have this section apply to not more than*
22 *2 eligible plan years with respect to the plan, except*
23 *that in the case of a plan to which section 106 of this*
24 *Act applies, the plan sponsor may only elect to have*
25 *this section apply to 1 eligible plan year.*

1 “(2) *AMORTIZATION SCHEDULE.*—Such election
2 shall specify whether the rules under subsection (b) or
3 (c) shall apply to an election year, except that if a
4 plan sponsor elects to have this section apply to 2 eli-
5 gible plan years, the plan sponsor must elect the same
6 rule for both years.

7 “(3) *OTHER RULES.*—Such election shall be
8 made at such time, and in such form and manner,
9 as shall be prescribed by the Secretary of the Treas-
10 ury, and may be revoked only with the consent of the
11 Secretary of the Treasury.

12 “(e) *DEFINITIONS.*—For purposes of this section—

13 “(1) *ELIGIBLE PLAN YEAR.*—For purposes of this
14 subparagraph, the term ‘eligible plan year’ means
15 any plan year beginning in 2008, 2009, 2010, or
16 2011, except that a plan year beginning in 2008 shall
17 only be treated as an eligible plan year if the due
18 date for the payment of the minimum required con-
19 tribution for such plan year occurs on or after the
20 date of the enactment of this clause.

21 “(2) *PRE-EFFECTIVE DATE PLAN YEAR.*—The
22 term ‘pre-effective date plan year’ means, with respect
23 to a plan, any plan year prior to the first year in
24 which the amendments made by this subtitle and sub-
25 title B apply to the plan.

1 “(3) *INCREASED UNFUNDED NEW LIABILITY.*—
2 *The term ‘increased unfunded new liability’ means,*
3 *with respect to a year, the excess (if any) of the un-*
4 *funded new liability over the amount of unfunded*
5 *new liability determined as if the value of the plan’s*
6 *assets determined under subsection 302(c)(2) of such*
7 *Act and section 412(c)(2) of such Code equaled the*
8 *product of the current liability of the plan for the*
9 *year multiplied by the funded current liability per-*
10 *centage (as defined in section 302(d)(8)(B) of such*
11 *Act and 412(l)(8)(B) of such Code) of the plan for the*
12 *second plan year preceding the first election year of*
13 *such plan.*

14 “(4) *OTHER DEFINITIONS.*—*The terms ‘unfunded*
15 *new liability’ and ‘current liability’ shall have the*
16 *meanings set forth in section 302(d) of such Act and*
17 *section 412(l) of such Code.”.*

18 **(b) *ELIGIBLE CHARITY PLANS.***—*Section 104 of the*
19 *Pension Protection Act of 2006 is amended—*

20 (1) *by striking “eligible cooperative plan” wher-*
21 *ever it appears in subsections (a) and (b) and insert-*
22 *ing “eligible cooperative plan or an eligible charity*
23 *plan”, and*

24 (2) *by adding at the end the following new sub-*
25 *section:*

1 “(d) *ELIGIBLE CHARITY PLAN DEFINED.*—For pur-
2 poses of this section, a plan shall be treated as an eligible
3 charity plan for a plan year if the plan is maintained by
4 more than one employer (determined without regard to sec-
5 tion 414(c) of the Internal Revenue Code) and 100 percent
6 of the employers are described in section 501(c)(3) of such
7 Code.”.

8 (c) *EFFECTIVE DATE.*—

9 (1) *IN GENERAL.*—The amendment made by sub-
10 section (a) shall take effect as if included in the Pen-
11 sion Protection Act of 2006.

12 (2) *ELIGIBLE CHARITY PLAN.*—The amendments
13 made by subsection (b) shall apply to plan years be-
14 ginning after December 31, 2007, except that a plan
15 sponsor may elect to apply such amendments to plan
16 years beginning after December 31, 2008. Any such
17 election shall be made at such time, and in such form
18 and manner, as shall be prescribed by the Secretary
19 of the Treasury, and may be revoked only with the
20 consent of the Secretary of the Treasury.

21 **SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRIC-**
22 **TIONS.**

23 (a) *IN GENERAL.*—

1 (1) *AMENDMENT TO ERISA.*—Section 206(g)(9) of
2 *the Employee Retirement Income Security Act of*
3 *1974 is amended by adding at the end the following:*

4 “(D) *SPECIAL RULE FOR CERTAIN YEARS.*—
5 *Solely for purposes of any applicable provi-*
6 *sion—*

7 “(i) *IN GENERAL.*—*For plan years be-*
8 *ginning on or after October 1, 2008, and be-*
9 *fore October 1, 2010, the adjusted funding*
10 *target attainment percentage of a plan shall*
11 *be the greater of—*

12 “(I) *such percentage, as deter-*
13 *mined without regard to this subpara-*
14 *graph, or*

15 “(II) *the adjusted funding target*
16 *attainment percentage for such plan*
17 *for the plan year beginning after Octo-*
18 *ber 1, 2007, and before October 1,*
19 *2008, as determined under rules pre-*
20 *scribed by the Secretary of the Treas-*
21 *ury.*

22 “(ii) *SPECIAL RULE.*—*In the case of a*
23 *plan for which the valuation date is not the*
24 *first day of the plan year—*

1 “(I) clause (i) shall apply to plan
2 years beginning after December 31,
3 2007, and before January 1, 2010, and

4 “(II) clause (i)(II) shall apply
5 based on the last plan year beginning
6 before November 1, 2007, as determined
7 under rules prescribed by the Secretary
8 of the Treasury.

9 “(iii) *APPLICABLE PROVISION.*—For
10 purposes of this subparagraph, the term
11 ‘applicable provision’ means—

12 “(I) paragraph (3), but only for
13 purposes of applying such paragraph
14 to a payment which, as determined
15 under rules prescribed by the Secretary
16 of the Treasury, is a payment under a
17 social security leveling option which
18 accelerates payments under the plan
19 before, and reduces payments after, a
20 participant starts receiving social secu-
21 rity benefits in order to provide sub-
22 stantially similar aggregate payments
23 both before and after such benefits are
24 received, and

25 “(II) paragraph (4).”.

1 (2) *AMENDMENT TO INTERNAL REVENUE CODE*
2 *OF 1986.—Section 436(j) of the Internal Revenue Code*
3 *of 1986 is amended by adding at the end the fol-*
4 *lowing:*

5 “(3) *SPECIAL RULE FOR CERTAIN YEARS.—Sole-*
6 *ly for purposes of any applicable provision—*

7 “(A) *IN GENERAL.—For plan years begin-*
8 *ning on or after October 1, 2008, and before Oc-*
9 *tober 1, 2010, the adjusted funding target attain-*
10 *ment percentage of a plan shall be the greater*
11 *of—*

12 “(i) *such percentage, as determined*
13 *without regard to this paragraph, or*

14 “(ii) *the adjusted funding target at-*
15 *tainment percentage for such plan for the*
16 *plan year beginning after October 1, 2007,*
17 *and before October 1, 2008, as determined*
18 *under rules prescribed by the Secretary.*

19 “(B) *SPECIAL RULE.—In the case of a plan*
20 *for which the valuation date is not the first day*
21 *of the plan year—*

22 “(i) *subparagraph (A) shall apply to*
23 *plan years beginning after December 31,*
24 *2007, and before January 1, 2010, and*

1 “(i) subparagraph (A)(ii) shall apply
2 based on the last plan year beginning before
3 November 1, 2007, as determined under
4 rules prescribed by the Secretary.

5 “(C) *APPLICABLE PROVISION.*—For pur-
6 poses of this paragraph, the term ‘applicable
7 provision’ means—

8 “(i) subsection (d), but only for pur-
9 poses of applying such paragraph to a pay-
10 ment which, as determined under rules pre-
11 scribed by the Secretary, is a payment
12 under a social security leveling option
13 which accelerates payments under the plan
14 before, and reduces payments after, a par-
15 ticipant starts receiving social security ben-
16 efits in order to provide substantially simi-
17 lar aggregate payments both before and
18 after such benefits are received, and

19 “(ii) subsection (e).”.

20 (b) *INTERACTION WITH WRERA RULE.*—Section 203
21 of the Worker, Retiree, and Employer Recovery Act of 2008
22 shall apply to a plan for any plan year in lieu of the
23 amendments made by this section applying to sections
24 206(g)(4) of the Employee Retirement Income Security Act
25 of 1974 and 436(e) of the Internal Revenue Code of 1986

1 *only to the extent that such section produces a higher ad-*
 2 *justed funding target attainment percentage for such plan*
 3 *for such year.*

4 (c) *EFFECTIVE DATE.*—

5 (1) *IN GENERAL.*—*Except as provided in para-*
 6 *graph (2), the amendments made by this section shall*
 7 *apply to plan years beginning on or after October 1,*
 8 *2008.*

9 (2) *SPECIAL RULE.*—*In the case of a plan for*
 10 *which the valuation date is not the first day of the*
 11 *plan year, the amendments made by this section shall*
 12 *apply to plan years beginning after December 31,*
 13 *2007.*

14 **SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE FOR**
 15 **PLANS MAINTAINED BY CHARITIES.**

16 (a) *AMENDMENT TO ERISA.*—*Paragraph (3) of section*
 17 *303(f) of the Employee Retirement Income Security Act of*
 18 *1974 is amended by adding the following at the end thereof:*

19 “(D) *SPECIAL RULE FOR CERTAIN YEARS*
 20 *OF PLANS MAINTAINED BY CHARITIES.*—

21 “(i) *IN GENERAL.*—*For purposes of ap-*
 22 *plying subparagraph (C) for plan years be-*
 23 *ginning after August 31, 2009, and before*
 24 *September 1, 2011, the ratio determined*

1 *under such subparagraph for the preceding*
2 *plan year shall be the greater of—*

3 *“(I) such ratio, as determined*
4 *without regard to this subparagraph,*
5 *or*

6 *“(II) the ratio for such plan for*
7 *the plan year beginning after August*
8 *31, 2007, and before September 1,*
9 *2008, as determined under rules pre-*
10 *scribed by the Secretary of the Treas-*
11 *ury.*

12 *“(ii) SPECIAL RULE.—In the case of a*
13 *plan for which the valuation date is not the*
14 *first day of the plan year—*

15 *“(I) clause (i) shall apply to plan*
16 *years beginning after December 31,*
17 *2008, and before January 1, 2011, and*

18 *“(II) clause (i)(II) shall apply*
19 *based on the last plan year beginning*
20 *before September 1, 2007, as deter-*
21 *mined under rules prescribed by the*
22 *Secretary of the Treasury.*

23 *“(iii) LIMITATION TO CHARITIES.—*
24 *This subparagraph shall not apply to any*
25 *plan unless such plan is maintained exclu-*

1 sively by one or more organizations de-
 2 scribed in section 501(c)(3) of the Internal
 3 Revenue Code of 1986.”.

4 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
 5 1986.—Paragraph (3) of section 430(f) of the Internal Rev-
 6 enue Code of 1986 is amended by adding the following at
 7 the end thereof:

8 “(D) SPECIAL RULE FOR CERTAIN YEARS
 9 OF PLANS MAINTAINED BY CHARITIES.—

10 “(i) IN GENERAL.—For purposes of ap-
 11 plying subparagraph (C) for plan years be-
 12 ginning after August 31, 2009, and before
 13 September 1, 2011, the ratio determined
 14 under such subparagraph for the preceding
 15 plan year of a plan shall be the greater of—

16 “(I) such ratio, as determined
 17 without regard to this subsection, or

18 “(II) the ratio for such plan for
 19 the plan year beginning after August
 20 31, 2007 and before September 1, 2008,
 21 as determined under rules prescribed
 22 by the Secretary.

23 “(ii) SPECIAL RULE.—In the case of a
 24 plan for which the valuation date is not the
 25 first day of the plan year—

1 “(I) clause (i) shall apply to plan
2 years beginning after December 31,
3 2007, and before January 1, 2010, and

4 “(II) clause (i)(II) shall apply
5 based on the last plan year beginning
6 before September 1, 2007, as deter-
7 mined under rules prescribed by the
8 Secretary.

9 “(iii) *LIMITATION TO CHARITIES.*—
10 *This subparagraph shall not apply to any*
11 *plan unless such plan is maintained exclu-*
12 *sively by one or more organizations de-*
13 *scribed in section 501(c)(3).”.*

14 *(c) EFFECTIVE DATE.*—

15 (1) *IN GENERAL.*—*Except as provided in para-*
16 *graph (2), the amendments made by this section shall*
17 *apply to plan years beginning after August 31, 2009.*

18 (2) *SPECIAL RULE.*—*In the case of a plan for*
19 *which the valuation date is not the first day of the*
20 *plan year, the amendments made by this section shall*
21 *apply to plan years beginning after December 31,*
22 *2008.*

1 ***Subtitle B—Multiemployer Plans***

2 ***SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT***

3 ***RULES.***

4 *(a) ADJUSTMENTS.—*

5 *(1) AMENDMENT TO ERISA.—Section 304(b) of*
6 *the Employee Retirement Income Security Act of*
7 *1974 (29 U.S.C. 1084(b)) is amended by adding at*
8 *the end the following new paragraph:*

9 *“(8) SPECIAL RELIEF RULES.—Notwithstanding*
10 *any other provision of this subsection—*

11 *“(A) AMORTIZATION OF NET INVESTMENT*
12 *LOSSES.—*

13 *“(i) IN GENERAL.—A multiemployer*
14 *plan with respect to which the solvency test*
15 *under subparagraph (C) is met may treat*
16 *the portion of any experience loss or gain*
17 *attributable to net investment losses in-*
18 *curring in either or both of the first two plan*
19 *years ending after August 31, 2008, as an*
20 *item separate from other experience losses,*
21 *to be amortized in equal annual install-*
22 *ments (until fully amortized) over the pe-*
23 *riod —*

24 *“(I) beginning with the plan year*
25 *in which such portion is first recog-*

1 nized in the actuarial value of assets,
2 and

3 “(II) ending with the last plan
4 year in the 30-plan year period begin-
5 ning with the plan year in which such
6 net investment loss was incurred.

7 “(ii) COORDINATION WITH EXTEN-
8 SIONS.—If this subparagraph applies for
9 any plan year—

10 “(I) no extension of the amortiza-
11 tion period under clause (i) shall be al-
12 lowed under subsection (d), and

13 “(II) if an extension was granted
14 under subsection (d) for any plan year
15 before the election to have this subpara-
16 graph apply to the plan year, such ex-
17 tension shall not result in such amorti-
18 zation period exceeding 30 years.

19 “(iii) NET INVESTMENT LOSSES.—For
20 purposes of this subparagraph—

21 “(I) IN GENERAL.—Net invest-
22 ment losses shall be determined in the
23 manner prescribed by the Secretary of
24 the Treasury on the basis of the dif-
25 ference between actual and expected re-

1 *turns (including any difference attrib-*
2 *utable to any criminally fraudulent in-*
3 *vestment arrangement).*

4 “(II) *CRIMINALLY FRAUDULENT*
5 *INVESTMENT ARRANGEMENTS.—The de-*
6 *termination as to whether an arrange-*
7 *ment is a criminally fraudulent invest-*
8 *ment arrangement shall be made under*
9 *rules substantially similar to the rules*
10 *prescribed by the Secretary of the*
11 *Treasury for purposes of section 165 of*
12 *the Internal Revenue Code of 1986.*

13 “(B) *EXPANDED SMOOTHING PERIOD.—*

14 “(i) *IN GENERAL.—A multiemployer*
15 *plan with respect to which the solvency test*
16 *under subparagraph (C) is met may change*
17 *its asset valuation method in a manner*
18 *which—*

19 “(I) *spreads the difference between*
20 *expected and actual returns for either*
21 *or both of the first 2 plan years ending*
22 *after August 31, 2008, over a period of*
23 *not more than 10 years,*

24 “(II) *provides that for either or*
25 *both of the first 2 plan years beginning*

1 *after August 31, 2008, the value of*
2 *plan assets at any time shall not be*
3 *less than 80 percent or greater than*
4 *130 percent of the fair market value of*
5 *such assets at such time, or*

6 *“(III) makes both changes de-*
7 *scribed in subclauses (I) and (II) to*
8 *such method.*

9 *“(ii) ASSET VALUATION METHODS.—If*
10 *this subparagraph applies for any plan*
11 *year—*

12 *“(I) the Secretary of the Treasury*
13 *shall not treat the asset valuation*
14 *method of the plan as unreasonable*
15 *solely because of the changes in such*
16 *method described in clause (i), and*

17 *“(II) such changes shall be deemed*
18 *approved by such Secretary under sec-*
19 *tion 302(d)(1) and section 412(d)(1) of*
20 *such Code.*

21 *“(iii) AMORTIZATION OF REDUCTION*
22 *IN UNFUNDED ACCRUED LIABILITY.—If this*
23 *subparagraph and subparagraph (A) both*
24 *apply for any plan year, the plan shall*
25 *treat any reduction in unfunded accrued li-*

1 *ability resulting from the application of*
2 *this subparagraph as a separate experience*
3 *amortization base, to be amortized in equal*
4 *annual installments (until fully amortized)*
5 *over a period of 30 plan years rather than*
6 *the period such liability would otherwise be*
7 *amortized over.*

8 “(C) *SOLVENCY TEST.*—*The solvency test*
9 *under this paragraph is met only if the plan ac-*
10 *tuary certifies that the plan is projected to have*
11 *sufficient assets to timely pay expected benefits*
12 *and anticipated expenditures over the amortiza-*
13 *tion period, taking into account the changes in*
14 *the funding standard account under this para-*
15 *graph.*

16 “(D) *RESTRICTION ON BENEFIT IN-*
17 *CREASES.*—*If subparagraph (A) or (B) apply to*
18 *a multiemployer plan for any plan year, then,*
19 *in addition to any other applicable restrictions*
20 *on benefit increases, a plan amendment increas-*
21 *ing benefits may not go into effect during either*
22 *of the 2 plan years immediately following such*
23 *plan year unless—*

24 “(i) *the plan actuary certifies that—*

1 “(I) any such increase is paid for
2 out of additional contributions not al-
3 located to the plan immediately before
4 the application of this paragraph to
5 the plan, and

6 “(II) the plan’s funded percentage
7 and projected credit balances for such 2
8 plan years are reasonably expected to
9 be at least as high as such percentage
10 and balances would have been if the
11 benefit increase had not been adopted,
12 or

13 “(ii) the amendment is required as a
14 condition of qualification under part I of
15 subchapter D of chapter 1 of the Internal
16 Revenue Code of 1986 or to comply with
17 other applicable law.

18 “(E) REPORTING.—A plan sponsor of a
19 plan to which this paragraph applies shall—

20 “(i) give notice of such application to
21 participants and beneficiaries of the plan,
22 and

23 “(ii) inform the Pension Benefit Guar-
24 anty Corporation of such application in
25 such form and manner as the Director of

1 *the Pension Benefit Guaranty Corporation*
2 *may prescribe.”.*

3 (2) *AMENDMENT TO INTERNAL REVENUE CODE*
4 *OF 1986.—Section 431(b) is amended by adding at the*
5 *end the following new paragraph:*

6 “(8) *SPECIAL RELIEF RULES.—Notwithstanding*
7 *any other provision of this subsection—*

8 “(A) *AMORTIZATION OF NET INVESTMENT*
9 *LOSSES.—*

10 “(i) *IN GENERAL.—A multiemployer*
11 *plan with respect to which the solvency test*
12 *under subparagraph (C) is met may treat*
13 *the portion of any experience loss or gain*
14 *attributable to net investment losses in-*
15 *curring in either or both of the first two plan*
16 *years ending after August 31, 2008, as an*
17 *item separate from other experience losses,*
18 *to be amortized in equal annual install-*
19 *ments (until fully amortized) over the pe-*
20 *riod —*

21 “(I) *beginning with the plan year*
22 *in which such portion is first recog-*
23 *nized in the actuarial value of assets,*
24 *and*

1 “(II) ending with the last plan
2 year in the 30-plan year period begin-
3 ning with the plan year in which such
4 net investment loss was incurred.

5 “(ii) COORDINATION WITH EXTEN-
6 SIONS.—If this subparagraph applies for
7 any plan year—

8 “(I) no extension of the amortiza-
9 tion period under clause (i) shall be al-
10 lowed under subsection (d), and

11 “(II) if an extension was granted
12 under subsection (d) for any plan year
13 before the election to have this subpara-
14 graph apply to the plan year, such ex-
15 tension shall not result in such amorti-
16 zation period exceeding 30 years.

17 “(iii) NET INVESTMENT LOSSES.—For
18 purposes of this subparagraph—

19 “(I) IN GENERAL.—Net invest-
20 ment losses shall be determined in the
21 manner prescribed by the Secretary on
22 the basis of the difference between ac-
23 tual and expected returns (including
24 any difference attributable to any

1 *criminally fraudulent investment ar-*
2 *rangement).*

3 “(II) *CRIMINALLY FRAUDULENT*
4 *INVESTMENT ARRANGEMENTS.*—*The de-*
5 *termination as to whether an arrange-*
6 *ment is a criminally fraudulent invest-*
7 *ment arrangement shall be made under*
8 *rules substantially similar to the rules*
9 *prescribed by the Secretary for pur-*
10 *poses of section 165.*

11 “(B) *EXPANDED SMOOTHING PERIOD.*—

12 “(i) *IN GENERAL.*—*A multiemployer*
13 *plan with respect to which the solvency test*
14 *under subparagraph (C) is met may change*
15 *its asset valuation method in a manner*
16 *which—*

17 “(I) *spreads the difference between*
18 *expected and actual returns for either*
19 *or both of the first 2 plan years ending*
20 *after August 31, 2008, over a period of*
21 *not more than 10 years,*

22 “(II) *provides that for either or*
23 *both of the first 2 plan years beginning*
24 *after August 31, 2008, the value of*
25 *plan assets at any time shall not be*

1 *less than 80 percent or greater than*
2 *130 percent of the fair market value of*
3 *such assets at such time, or*

4 “(III) *makes both changes de-*
5 *scribed in subclauses (I) and (II) to*
6 *such method.*

7 “(ii) *ASSET VALUATION METHODS.—If*
8 *this subparagraph applies for any plan*
9 *year—*

10 “(I) *the Secretary shall not treat*
11 *the asset valuation method of the plan*
12 *as unreasonable solely because of the*
13 *changes in such method described in*
14 *clause (i), and*

15 “(II) *such changes shall be deemed*
16 *approved by the Secretary under sec-*
17 *tion 302(d)(1) of the Employee Retirement*
18 *Income Security Act of 1974 and*
19 *section 412(d)(1).*

20 “(iii) *AMORTIZATION OF REDUCTION*
21 *IN UNFUNDED ACCRUED LIABILITY.—If this*
22 *subparagraph and subparagraph (A) both*
23 *apply for any plan year, the plan shall*
24 *treat any reduction in unfunded accrued li-*
25 *ability resulting from the application of*

1 *this subparagraph as a separate experience*
2 *amortization base, to be amortized in equal*
3 *annual installments (until fully amortized)*
4 *over a period of 30 plan years rather than*
5 *the period such liability would otherwise be*
6 *amortized over.*

7 “(C) *SOLVENCY TEST.*—*The solvency test*
8 *under this paragraph is met only if the plan ac-*
9 *tuary certifies that the plan is projected to have*
10 *sufficient assets to timely pay expected benefits*
11 *and anticipated expenditures over the amortiza-*
12 *tion period, taking into account the changes in*
13 *the funding standard account under this para-*
14 *graph.*

15 “(D) *RESTRICTION ON BENEFIT IN-*
16 *CREASES.*—*If subparagraph (A) or (B) apply to*
17 *a multiemployer plan for any plan year, then,*
18 *in addition to any other applicable restrictions*
19 *on benefit increases, a plan amendment increas-*
20 *ing benefits may not go into effect during either*
21 *of the 2 plan years immediately following such*
22 *plan year unless—*

23 “(i) *the plan actuary certifies that—*

24 “(I) *any such increase is paid for*
25 *out of additional contributions not al-*

1 *located to the plan immediately before*
2 *the application of this paragraph to*
3 *the plan, and*

4 “(II) *the plan’s funded percentage*
5 *and projected credit balances for such 2*
6 *plan years are reasonably expected to*
7 *be at least as high as such percentage*
8 *and balances would have been if the*
9 *benefit increase had not been adopted,*
10 *or*

11 “(ii) *the amendment is required as a*
12 *condition of qualification under part I of*
13 *subchapter D or to comply with other appli-*
14 *cable law.*

15 “(E) *REPORTING.—A plan sponsor of a*
16 *plan to which this paragraph applies shall—*

17 “(i) *give notice of such application to*
18 *participants and beneficiaries of the plan,*
19 *and*

20 “(ii) *inform the Pension Benefit Guar-*
21 *anty Corporation of such application in*
22 *such form and manner as the Director of*
23 *the Pension Benefit Guaranty Corporation*
24 *may prescribe.”.*

25 (b) *EFFECTIVE DATES.—*

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall take effect as of the first day of the*
3 *first plan year ending after August 31, 2008, except*
4 *that any election a plan makes pursuant to this sec-*
5 *tion that affects the plan’s funding standard account*
6 *for the first plan year beginning after August 31,*
7 *2008, shall be disregarded for purposes of applying*
8 *the provisions of section 305 of the Employee Retirement*
9 *Income Security Act of 1974 and section 432 of*
10 *the Internal Revenue Code of 1986 to such plan year.*

11 (2) *RESTRICTIONS ON BENEFIT INCREASES.*—
12 *Notwithstanding paragraph (1), the restrictions on*
13 *plan amendments increasing benefits in sections*
14 *304(b)(8)(D) of such Act and 431(b)(8)(D) of such*
15 *Code, as added by this section, shall take effect on the*
16 *date of enactment of this Act.*

17 **TITLE IV—OFFSET PROVISIONS**

18 **Subtitle A—Black Liquor**

19 **SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE** 20 **CELLULOSIC BIOFUEL PRODUCER CREDIT.**

21 (a) *IN GENERAL.*—*Subparagraph (E) of section*
22 *40(b)(6) is amended by adding at the end the following new*
23 *clause:*

1 “(iii) *EXCLUSION OF UNPROCESSED*
2 *FUELS.—The term ‘cellulosic biofuel’ shall*
3 *not include any fuel if—*

4 “(I) *more than 4 percent of such*
5 *fuel (determined by weight) is any*
6 *combination of water and sediment, or*

7 “(II) *the ash content of such fuel*
8 *is more than 1 percent (determined by*
9 *weight).”.*

10 (b) *EFFECTIVE DATE.—The amendment made by this*
11 *section shall apply to fuels sold or used after the date of*
12 *the enactment of this Act.*

13 **SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT**
14 **AND ALTERNATIVE FUEL MIXTURE CREDIT**
15 **FOR BLACK LIQUOR.**

16 (a) *IN GENERAL.—The last sentence of section*
17 *6426(d)(2) is amended by striking “or biodiesel” and in-*
18 *serting “biodiesel, or any fuel (including lignin, wood resi-*
19 *dues, or spent pulping liquors) derived from the production*
20 *of paper or pulp”.*

21 (b) *EFFECTIVE DATE.—The amendment made by this*
22 *section shall apply to fuel sold or used after December 31,*
23 *2009.*

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER CREDIT.

(a) *EXPANDED DOCUMENTATION REQUIREMENT.*—
Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking “or” at the end of paragraph (3),
(2) by striking the period at the end of paragraph (4) and inserting a comma, and

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

“(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

“(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).”.

1 **(b) MODIFICATION OF EFFECTIVE DATE OF DOCU-**
 2 **MENTATION REQUIREMENTS.**—*Paragraph (2) of section*
 3 *12(e) of the Worker, Homeownership, and Business Assist-*
 4 *ance Act of 2009 is amended by striking “returns for tax-*
 5 *able years ending after the date of the enactment of this*
 6 *Act” and inserting “returns filed after the date of the enact-*
 7 *ment of this Act”.*

8 **(c) EFFECTIVE DATES.**—

9 **(1) DOCUMENTATION REQUIREMENTS.**—*The*
 10 *amendments made by subsection (a) shall apply to*
 11 *purchases on or after the date of the enactment of this*
 12 *Act.*

13 **(2) EFFECTIVE DATE OF WORKER, HOMEOWNER-**
 14 **SHIP, AND BUSINESS ASSISTANCE ACT.**—*The amend-*
 15 *ment made by subsection (b) shall apply to purchases*
 16 *of a principal residence on or after the date of the en-*
 17 *actment of the Worker, Homeownership, and Business*
 18 *Assistance Act of 2009.*

19 **Subtitle C—Economic Substance**

20 **SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOC-** 21 **TRINE; PENALTIES.**

22 **(a) IN GENERAL.**—*Section 7701 is amended by redес-*
 23 *ignating subsection (o) as subsection (p) and by inserting*
 24 *after subsection (n) the following new subsection:*

1 “(o) *CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
2 *TRINE.*—

3 “(1) *APPLICATION OF DOCTRINE.*—*In the case of*
4 *any transaction to which the economic substance doc-*
5 *trine is relevant, such transaction shall be treated as*
6 *having economic substance only if—*

7 “(A) *the transaction changes in a meaning-*
8 *ful way (apart from Federal income tax effects)*
9 *the taxpayer’s economic position, and*

10 “(B) *the taxpayer has a substantial purpose*
11 *(apart from Federal income tax effects) for enter-*
12 *ing into such transaction.*

13 “(2) *SPECIAL RULE WHERE TAXPAYER RELIES*
14 *ON PROFIT POTENTIAL.*—

15 “(A) *IN GENERAL.*—*The potential for profit*
16 *of a transaction shall be taken into account in*
17 *determining whether the requirements of sub-*
18 *paragraphs (A) and (B) of paragraph (1) are*
19 *met with respect to the transaction only if the*
20 *present value of the reasonably expected pre-tax*
21 *profit from the transaction is substantial in rela-*
22 *tion to the present value of the expected net tax*
23 *benefits that would be allowed if the transaction*
24 *were respected.*

1 “(B) *TREATMENT OF FEES AND FOREIGN*
2 *TAXES.—Fees and other transaction expenses*
3 *shall be taken into account as expenses in deter-*
4 *mining pre-tax profit under subparagraph (A).*
5 *The Secretary may issue regulations requiring*
6 *foreign taxes to be treated as expenses in deter-*
7 *mining pre-tax profit in appropriate cases.*

8 “(3) *STATE AND LOCAL TAX BENEFITS.—For*
9 *purposes of paragraph (1), any State or local income*
10 *tax effect which is related to a Federal income tax ef-*
11 *fect shall be treated in the same manner as a Federal*
12 *income tax effect.*

13 “(4) *FINANCIAL ACCOUNTING BENEFITS.—For*
14 *purposes of paragraph (1)(B), achieving a financial*
15 *accounting benefit shall not be taken into account as*
16 *a purpose for entering into a transaction if the origin*
17 *of such financial accounting benefit is a reduction of*
18 *Federal income tax.*

19 “(5) *DEFINITIONS AND SPECIAL RULES.—For*
20 *purposes of this subsection—*

21 “(A) *ECONOMIC SUBSTANCE DOCTRINE.—*
22 *The term ‘economic substance doctrine’ means*
23 *the common law doctrine under which tax bene-*
24 *fits under subtitle A with respect to a trans-*
25 *action are not allowable if the transaction does*

1 *not have economic substance or lacks a business*
2 *purpose.*

3 “(B) *EXCEPTION FOR PERSONAL TRANS-*
4 *ACTIONS OF INDIVIDUALS.—In the case of an in-*
5 *dividual, paragraph (1) shall apply only to*
6 *transactions entered into in connection with a*
7 *trade or business or an activity engaged in for*
8 *the production of income.*

9 “(C) *OTHER COMMON LAW DOCTRINES NOT*
10 *AFFECTED.—Except as specifically provided in*
11 *this subsection, the provisions of this subsection*
12 *shall not be construed as altering or supplanting*
13 *any other rule of law, and the requirements of*
14 *this subsection shall be construed as being in ad-*
15 *dition to any such other rule of law.*

16 “(D) *DETERMINATION OF APPLICATION OF*
17 *DOCTRINE NOT AFFECTED.—The determination*
18 *of whether the economic substance doctrine is rel-*
19 *evant to a transaction shall be made in the same*
20 *manner as if this subsection had never been en-*
21 *acted.*

22 “(E) *TRANSACTION.—The term ‘trans-*
23 *action’ includes a series of transactions.*

1 “(6) *REGULATIONS.*—*The Secretary shall pre-*
2 *scribe such regulations as may be necessary or appro-*
3 *priate to carry out the purposes of this subsection.*”.

4 **(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE**
5 **TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.**—

6 **(1) IN GENERAL.**—*Subsection (b) of section 6662*
7 *is amended by inserting after paragraph (5) the fol-*
8 *lowing new paragraph:*

9 “(6) *Any disallowance of claimed tax benefits by*
10 *reason of a transaction lacking economic substance*
11 *(within the meaning of section 7701(o)) or failing to*
12 *meet the requirements of any similar rule of law.*”.

13 **(2) INCREASED PENALTY FOR NONDISCLOSED**
14 **TRANSACTIONS.**—*Section 6662 is amended by adding*
15 *at the end the following new subsection:*

16 “(i) **INCREASE IN PENALTY IN CASE OF NONDIS-**
17 **CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.**—

18 “(1) *IN GENERAL.*—*In the case of any portion of*
19 *an underpayment which is attributable to one or*
20 *more nondisclosed noneconomic substance trans-*
21 *actions, subsection (a) shall be applied with respect to*
22 *such portion by substituting ‘40 percent’ for ‘20 per-*
23 *cent’.*

24 “(2) **NONDISCLOSED NONECONOMIC SUBSTANCE**
25 **TRANSACTIONS.**—*For purposes of this subsection, the*

1 term ‘nondisclosed noneconomic substance trans-
2 action’ means any portion of a transaction described
3 in subsection (b)(6) with respect to which the relevant
4 facts affecting the tax treatment are not adequately
5 disclosed in the return nor in a statement attached to
6 the return.

7 “(3) SPECIAL RULE FOR AMENDED RETURNS.—
8 Except as provided in regulations, in no event shall
9 any amendment or supplement to a return of tax be
10 taken into account for purposes of this subsection if
11 the amendment or supplement is filed after the earlier
12 of the date the taxpayer is first contacted by the Sec-
13 retary regarding the examination of the return or
14 such other date as is specified by the Secretary.”.

15 (3) CONFORMING AMENDMENT.—Subparagraph
16 (B) of section 6662A(e)(2) is amended—

17 (A) by striking “section 6662(h)” and in-
18 serting “subsections (h) or (i) of section 6662”;
19 and

20 (B) by striking “GROSS VALUATION
21 MISSTATEMENT PENALTY” in the heading and
22 inserting “CERTAIN INCREASED UNDERPAYMENT
23 PENALTIES”.

24 (c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE
25 TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

1 (1) *REASONABLE CAUSE EXCEPTION FOR UNDER-*
2 *PAYMENTS.—Subsection (c) of section 6664 is amend-*
3 *ed—*

4 (A) *by redesignating paragraphs (2) and*
5 *(3) as paragraphs (3) and (4), respectively;*

6 (B) *by striking “paragraph (2)” in para-*
7 *graph (4)(A), as so redesignated, and inserting*
8 *“paragraph (3)”;* and

9 (C) *by inserting after paragraph (1) the fol-*
10 *lowing new paragraph:*

11 “(2) *EXCEPTION.—Paragraph (1) shall not*
12 *apply to any portion of an underpayment which is*
13 *attributable to one or more transactions described in*
14 *section 6662(b)(6).”.*

15 (2) *REASONABLE CAUSE EXCEPTION FOR RE-*
16 *PORTABLE TRANSACTION UNDERSTATEMENTS.—Sub-*
17 *section (d) of section 6664 is amended—*

18 (A) *by redesignating paragraphs (2) and*
19 *(3) as paragraphs (3) and (4), respectively;*

20 (B) *by striking “paragraph (2)(C)” in*
21 *paragraph (4), as so redesignated, and inserting*
22 *“paragraph (3)(C)”;* and

23 (C) *by inserting after paragraph (1) the fol-*
24 *lowing new paragraph:*

1 “(2) *EXCEPTION.*—Paragraph (1) shall not
2 *apply to any portion of a reportable transaction un-*
3 *derstatement which is attributable to one or more*
4 *transactions described in section 6662(b)(6).”.*

5 *(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM*
6 *FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE*
7 *TRANSACTIONS.*—Section 6676 is amended by redesi-
8 *gnating subsection (c) as subsection (d) and inserting after*
9 *subsection (b) the following new subsection:*

10 “(c) *NONECONOMIC SUBSTANCE TRANSACTIONS*
11 *TREATED AS LACKING REASONABLE BASIS.*—For purposes
12 *of this section, any excessive amount which is attributable*
13 *to any transaction described in section 6662(b)(6) shall not*
14 *be treated as having a reasonable basis.”.*

15 *(e) EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—Except as otherwise provided
17 *in this subsection, the amendments made by this sec-*
18 *tion shall apply to transactions entered into after the*
19 *date of the enactment of this Act.*

20 (2) *UNDERPAYMENTS.*—The amendments made
21 *by subsections (b) and (c)(1) shall apply to underpay-*
22 *ments attributable to transactions entered into after*
23 *the date of the enactment of this Act.*

24 (3) *UNDERSTATEMENTS.*—The amendments
25 *made by subsection (c)(2) shall apply to understate-*

1 *ments attributable to transactions entered into after*
 2 *the date of the enactment of this Act.*

3 (4) *REFUNDS AND CREDITS.—The amendment*
 4 *made by subsection (d) shall apply to refunds and*
 5 *credits attributable to transactions entered into after*
 6 *the date of the enactment of this Act.*

7 ***Subtitle D—Additional Provisions***

8 ***SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT*** 9 ***FUND.***

10 *Section 1898(b)(1)(A) of the Social Security Act (42*
 11 *U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of*
 12 *the Department of Defense Appropriations Act, 2010 (Pub-*
 13 *lic Law 111–118), is amended by striking*
 14 *“\$20,740,000,000” and inserting “\$12,740,000,000”.*

15 ***TITLE V—SATELLITE*** 16 ***TELEVISION EXTENSION***

17 ***SEC. 500. SHORT TITLE.***

18 *This title may be cited as the “Satellite Television Ex-*
 19 *tension and Localism Act of 2010”.*

20 ***Subtitle A—Statutory Licenses***

21 ***SEC. 501. REFERENCE.***

22 *Except as otherwise provided, whenever in this subtitle*
 23 *an amendment is made to a section or other provision, the*
 24 *reference shall be considered to be made to such section or*
 25 *provision of title 17, United States Code.*

1 **SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR**
2 **SATELLITE CARRIERS.**

3 (a) *HEADING RENAMED.—*

4 (1) *IN GENERAL.—The heading of section 119 is*
5 *amended by striking “**superstations and net-***
6 ***work stations for private home viewing”***
7 *and inserting “**distant television program-***
8 ***ming by satellite”.***

9 (2) *TABLE OF CONTENTS.—The table of contents*
10 *for chapter 1 is amended by striking the item relating*
11 *to section 119 and inserting the following:*

“119. Limitations on exclusive rights: Secondary transmissions of distant tele-
vision programming by satellite.”.

12 (b) *UNSERVED HOUSEHOLD DEFINED.—*

13 (1) *IN GENERAL.—Section 119(d)(10) is amend-*
14 *ed—*

15 (A) *by striking subparagraph (A) and in-*
16 *serting the following:*

17 “(A) *cannot receive, through the use of an*
18 *antenna, an over-the-air signal containing the*
19 *primary stream, or, on or after the qualifying*
20 *date, the multicast stream, originating in that*
21 *household’s local market and affiliated with that*
22 *network of—*

23 “(i) *if the signal originates as an ana-*
24 *log signal, Grade B intensity as defined by*

1 *the Federal Communications Commission*
2 *in section 73.683(a) of title 47, Code of Fed-*
3 *eral Regulations, as in effect on January 1,*
4 *1999; or*

5 “(ii) *if the signal originates as a dig-*
6 *ital signal, intensity defined in the values*
7 *for the digital television noise-limited serv-*
8 *ice contour, as defined in regulations issued*
9 *by the Federal Communications Commis-*
10 *sion (section 73.622(e) of title 47, Code of*
11 *Federal Regulations), as such regulations*
12 *may be amended from time to time;”;*

13 *(B) in subparagraph (B)—*

14 *(i) by striking “subsection (a)(14)”*
15 *and inserting “subsection (a)(13),”; and*

16 *(ii) by striking “Satellite Home Viewer*
17 *Extension and Reauthorization Act of*
18 *2004” and inserting “Satellite Television*
19 *Extension and Localism Act of 2010”; and*

20 *(C) in subparagraph (D), by striking*
21 *“(a)(12)” and inserting “(a)(11)”.*

22 (2) *QUALIFYING DATE DEFINED.—Section 119(d)*
23 *is amended by adding at the end the following:*

24 “(14) *QUALIFYING DATE.—The term ‘qualifying*
25 *date’, for purposes of paragraph (10)(A), means—*

1 “(A) July 1, 2010, for multicast streams
2 that exist on December 31, 2009; and

3 “(B) January 1, 2011, for all other
4 multicast streams.”.

5 (c) *FILING FEE*.—Section 119(b)(1) is amended—

6 (1) in subparagraph (A), by striking “and” after
7 the semicolon at the end;

8 (2) in subparagraph (B), by striking the period
9 and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(C) a filing fee, as determined by the Reg-
12 ister of Copyrights pursuant to section 708(a).”.

13 (d) *DEPOSIT OF STATEMENTS AND FEES;*
14 *VERIFICATION PROCEDURES*.—Section 119(b) is amend-
15 *ed—*

16 (1) by amending the subsection heading to read
17 as follows: “(b) *DEPOSIT OF STATEMENTS AND FEES;*
18 *VERIFICATION PROCEDURES*.—”;

19 (2) in paragraph (1), by striking subparagraph
20 (B) and inserting the following:

21 “(B) a royalty fee payable to copyright
22 owners pursuant to paragraph (4) for that 6-
23 month period, computed by multiplying the total
24 number of subscribers receiving each secondary
25 transmission of a primary stream or multicast

1 *stream of each non-network station or network*
2 *station during each calendar year month by the*
3 *appropriate rate in effect under this subsection;*
4 *and”;*

5 *(3) by redesignating paragraphs (2), (3), and (4)*
6 *as paragraphs (3), (4), and (5), respectively;*

7 *(4) by inserting after paragraph (1) the fol-*
8 *lowing:*

9 “(2) *VERIFICATION OF ACCOUNTS AND FEE PAY-*
10 *MENTS.—The Register of Copyrights shall issue regu-*
11 *lations to permit interested parties to verify and*
12 *audit the statements of account and royalty fees sub-*
13 *mitted by satellite carriers under this subsection.”;*

14 *(5) in paragraph (3), as redesignated, in the*
15 *first sentence—*

16 *(A) by inserting “(including the filing fee*
17 *specified in paragraph (1)(C))” after “shall re-*
18 *ceive all fees”; and*

19 *(B) by striking “paragraph (4)” and insert-*
20 *ing “paragraph (5)”;*

21 *(6) in paragraph (4), as redesignated—*

22 *(A) by striking “paragraph (2)” and insert-*
23 *ing “paragraph (3)”;* and

24 *(B) by striking “paragraph (4)” each place*
25 *it appears and inserting “paragraph (5)”;* and

1 (7) *in paragraph (5), as redesignated, by strik-*
2 *ing “paragraph (2)” and inserting “paragraph (3)”.*

3 (e) *ADJUSTMENT OF ROYALTY FEES.—Section 119(c)*
4 *is amended as follows:*

5 (1) *Paragraph (1) is amended—*

6 (A) *in the heading for such paragraph, by*
7 *striking “ANALOG”;*

8 (B) *in subparagraph (A)—*

9 (i) *by striking “primary analog trans-*
10 *missions” and inserting “primary trans-*
11 *missions”;* and

12 (ii) *by striking “July 1, 2004” and in-*
13 *serting “July 1, 2009”;*

14 (C) *in subparagraph (B)—*

15 (i) *by striking “January 2, 2005, the*
16 *Librarian of Congress” and inserting “May*
17 *1, 2010, the Copyright Royalty Judges”;*
18 and

19 (ii) *by striking “primary analog*
20 *transmission” and inserting “primary*
21 *transmissions”;*

22 (D) *in subparagraph (C), by striking “Li-*
23 *brarian of Congress” and inserting “Copyright*
24 *Royalty Judges”;*

25 (E) *in subparagraph (D)—*

1 *(i) in clause (i)—*

2 *(I) by striking “(i) Voluntary*
 3 *agreements” and inserting the fol-*
 4 *lowing:*

5 “*(i) VOLUNTARY AGREEMENTS; FIL-*
 6 *ING.—Voluntary agreements”; and*

7 *(II) by striking “that a parties”*
 8 *and inserting “that are parties”; and*

9 *(ii) in clause (ii)—*

10 *(I) by striking “(ii)(I) Within”*
 11 *and inserting the following:*

12 “*(ii) PROCEDURE FOR ADOPTION OF*
 13 *FEES.—*

14 “*(I) PUBLICATION OF NOTICE.—*
 15 *Within”;*

16 *(II) in subclause (I), by striking*
 17 “*an arbitration proceeding pursuant to*
 18 “*subparagraph (E)” and inserting “a*
 19 “*proceeding under subparagraph (F)”;*

20 *(III) in subclause (II), by striking*
 21 “*(II) Upon receiving a request under*
 22 “*subclause (I), the Librarian of Con-*
 23 “*gress” and inserting the following:*

24 “*(II) PUBLIC NOTICE OF FEES.—*
 25 “*Upon receiving a request under sub-*

1 *clause (I), the Copyright Royalty*
2 *Judges”;* and

3 *(IV) in subclause (III)—*

4 *(aa) by striking “(III) The*
5 *Librarian” and inserting the fol-*
6 *lowing:*

7 *“(III) ADOPTION OF FEES.—The*
8 *Copyright Royalty Judges”;*

9 *(bb) by striking “an arbitra-*
10 *tion proceeding” and inserting*
11 *“the proceeding under subpara-*
12 *graph (F)”;* and

13 *(cc) by striking “the arbitra-*
14 *tion proceeding” and inserting*
15 *“that proceeding”;*

16 *(F) in subparagraph (E)—*

17 *(i) by striking “Copyright Office” and*
18 *inserting “Copyright Royalty Judges”;* and

19 *(ii) by striking “March 28, 2010” and*
20 *inserting “December 31, 2014”;* and

21 *(G) in subparagraph (F)—*

22 *(i) in the heading, by striking “COM-*
23 *PULSORY ARBITRATION” and inserting*
24 *“COPYRIGHT ROYALTY JUDGES PRO-*
25 *CEEDING”;*

1 (ii) in clause (i)—

2 (I) in the heading, by striking
3 “PROCEEDINGS” and inserting “THE
4 PROCEEDING”;

5 (II) in the matter preceding sub-
6 clause (I)—

7 (aa) by striking “May 1,
8 2005, the Librarian of Congress”
9 and inserting “July 1, 2010, the
10 Copyright Royalty Judges”;

11 (bb) by striking “arbitration
12 proceedings” and inserting “a
13 proceeding”;

14 (cc) by striking “fee to be
15 paid” and inserting “fes to be
16 paid”;

17 (dd) by striking “primary
18 analog transmission” and insert-
19 ing “the primary transmissions”;
20 and

21 (ee) by striking “distribu-
22 tors” and inserting “distribu-
23 tors—”;

24 (III) in subclause (II)—

1 (aa) by striking “*Librarian*
2 of Congress” and inserting “*Copy-*
3 right Royalty Judges”; and

4 (bb) by striking “*arbitra-*
5 tion”; and

6 (IV) by amending the last sen-
7 tence to read as follows: “*Such pro-*
8 ceeding shall be conducted under chap-
9 ter 8.”;

10 (iii) in clause (ii), by amending the
11 matter preceding subclause (I) to read as
12 follows:

13 “(i) *ESTABLISHMENT OF ROYALTY*
14 *FEES.—In determining royalty fees under*
15 *this subparagraph, the Copyright Royalty*
16 *Judges shall establish fees for the secondary*
17 *transmissions of the primary transmissions*
18 *of network stations and non-network sta-*
19 *tions that most clearly represent the fair*
20 *market value of secondary transmissions,*
21 *except that the Copyright Royalty Judges*
22 *shall adjust royalty fees to account for the*
23 *obligations of the parties under any appli-*
24 *cable voluntary agreement filed with the*
25 *Copyright Royalty Judges in accordance*

1 with subparagraph (D). In determining the
2 fair market value, the Judges shall base
3 their decision on economic, competitive, and
4 programming information presented by the
5 parties, including—”;

6 (iv) by amending clause (iii) to read
7 as follows:

8 “(iii) *EFFECTIVE DATE FOR DECISION*
9 *OF COPYRIGHT ROYALTY JUDGES.—The obli-*
10 *gation to pay the royalty fees established*
11 *under a determination that is made by the*
12 *Copyright Royalty Judges in a proceeding*
13 *under this paragraph shall be effective as of*
14 *January 1, 2010.”; and*

15 (v) in clause (iv)—

16 (I) in the heading, by striking
17 “FEE” and inserting “FEES”; and

18 (II) by striking “fee referred to in
19 (iii)” and inserting “fees referred to in
20 clause (iii)”.

21 (2) Paragraph (2) is amended to read as follows:

22 “(2) *ANNUAL ROYALTY FEE ADJUSTMENT.—Ef-*
23 *fective January 1 of each year, the royalty fee pay-*
24 *able under subsection (b)(1)(B) for the secondary*
25 *transmission of the primary transmissions of network*

1 *stations and non-network stations shall be adjusted by*
2 *the Copyright Royalty Judges to reflect any changes*
3 *occurring in the cost of living as determined by the*
4 *most recent Consumer Price Index (for all consumers*
5 *and for all items) published by the Secretary of Labor*
6 *before December 1 of the preceding year. Notification*
7 *of the adjusted fees shall be published in the Federal*
8 *Register at least 25 days before January 1.”.*

9 *(f) DEFINITIONS.—*

10 *(1) SUBSCRIBER.—Section 119(d)(8) is amended*
11 *to read as follows:*

12 *“(8) SUBSCRIBER; SUBSCRIBE.—*

13 *“(A) SUBSCRIBER.—The term ‘subscriber’*
14 *means a person or entity that receives a sec-*
15 *ondary transmission service from a satellite car-*
16 *rier and pays a fee for the service, directly or in-*
17 *directly, to the satellite carrier or to a dis-*
18 *tributor.*

19 *“(B) SUBSCRIBE.—The term ‘subscribe’*
20 *means to elect to become a subscriber.”.*

21 *(2) LOCAL MARKET.—Section 119(d)(11) is*
22 *amended to read as follows:*

23 *“(11) LOCAL MARKET.—The term ‘local market’*
24 *has the meaning given such term under section*
25 *122(j).”.*

1 (3) *LOW POWER TELEVISION STATION*.—Section
2 119(d) is amended by striking paragraph (12) and
3 redesignating paragraphs (13) and (14) as para-
4 graphs (12) and (13), respectively.

5 (4) *MULTICAST STREAM*.—Section 119(d), as
6 amended by paragraph (3), is further amended by
7 adding at the end the following new paragraph:

8 “(14) *MULTICAST STREAM*.—The term ‘multicast
9 stream’ means a digital stream containing program-
10 ming and program-related material affiliated with a
11 television network, other than the primary stream.”.

12 (5) *PRIMARY STREAM*.—Section 119(d), as
13 amended by paragraph (4), is further amended by
14 adding at the end the following new paragraph:

15 “(15) *PRIMARY STREAM*.—The term ‘primary
16 stream’ means—

17 “(A) the single digital stream of program-
18 ming as to which a television broadcast station
19 has the right to mandatory carriage with a sat-
20 ellite carrier under the rules of the Federal Com-
21 munications Commission in effect on July 1,
22 2009; or

23 “(B) if there is no stream described in sub-
24 paragraph (A), then either—

1 “(i) the single digital stream of pro-
2 gramming associated with the network last
3 transmitted by the station as an analog sig-
4 nal; or

5 “(ii) if there is no stream described in
6 clause (i), then the single digital stream of
7 programming affiliated with the network
8 that, as of July 1, 2009, had been offered by
9 the television broadcast station for the long-
10 est period of time.”.

11 (6) *CLERICAL AMENDMENT.*—Section 119(d) is
12 amended in paragraphs (1), (2), and (5) by striking
13 “which” each place it appears and inserting “that”.

14 (g) *SUPERSTATION REDESIGNATED AS NON-NETWORK*
15 *STATION.*—Section 119 is amended—

16 (1) by striking “superstation” each place it ap-
17 pears in a heading and each place it appears in text
18 and inserting “non-network station”; and

19 (2) by striking “superstations” each place it ap-
20 pears in a heading and each place it appears in text
21 and inserting “non-network stations”.

22 (h) *REMOVAL OF CERTAIN PROVISIONS.*—

23 (1) *REMOVAL OF PROVISIONS.*—Section 119(a) is
24 amended—

1 (A) in paragraph (2), by striking subpara-
2 graph (C) and redesignating subparagraph (D)
3 as subparagraph (C);

4 (B) by striking paragraph (3) and redesign-
5 ating paragraphs (4) through (14) as para-
6 graphs (3) through (13), respectively; and

7 (C) by striking paragraph (15) and redesign-
8 ating paragraph (16) as paragraph (14).

9 (2) *CONFORMING AMENDMENTS.*—Section 119 is
10 amended—

11 (A) in subsection (a)—

12 (i) in paragraph (1), by striking “(5),
13 (6), and (8)” and inserting “(4), (5), and
14 (7)”;

15 (ii) in paragraph (2)—

16 (I) in subparagraph (A), by strik-
17 ing “subparagraphs (B) and (C) of
18 this paragraph and paragraphs (5),
19 (6), (7), and (8)” and inserting “sub-
20 paragraph (B) of this paragraph and
21 paragraphs (4), (5), (6), and (7)”;

22 (II) in subparagraph (B)(i), by
23 striking the second sentence; and

1 (III) in subparagraph (C) (as re-
2 designated), by striking clauses (i) and
3 (ii) and inserting the following:

4 “(i) *INITIAL LISTS.*—A satellite carrier
5 that makes secondary transmissions of a
6 primary transmission made by a network
7 station pursuant to subparagraph (A) shall,
8 not later than 90 days after commencing
9 such secondary transmissions, submit to the
10 network that owns or is affiliated with the
11 network station a list identifying (by name
12 and address, including street or rural route
13 number, city, State, and 9-digit zip code)
14 all subscribers to which the satellite carrier
15 makes secondary transmissions of that pri-
16 mary transmission to subscribers in
17 unserved households.

18 “(ii) *MONTHLY LISTS.*—After the sub-
19 mission of the initial lists under clause (i),
20 the satellite carrier shall, not later than the
21 15th of each month, submit to the network
22 a list, aggregated by designated market
23 area, identifying (by name and address, in-
24 cluding street or rural route number, city,
25 State, and 9-digit zip code) any persons

1 *who have been added or dropped as sub-*
 2 *scribers under clause (i) since the last sub-*
 3 *mission under this subparagraph.”; and*

4 *(iii) in subparagraph (E) of para-*
 5 *graph (3) (as redesignated)—*

6 *(I) by striking “under paragraph*
 7 *(3) or”; and*

8 *(II) by striking “paragraph (12)”*
 9 *and inserting “paragraph (11)”;* and

10 *(B) in subsection (b)(1), by striking the*
 11 *final sentence.*

12 *(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY*
 13 *TRANSMISSIONS BY SATELLITE CARRIERS.—*

14 (1) *PREDICTIVE MODEL.—Section*
 15 *119(a)(2)(B)(ii) is amended by adding at the end the*
 16 *following:*

17 *“(III) ACCURATE PREDICTIVE*
 18 *MODEL WITH RESPECT TO DIGITAL*
 19 *SIGNALS.—Notwithstanding subclause*
 20 *(I), in determining presumptively*
 21 *whether a person resides in an*
 22 *unserved household under subsection*
 23 *(d)(10)(A) with respect to digital sig-*
 24 *nals, a court shall rely on a predictive*
 25 *model set forth by the Federal Commu-*

1 *nications Commission pursuant to a*
2 *rulemaking as provided in section*
3 *339(c)(3) of the Communications Act*
4 *of 1934 (47 U.S.C. 339(c)(3)), as that*
5 *model may be amended by the Com-*
6 *mission over time under such section to*
7 *increase the accuracy of that model.*
8 *Until such time as the Commission sets*
9 *forth such model, a court shall rely on*
10 *the predictive model as recommended*
11 *by the Commission with respect to dig-*
12 *ital signals in its Report to Congress*
13 *in ET Docket No. 05–182, FCC 05–*
14 *199 (released December 9, 2005).”.*

15 (2) *MODIFICATIONS TO STATUTORY LICENSE*
16 *WHERE RETRANSMISSIONS INTO LOCAL MARKET*
17 *AVAILABLE.—Section 119(a)(3) (as redesignated) is*
18 *amended—*

19 (A) *by striking “analog” each place it ap-*
20 *pears in a heading and text;*

21 (B) *by striking subparagraphs (B), (C), and*
22 *(D), and inserting the following:*

23 “(B) *RULES FOR LAWFUL SUBSCRIBERS AS*
24 *OF DATE OF ENACTMENT OF 2010 ACT.—In the*
25 *case of a subscriber of a satellite carrier who, on*

1 *the day before the date of the enactment of the*
2 *Satellite Television Extension and Localism Act*
3 *of 2010, was lawfully receiving the secondary*
4 *transmission of the primary transmission of a*
5 *network station under the statutory license under*
6 *paragraph (2) (in this subparagraph referred to*
7 *as the ‘distant signal’), other than subscribers to*
8 *whom subparagraph (A) applies, the statutory*
9 *license under paragraph (2) shall apply to sec-*
10 *ondary transmissions by that satellite carrier to*
11 *that subscriber of the distant signal of a station*
12 *affiliated with the same television network, and*
13 *the subscriber’s household shall continue to be*
14 *considered to be an unserved household with re-*
15 *spect to such network, until such time as the sub-*
16 *scriber elects to terminate such secondary trans-*
17 *missions, whether or not the subscriber elects to*
18 *subscribe to receive the secondary transmission of*
19 *the primary transmission of a local network sta-*
20 *tion affiliated with the same network pursuant*
21 *to the statutory license under section 122.*

22 *“(C) FUTURE APPLICABILITY.—*

23 *“(i) WHEN LOCAL SIGNAL AVAILABLE*
24 *AT TIME OF SUBSCRIPTION.—The statutory*
25 *license under paragraph (2) shall not apply*

1 *to the secondary transmission by a satellite*
2 *carrier of the primary transmission of a*
3 *network station to a person who is not a*
4 *subscriber lawfully receiving such secondary*
5 *transmission as of the date of the enactment*
6 *of the Satellite Television Extension and*
7 *Localism Act of 2010 and, at the time such*
8 *person seeks to subscribe to receive such sec-*
9 *ondary transmission, resides in a local*
10 *market where the satellite carrier makes*
11 *available to that person the secondary*
12 *transmission of the primary transmission of*
13 *a local network station affiliated with the*
14 *same network pursuant to the statutory li-*
15 *cence under section 122.*

16 “(ii) *WHEN LOCAL SIGNAL AVAILABLE*
17 *AFTER SUBSCRIPTION.—In the case of a*
18 *subscriber who lawfully subscribes to and*
19 *receives the secondary transmission by a*
20 *satellite carrier of the primary transmission*
21 *of a network station under the statutory li-*
22 *cence under paragraph (2) (in this clause*
23 *referred to as the ‘distant signal’) on or*
24 *after the date of the enactment of the Sat-*
25 *ellite Television Extension and Localism*

1 *Act of 2010, the statutory license under*
2 *paragraph (2) shall apply to secondary*
3 *transmissions by that satellite carrier to*
4 *that subscriber of the distant signal of a*
5 *station affiliated with the same television*
6 *network, and the subscriber’s household shall*
7 *continue to be considered to be an unserved*
8 *household with respect to such network,*
9 *until such time as the subscriber elects to*
10 *terminate such secondary transmissions, but*
11 *only if such subscriber subscribes to the sec-*
12 *ondary transmission of the primary trans-*
13 *mission of a local network station affiliated*
14 *with the same network within 60 days after*
15 *the satellite carrier makes available to the*
16 *subscriber such secondary transmission of*
17 *the primary transmission of such local net-*
18 *work station.”;*

19 *(C) by redesignating subparagraphs (E),*
20 *(F), and (G) as subparagraphs (D), (E), and*
21 *(F), respectively;*

22 *(D) in subparagraph (E) (as redesignated),*
23 *by striking “(C) or (D)” and inserting “(B) or*
24 *(C)”;* and

1 *(E) in subparagraph (F) (as redesignated),*
2 *by inserting “9-digit” before “zip code”.*

3 (3) *STATUTORY DAMAGES FOR TERRITORIAL RE-*
4 *STRICTIONS.—Section 119(a)(6) (as redesignated) is*
5 *amended—*

6 *(A) in subparagraph (A)(ii), by striking*
7 *“\$5” and inserting “\$250”;*

8 *(B) in subparagraph (B)—*

9 *(i) in clause (i), by striking “\$250,000*
10 *for each 6-month period” and inserting*
11 *“\$2,500,000 for each 3-month period”; and*

12 *(ii) in clause (ii), by striking*
13 *“\$250,000” and inserting “\$2,500,000”;*
14 *and*

15 *(C) by adding at the end the following flush*
16 *sentences:*

17 *“The court shall direct one half of any statutory*
18 *damages ordered under clause (i) to be deposited*
19 *with the Register of Copyrights for distribution*
20 *to copyright owners pursuant to subsection (b).*
21 *The Copyright Royalty Judges shall issue regula-*
22 *tions establishing procedures for distributing*
23 *such funds, on a proportional basis, to copyright*
24 *owners whose works were included in the sec-*

1 *ondary transmissions that were the subject of the*
 2 *statutory damages.”.*

3 (4) *TECHNICAL AMENDMENT.*—Section 119(a)(4)
 4 *(as redesignated) is amended by striking “and 509”.*

5 (5) *CLERICAL AMENDMENT.*—Section
 6 *119(a)(2)(B)(iii)(II) is amended by striking “In this*
 7 *clause” and inserting “In this clause,”.*

8 (j) *MORATORIUM EXTENSION.*—Section 119(e) is
 9 *amended by striking “March 28, 2010” and inserting “De-*
 10 *cember 31, 2014”.*

11 (k) *CLERICAL AMENDMENTS.*—Section 119 is amend-
 12 *ed—*

13 (1) *by striking “of the Code of Federal Regula-*
 14 *tions” each place it appears and inserting “, Code of*
 15 *Federal Regulations”; and*

16 (2) *in subsection (d)(6), by striking “or the Di-*
 17 *rect” and inserting “, or the Direct”.*

18 **SEC. 503. MODIFICATIONS TO STATUTORY LICENSE FOR**
 19 **SATELLITE CARRIERS IN LOCAL MARKETS.**

20 (a) *HEADING RENAMED.*—

21 (1) *IN GENERAL.*—The heading of section 122 is
 22 *amended by striking “**by satellite carriers***
 23 ***within local markets**” and inserting “**of local***
 24 ***television programming by satellite**”.*

1 (2) *TABLE OF CONTENTS.*—*The table of contents*
2 *for chapter 1 is amended by striking the item relating*
3 *to section 122 and inserting the following:*

 “122. *Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.*”.

4 (b) *STATUTORY LICENSE.*—*Section 122(a) is amended*
5 *to read as follows:*

6 “(a) *SECONDARY TRANSMISSIONS INTO LOCAL MAR-*
7 *KETS.*—

8 “(1) *SECONDARY TRANSMISSIONS OF TELEVISION*
9 *BROADCAST STATIONS WITHIN A LOCAL MARKET.*—*A*
10 *secondary transmission of a performance or display*
11 *of a work embodied in a primary transmission of a*
12 *television broadcast station into the station’s local*
13 *market shall be subject to statutory licensing under*
14 *this section if—*

15 “(A) *the secondary transmission is made by*
16 *a satellite carrier to the public;*

17 “(B) *with regard to secondary trans-*
18 *missions, the satellite carrier is in compliance*
19 *with the rules, regulations, or authorizations of*
20 *the Federal Communications Commission gov-*
21 *erning the carriage of television broadcast sta-*
22 *tion signals; and*

1 “(C) *the satellite carrier makes a direct or*
2 *indirect charge for the secondary transmission*
3 *to—*

4 “(i) *each subscriber receiving the sec-*
5 *ondary transmission; or*

6 “(ii) *a distributor that has contracted*
7 *with the satellite carrier for direct or indi-*
8 *rect delivery of the secondary transmission*
9 *to the public.*

10 “(2) *SIGNIFICANTLY VIEWED STATIONS.—*

11 “(A) *IN GENERAL.—A secondary trans-*
12 *mission of a performance or display of a work*
13 *embodied in a primary transmission of a tele-*
14 *vision broadcast station to subscribers who re-*
15 *ceive secondary transmissions of primary trans-*
16 *missions under paragraph (1) shall be subject to*
17 *statutory licensing under this paragraph if the*
18 *secondary transmission is of the primary trans-*
19 *mission of a network station or a non-network*
20 *station to a subscriber who resides outside the*
21 *station’s local market but within a community*
22 *in which the signal has been determined by the*
23 *Federal Communications Commission to be sig-*
24 *nificantly viewed in such community, pursuant*
25 *to the rules, regulations, and authorizations of*

1 *the Federal Communications Commission in ef-*
2 *fect on April 15, 1976, applicable to determining*
3 *with respect to a cable system whether signals*
4 *are significantly viewed in a community.*

5 *“(B) WAIVER.—A subscriber who is denied*
6 *the secondary transmission of the primary trans-*
7 *mission of a network station or a non-network*
8 *station under subparagraph (A) may request a*
9 *waiver from such denial by submitting a request,*
10 *through the subscriber’s satellite carrier, to the*
11 *network station or non-network station in the*
12 *local market affiliated with the same network or*
13 *non-network where the subscriber is located. The*
14 *network station or non-network station shall ac-*
15 *cept or reject the subscriber’s request for a waiver*
16 *within 30 days after receipt of the request. If the*
17 *network station or non-network station fails to*
18 *accept or reject the subscriber’s request for a*
19 *waiver within that 30-day period, that network*
20 *station or non-network station shall be deemed to*
21 *agree to the waiver request.*

22 *“(3) SECONDARY TRANSMISSION OF LOW POWER*
23 *PROGRAMMING.—*

24 *“(A) IN GENERAL.—Subject to subpara-*
25 *graphs (B) and (C), a secondary transmission of*

1 *a performance or display of a work embodied in*
2 *a primary transmission of a television broadcast*
3 *station to subscribers who receive secondary*
4 *transmissions of primary transmissions under*
5 *paragraph (1) shall be subject to statutory licens-*
6 *ing under this paragraph if the secondary trans-*
7 *mission is of the primary transmission of a tele-*
8 *vision broadcast station that is licensed as a low*
9 *power television station, to a subscriber who re-*
10 *sides within the same designated market area as*
11 *the station that originates the transmission.*

12 “(B) *NO APPLICABILITY TO REPEATERS AND*
13 *TRANSLATORS.—Secondary transmissions pro-*
14 *vided for in subparagraph (A) shall not apply to*
15 *any low power television station that retransmits*
16 *the programs and signals of another television*
17 *station for more than 2 hours each day.*

18 “(C) *NO IMPACT ON OTHER SECONDARY*
19 *TRANSMISSIONS OBLIGATIONS.—A satellite car-*
20 *rier that makes secondary transmissions of a*
21 *primary transmission of a low power television*
22 *station under a statutory license provided under*
23 *this section is not required, by reason of such*
24 *secondary transmissions, to make any other sec-*
25 *ondary transmissions.*

1 “(4) *SPECIAL EXCEPTIONS.*—A secondary trans-
2 mission of a performance or display of a work em-
3 bodied in a primary transmission of a television
4 broadcast station to subscribers who receive secondary
5 transmissions of primary transmissions under para-
6 graph (1) shall, if the secondary transmission is made
7 by a satellite carrier that complies with the require-
8 ments of paragraph (1), be subject to statutory licens-
9 ing under this paragraph as follows:

10 “(A) *STATES WITH SINGLE FULL-POWER*
11 *NETWORK STATION.*—In a State in which there
12 is licensed by the Federal Communications Com-
13 mission a single full-power station that was a
14 network station on January 1, 1995, the statu-
15 tory license provided for in this paragraph shall
16 apply to the secondary transmission by a sat-
17 ellite carrier of the primary transmission of that
18 station to any subscriber in a community that is
19 located within that State and that is not within
20 the first 50 television markets as listed in the
21 regulations of the Commission as in effect on
22 such date (47 C.F.R. 76.51).

23 “(B) *STATES WITH ALL NETWORK STATIONS*
24 *AND NON-NETWORK STATIONS IN SAME LOCAL*
25 *MARKET.*—In a State in which all network sta-

1 *tions and non-network stations licensed by the*
2 *Federal Communications Commission within*
3 *that State as of January 1, 1995, are assigned*
4 *to the same local market and that local market*
5 *does not encompass all counties of that State, the*
6 *statutory license provided under this paragraph*
7 *shall apply to the secondary transmission by a*
8 *satellite carrier of the primary transmissions of*
9 *such station to all subscribers in the State who*
10 *reside in a local market that is within the first*
11 *50 major television markets as listed in the regu-*
12 *lations of the Commission as in effect on such*
13 *date (section 76.51 of title 47, Code of Federal*
14 *Regulations).*

15 *“(C) ADDITIONAL STATIONS.—In the case of*
16 *that State in which are located 4 counties that—*

17 *“(i) on January 1, 2004, were in local*
18 *markets principally comprised of counties*
19 *in another State, and*

20 *“(ii) had a combined total of 41,340*
21 *television households, according to the U.S.*
22 *Television Household Estimates by Nielsen*
23 *Media Research for 2004,*

24 *the statutory license provided under this para-*
25 *graph shall apply to secondary transmissions by*

1 *a satellite carrier to subscribers in any such*
2 *county of the primary transmissions of any net-*
3 *work station located in that State, if the satellite*
4 *carrier was making such secondary trans-*
5 *missions to any subscribers in that county on*
6 *January 1, 2004.*

7 “(D) *CERTAIN ADDITIONAL STATIONS.*—*If 2*
8 *adjacent counties in a single State are in a local*
9 *market comprised principally of counties located*
10 *in another State, the statutory license provided*
11 *for in this paragraph shall apply to the sec-*
12 *ondary transmission by a satellite carrier to sub-*
13 *scribers in those 2 counties of the primary trans-*
14 *missions of any network station located in the*
15 *capital of the State in which such 2 counties are*
16 *located, if—*

17 “(i) *the 2 counties are located in a*
18 *local market that is in the top 100 markets*
19 *for the year 2003 according to Nielsen*
20 *Media Research; and*

21 “(ii) *the total number of television*
22 *households in the 2 counties combined did*
23 *not exceed 10,000 for the year 2003 accord-*
24 *ing to Nielsen Media Research.*

1 “(E) NETWORKS OF NONCOMMERCIAL EDU-
2 CATIONAL BROADCAST STATIONS.—*In the case of*
3 *a system of three or more noncommercial edu-*
4 *cational broadcast stations licensed to a single*
5 *State, public agency, or political, educational, or*
6 *special purpose subdivision of a State, the statu-*
7 *tory license provided for in this paragraph shall*
8 *apply to the secondary transmission of the pri-*
9 *mary transmission of such system to any sub-*
10 *scriber in any county or county equivalent with-*
11 *in such State, if such subscriber is located in a*
12 *designated market area that is not otherwise eli-*
13 *gible to receive the secondary transmission of the*
14 *primary transmission of a noncommercial edu-*
15 *cational broadcast station located within the*
16 *State pursuant to paragraph (1).*

17 “(5) APPLICABILITY OF ROYALTY RATES AND
18 PROCEDURES.—*The royalty rates and procedures*
19 *under section 119(b) shall apply to the secondary*
20 *transmissions to which the statutory license under*
21 *paragraph (4) applies.”.*

22 (c) REPORTING REQUIREMENTS.—*Section 122(b) is*
23 *amended—*

1 (1) in paragraph (1), by striking “station a list”
2 and all that follows through the end and inserting the
3 following: “station—

4 “(A) a list identifying (by name in alpha-
5 betical order and street address, including coun-
6 ty and 9-digit zip code) all subscribers to which
7 the satellite carrier makes secondary trans-
8 missions of that primary transmission under
9 subsection (a); and

10 “(B) a separate list, aggregated by des-
11 ignated market area (by name and address, in-
12 cluding street or rural route number, city, State,
13 and 9-digit zip code), which shall indicate those
14 subscribers being served pursuant to paragraph
15 (2) of subsection (a).”; and

16 (2) in paragraph (2), by striking “network a
17 list” and all that follows through the end and insert-
18 ing the following: “network—

19 “(A) a list identifying (by name in alpha-
20 betical order and street address, including coun-
21 ty and 9-digit zip code) any subscribers who
22 have been added or dropped as subscribers since
23 the last submission under this subsection; and

24 “(B) a separate list, aggregated by des-
25 ignated market area (by name and street ad-

1 *dress, including street or rural route number,*
 2 *city, State, and 9-digit zip code), identifying*
 3 *those subscribers whose service pursuant to para-*
 4 *graph (2) of subsection (a) has been added or*
 5 *dropped since the last submission under this sub-*
 6 *section.”.*

7 *(d) NO ROYALTY FEE FOR CERTAIN SECONDARY*
 8 *TRANSMISSIONS.—Section 122(c) is amended—*

9 *(1) in the heading, by inserting “FOR CERTAIN*
 10 *SECONDARY TRANSMISSIONS” after “REQUIRED”; and*

11 *(2) by striking “subsection (a)” and inserting*
 12 *“paragraphs (1), (2), and (3) of subsection (a)”.*

13 *(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—*

14 *(1) MODIFICATION TO STATUTORY DAMAGES.—*
 15 *Section 122(f) is amended—*

16 *(A) in paragraph (1)(B), by striking “\$5”*
 17 *and inserting “\$250”; and*

18 *(B) in paragraph (2), by striking*
 19 *“\$250,000” each place it appears and inserting*
 20 *“\$2,500,000”.*

21 *(2) CONFORMING AMENDMENTS FOR ADDITIONAL*
 22 *STATIONS.—Section 122 is amended—*

23 *(A) in subsection (f), by striking “section*
 24 *119 or” each place it appears and inserting the*
 25 *following: “section 119, subject to statutory li-*

1 *censing by reason of paragraph (2)(A), (3), or*
2 *(4) of subsection (a), or subject to”;* and

3 *(B) in subsection (g), by striking “section*
4 *119 or” and inserting the following: “section*
5 *119, paragraph (2)(A), (3), or (4) of subsection*
6 *(a), or”.*

7 *(f) DEFINITIONS.—Section 122(j) is amended—*

8 *(1) in paragraph (1), by striking “which con-*
9 *tracts” and inserting “that contracts”;*

10 *(2) by redesignating paragraphs (4) and (5) as*
11 *paragraphs (6) and (7), respectively;*

12 *(3) in paragraph (3)—*

13 *(A) by redesignating such paragraph as*
14 *paragraph (4);*

15 *(B) in the heading of such paragraph, by*
16 *inserting “NON-NETWORK STATION;” after “NET-*
17 *WORK STATION;”;* and

18 *(C) by inserting “‘non-network station’,”*
19 *after “‘network station’,”;*

20 *(4) by inserting after paragraph (2) the fol-*
21 *lowing:*

22 *“(3) LOW POWER TELEVISION STATION.—The*
23 *term ‘low power television station’ means a low power*
24 *TV station as defined in section 74.701(f) of title 47,*
25 *Code of Federal Regulations, as in effect on June 1,*

1 2004. For purposes of this paragraph, the term ‘low
 2 power television station’ includes a low power tele-
 3 vision station that has been accorded primary status
 4 as a Class A television licensee under section
 5 73.6001(a) of title 47, Code of Federal Regulations.”;

6 (5) by inserting after paragraph (4) (as redesign-
 7 ated) the following:

8 “(5) **NONCOMMERCIAL EDUCATIONAL BROADCAST**
 9 **STATION.**—The term ‘noncommercial educational
 10 broadcast station’ means a television broadcast sta-
 11 tion that is a noncommercial educational broadcast
 12 station as defined in section 397 of the Communica-
 13 tions Act of 1934, as in effect on the date of the enact-
 14 ment of the Satellite Television Extension and Local-
 15 ism Act of 2010.”; and

16 (6) by amending paragraph (6) (as redesignated)
 17 to read as follows:

18 “(6) **SUBSCRIBER.**—The term ‘subscriber’ means
 19 a person or entity that receives a secondary trans-
 20 mission service from a satellite carrier and pays a fee
 21 for the service, directly or indirectly, to the satellite
 22 carrier or to a distributor.”.

23 **SEC. 504. MODIFICATIONS TO CABLE SYSTEM SECONDARY**
 24 **TRANSMISSION RIGHTS UNDER SECTION 111.**

25 (a) **HEADING RENAMED.**—

1 (1) *IN GENERAL.*—*The heading of section 111 is*
 2 *amended by inserting at the end the following: “of*
 3 ***broadcast programming by cable**”.*

4 (2) *TABLE OF CONTENTS.*—*The table of contents*
 5 *for chapter 1 is amended by striking the item relating*
 6 *to section 111 and inserting the following:*

*“111. Limitations on exclusive rights: Secondary transmissions of broadcast pro-
 gramming by cable.”.*

7 (b) *TECHNICAL AMENDMENT.*—*Section 111(a)(4) is*
 8 *amended by striking “; or” and inserting “or section 122;”.*

9 (c) *STATUTORY LICENSE FOR SECONDARY TRANS-*
 10 *MISSIONS BY CABLE SYSTEMS.*—*Section 111(d) is amend-*
 11 *ed—*

12 (1) *in paragraph (1)—*

13 (A) *in the matter preceding subparagraph*

14 (A)—

15 (i) *by striking “A cable system whose*
 16 *secondary” and inserting the following:*
 17 *“STATEMENT OF ACCOUNT AND ROYALTY*
 18 *FEES.—Subject to paragraph (5), a cable*
 19 *system whose secondary”; and*

20 (ii) *by striking “by regulation—” and*
 21 *inserting “by regulation the following;”;*

22 (B) *in subparagraph (A)—*

1 (i) by striking “a statement of ac-
2 count” and inserting “A statement of ac-
3 count”; and

4 (ii) by striking “; and” and inserting
5 a period; and

6 (C) by striking subparagraphs (B), (C), and
7 (D) and inserting the following:

8 “(B) Except in the case of a cable system
9 whose royalty fee is specified in subparagraph
10 (E) or (F), a total royalty fee payable to copy-
11 right owners pursuant to paragraph (3) for the
12 period covered by the statement, computed on the
13 basis of specified percentages of the gross receipts
14 from subscribers to the cable service during such
15 period for the basic service of providing sec-
16 ondary transmissions of primary broadcast
17 transmitters, as follows:

18 “(i) 1.064 percent of such gross receipts
19 for the privilege of further transmitting, be-
20 yond the local service area of such primary
21 transmitter, any non-network programming
22 of a primary transmitter in whole or in
23 part, such amount to be applied against the
24 fee, if any, payable pursuant to clauses (ii)
25 through (iv);

1 “(ii) 1.064 percent of such gross re-
2 ceipts for the first distant signal equivalent;

3 “(iii) 0.701 percent of such gross re-
4 ceipts for each of the second, third, and
5 fourth distant signal equivalents; and

6 “(iv) 0.330 percent of such gross re-
7 ceipts for the fifth distant signal equivalent
8 and each distant signal equivalent there-
9 after.

10 “(C) In computing amounts under clauses
11 (ii) through (iv) of subparagraph (B)—

12 “(i) any fraction of a distant signal
13 equivalent shall be computed at its frac-
14 tional value;

15 “(ii) in the case of any cable system lo-
16 cated partly within and partly outside of
17 the local service area of a primary trans-
18 mitter, gross receipts shall be limited to
19 those gross receipts derived from subscribers
20 located outside of the local service area of
21 such primary transmitter; and

22 “(iii) if a cable system provides a sec-
23 ondary transmission of a primary trans-
24 mitter to some but not all communities
25 served by that cable system—

1 “(I) the gross receipts and the dis-
2 tant signal equivalent values for such
3 secondary transmission shall be de-
4 rived solely on the basis of the sub-
5 scribers in those communities where the
6 cable system provides such secondary
7 transmission; and

8 “(II) the total royalty fee for the
9 period paid by such system shall not be
10 less than the royalty fee calculated
11 under subparagraph (B)(i) multiplied
12 by the gross receipts from all sub-
13 scribers to the system.

14 “(D) A cable system that, on a statement
15 submitted before the date of the enactment of the
16 Satellite Television Extension and Localism Act
17 of 2010, computed its royalty fee consistent with
18 the methodology under subparagraph (C)(iii), or
19 that amends a statement filed before such date of
20 enactment to compute the royalty fee due using
21 such methodology, shall not be subject to an ac-
22 tion for infringement, or eligible for any royalty
23 refund or offset, arising out of its use of such
24 methodology on such statement.

1 “(E) If the actual gross receipts paid by
2 subscribers to a cable system for the period cov-
3 ered by the statement for the basic service of pro-
4 viding secondary transmissions of primary
5 broadcast transmitters are \$263,800 or less—

6 “(i) gross receipts of the cable system
7 for the purpose of this paragraph shall be
8 computed by subtracting from such actual
9 gross receipts the amount by which
10 \$263,800 exceeds such actual gross receipts,
11 except that in no case shall a cable system’s
12 gross receipts be reduced to less than
13 \$10,400; and

14 “(ii) the royalty fee payable under this
15 paragraph to copyright owners pursuant to
16 paragraph (3) shall be 0.5 percent, regard-
17 less of the number of distant signal equiva-
18 lents, if any.

19 “(F) If the actual gross receipts paid by
20 subscribers to a cable system for the period cov-
21 ered by the statement for the basic service of pro-
22 viding secondary transmissions of primary
23 broadcast transmitters are more than \$263,800
24 but less than \$527,600, the royalty fee payable

1 *under this paragraph to copyright owners pursu-*
2 *ant to paragraph (3) shall be—*

3 “(i) 0.5 percent of any gross receipts
4 up to \$263,800, regardless of the number of
5 distant signal equivalents, if any; and

6 “(ii) 1 percent of any gross receipts in
7 excess of \$263,800, but less than \$527,600,
8 regardless of the number of distant signal
9 equivalents, if any.

10 “(G) A filing fee, as determined by the Reg-
11 ister of Copyrights pursuant to section 708(a).”;
12 (2) in paragraph (2), in the first sentence—

13 (A) by striking “The Register of Copy-
14 rights” and inserting the following “HANDLING
15 OF FEES.—The Register of Copyrights”; and

16 (B) by inserting “(including the filing fee
17 specified in paragraph (1)(G))” after “shall re-
18 ceive all fees”;

19 (3) in paragraph (3)—

20 (A) by striking “The royalty fees” and in-
21 serting the following: “DISTRIBUTION OF ROY-
22 ALTY FEES TO COPYRIGHT OWNERS.—The roy-
23 alty fees”;

24 (B) in subparagraph (A)—

1 (i) by striking “any such” and insert-
2 ing “Any such”; and

3 (ii) by striking “; and” and inserting
4 a period;

5 (C) in subparagraph (B)—

6 (i) by striking “any such” and insert-
7 ing “Any such”; and

8 (ii) by striking the semicolon and in-
9 serting a period; and

10 (D) in subparagraph (C), by striking “any
11 such” and inserting “Any such”;

12 (4) in paragraph (4), by striking “The royalty
13 fees” and inserting the following: “*PROCEDURES FOR*
14 *ROYALTY FEE DISTRIBUTION.—The royalty fees*”; and

15 (5) by adding at the end the following new para-
16 graphs:

17 “(5) *3.75 PERCENT RATE AND SYNDICATED EX-*
18 *CLUSIVITY SURCHARGE NOT APPLICABLE TO*
19 *MULTICAST STREAMS.—The royalty rates specified in*
20 *sections 256.2(c) and 256.2(d) of title 37, Code of*
21 *Federal Regulations (commonly referred to as the*
22 *‘3.75 percent rate’ and the ‘syndicated exclusivity sur-*
23 *charge’, respectively), as in effect on the date of the*
24 *enactment of the Satellite Television Extension and*
25 *Localism Act of 2010, as such rates may be adjusted,*

1 *or such sections redesignated, thereafter by the Copy-*
2 *right Royalty Judges, shall not apply to the sec-*
3 *ondary transmission of a multicast stream.*

4 “(6) *VERIFICATION OF ACCOUNTS AND FEE PAY-*
5 *MENTS.—The Register of Copyrights shall issue regu-*
6 *lations to provide for the confidential verification by*
7 *copyright owners whose works were embodied in the*
8 *secondary transmissions of primary transmissions*
9 *pursuant to this section of the information reported*
10 *on the semiannual statements of account filed under*
11 *this subsection on or after January 1, 2010, in order*
12 *that the auditor designated under subparagraph (A)*
13 *is able to confirm the correctness of the calculations*
14 *and royalty payments reported therein. The regula-*
15 *tions shall—*

16 “(A) *establish procedures for the designation*
17 *of a qualified independent auditor—*

18 “(i) *with exclusive authority to request*
19 *verification of such a statement of account*
20 *on behalf of all copyright owners whose*
21 *works were the subject of secondary trans-*
22 *missions of primary transmissions by the*
23 *cable system (that deposited the statement)*
24 *during the accounting period covered by the*
25 *statement; and*

1 “(ii) who is not an officer, employee,
2 or agent of any such copyright owner for
3 any purpose other than such audit;

4 “(B) establish procedures for safeguarding
5 all non-public financial and business informa-
6 tion provided under this paragraph;

7 “(C)(i) require a consultation period for the
8 independent auditor to review its conclusions
9 with a designee of the cable system;

10 “(ii) establish a mechanism for the cable
11 system to remedy any errors identified in the
12 auditor’s report and to cure any underpayment
13 identified; and

14 “(iii) provide an opportunity to remedy
15 any disputed facts or conclusions;

16 “(D) limit the frequency of requests for
17 verification for a particular cable system and the
18 number of audits that a multiple system oper-
19 ator can be required to undergo in a single year;
20 and

21 “(E) permit requests for verification of a
22 statement of account to be made only within 3
23 years after the last day of the year in which the
24 statement of account is filed.

1 “(7) *ACCEPTANCE OF ADDITIONAL DEPOSITS.*—
 2 *Any royalty fee payments received by the Copyright*
 3 *Office from cable systems for the secondary trans-*
 4 *mission of primary transmissions that are in addi-*
 5 *tion to the payments calculated and deposited in ac-*
 6 *cordance with this subsection shall be deemed to have*
 7 *been deposited for the particular accounting period*
 8 *for which they are received and shall be distributed*
 9 *as specified under this subsection.”.*

10 (d) *EFFECTIVE DATE OF NEW ROYALTY FEE*
 11 *RATES.*—*The royalty fee rates established in section*
 12 *111(d)(1)(B) of title 17, United States Code, as amended*
 13 *by subsection (c)(1)(C) of this section, shall take effect com-*
 14 *mencing with the first accounting period occurring in 2010.*

15 (e) *DEFINITIONS.*—*Section 111(f) is amended—*

16 (1) *by striking the first undesignated paragraph*
 17 *and inserting the following:*

18 “(1) *PRIMARY TRANSMISSION.*—*A ‘primary*
 19 *transmission’ is a transmission made to the public by*
 20 *a transmitting facility whose signals are being re-*
 21 *ceived and further transmitted by a secondary trans-*
 22 *mission service, regardless of where or when the per-*
 23 *formance or display was first transmitted. In the case*
 24 *of a television broadcast station, the primary stream*

1 *and any multicast streams transmitted by the station*
2 *constitute primary transmissions.”;*

3 *(2) in the second undesignated paragraph—*

4 *(A) by striking “A ‘secondary trans-*
5 *mission’” and inserting the following:*

6 *“(2) SECONDARY TRANSMISSION.—A ‘secondary*
7 *transmission’”; and*

8 *(B) by striking “‘cable system’” and insert-*
9 *ing “cable system”;*

10 *(3) in the third undesignated paragraph—*

11 *(A) by striking “A ‘cable system’” and in-*
12 *serting the following:*

13 *“(3) CABLE SYSTEM.—A ‘cable system’”; and*

14 *(B) by striking “Territory, Trust Territory,*
15 *or Possession” and inserting “territory, trust ter-*
16 *ritory, or possession of the United States”;*

17 *(4) in the fourth undesignated paragraph, in the*
18 *first sentence—*

19 *(A) by striking “The ‘local service area of a*
20 *primary transmitter’, in the case of a television*
21 *broadcast station, comprises the area in which*
22 *such station is entitled to insist” and inserting*
23 *the following:*

24 *“(4) LOCAL SERVICE AREA OF A PRIMARY TRANS-*
25 *MITTER.—The ‘local service area of a primary trans-*

1 *mitter’, in the case of both the primary stream and*
2 *any multicast streams transmitted by a primary*
3 *transmitter that is a television broadcast station,*
4 *comprises the area where such primary transmitter*
5 *could have insisted”;*

6 *(B) by striking “76.59 of title 47 of the*
7 *Code of Federal Regulations” and inserting the*
8 *following: “76.59 of title 47, Code of Federal*
9 *Regulations, or within the noise-limited contour*
10 *as defined in 73.622(e)(1) of title 47, Code of*
11 *Federal Regulations”;* and

12 *(C) by striking “as defined by the rules and*
13 *regulations of the Federal Communications Com-*
14 *mission,”;*

15 *(5) by amending the fifth undesignated para-*
16 *graph to read as follows:*

17 *“(5) DISTANT SIGNAL EQUIVALENT.—*

18 *“(A) IN GENERAL.—Except as provided*
19 *under subparagraph (B), a ‘distant signal equiv-*
20 *alent’—*

21 *“(i) is the value assigned to the sec-*
22 *ondary transmission of any non-network*
23 *television programming carried by a cable*
24 *system in whole or in part beyond the local*

1 *service area of the primary transmitter of*
2 *such programming; and*

3 “(ii) *is computed by assigning a value*
4 *of one to each primary stream and to each*
5 *multicast stream (other than a simulcast)*
6 *that is an independent station, and by as-*
7 *signing a value of one-quarter to each pri-*
8 *mary stream and to each multicast stream*
9 *(other than a simulcast) that is a network*
10 *station or a noncommercial educational sta-*
11 *tion.*

12 “(B) *EXCEPTIONS.—The values for inde-*
13 *pendent, network, and noncommercial edu-*
14 *cational stations specified in subparagraph (A)*
15 *are subject to the following:*

16 “(i) *Where the rules and regulations of*
17 *the Federal Communications Commission*
18 *require a cable system to omit the further*
19 *transmission of a particular program and*
20 *such rules and regulations also permit the*
21 *substitution of another program embodying*
22 *a performance or display of a work in place*
23 *of the omitted transmission, or where such*
24 *rules and regulations in effect on the date of*
25 *the enactment of the Copyright Act of 1976*

1 *permit a cable system, at its election, to ef-*
2 *fect such omission and substitution of a*
3 *nonlive program or to carry additional pro-*
4 *grams not transmitted by primary trans-*
5 *mitters within whose local service area the*
6 *cable system is located, no value shall be as-*
7 *signed for the substituted or additional pro-*
8 *gram.*

9 “(ii) Where the rules, regulations, or
10 *authorizations of the Federal Communica-*
11 *tions Commission in effect on the date of the*
12 *enactment of the Copyright Act of 1976 per-*
13 *mit a cable system, at its election, to omit*
14 *the further transmission of a particular*
15 *program and such rules, regulations, or au-*
16 *thorizations also permit the substitution of*
17 *another program embodying a performance*
18 *or display of a work in place of the omitted*
19 *transmission, the value assigned for the sub-*
20 *stituted or additional program shall be, in*
21 *the case of a live program, the value of one*
22 *full distant signal equivalent multiplied by*
23 *a fraction that has as its numerator the*
24 *number of days in the year in which such*

1 *substitution occurs and as its denominator*
2 *the number of days in the year.*

3 “(iii) *In the case of the secondary*
4 *transmission of a primary transmitter that*
5 *is a television broadcast station pursuant to*
6 *the late-night or specialty programming*
7 *rules of the Federal Communications Com-*
8 *mission, or the secondary transmission of a*
9 *primary transmitter that is a television*
10 *broadcast station on a part-time basis*
11 *where full-time carriage is not possible be-*
12 *cause the cable system lacks the activated*
13 *channel capacity to retransmit on a full-*
14 *time basis all signals that it is authorized*
15 *to carry, the values for independent, net-*
16 *work, and noncommercial educational sta-*
17 *tions set forth in subparagraph (A), as the*
18 *case may be, shall be multiplied by a frac-*
19 *tion that is equal to the ratio of the broad-*
20 *cast hours of such primary transmitter re-*
21 *transmitted by the cable system to the total*
22 *broadcast hours of the primary transmitter.*

23 “(iv) *No value shall be assigned for the*
24 *secondary transmission of the primary*
25 *stream or any multicast streams of a pri-*

1 *mary transmitter that is a television broad-*
2 *cast station in any community that is with-*
3 *in the local service area of the primary*
4 *transmitter.”;*

5 *(6) by striking the sixth undesignated paragraph*
6 *and inserting the following:*

7 *“(6) NETWORK STATION.—*

8 *“(A) TREATMENT OF PRIMARY STREAM.—*

9 *The term ‘network station’ shall be applied to a*
10 *primary stream of a television broadcast station*
11 *that is owned or operated by, or affiliated with,*
12 *one or more of the television networks in the*
13 *United States providing nationwide trans-*
14 *missions, and that transmits a substantial part*
15 *of the programming supplied by such networks*
16 *for a substantial part of the primary stream’s*
17 *typical broadcast day.*

18 *“(B) TREATMENT OF MULTICAST*
19 *STREAMS.—The term ‘network station’ shall be*
20 *applied to a multicast stream on which a tele-*
21 *vision broadcast station transmits all or substan-*
22 *tially all of the programming of an inter-*
23 *connected program service that—*

1 “(i) is owned or operated by, or affili-
2 ated with, one or more of the television net-
3 works described in subparagraph (A); and

4 “(ii) offers programming on a regular
5 basis for 15 or more hours per week to at
6 least 25 of the affiliated television licensees
7 of the interconnected program service in 10
8 or more States.”;

9 (7) by striking the seventh undesignated para-
10 graph and inserting the following:

11 “(7) *INDEPENDENT STATION.*—The term ‘inde-
12 pendent station’ shall be applied to the primary
13 stream or a multicast stream of a television broadcast
14 station that is not a network station or a noncommer-
15 cial educational station.”;

16 (8) by striking the eighth undesignated para-
17 graph and inserting the following:

18 “(8) *NONCOMMERCIAL EDUCATIONAL STATION.*—
19 The term ‘noncommercial educational station’ shall be
20 applied to the primary stream or a multicast stream
21 of a television broadcast station that is a noncommer-
22 cial educational broadcast station as defined in sec-
23 tion 397 of the Communications Act of 1934, as in
24 effect on the date of the enactment of the Satellite Tel-
25 evision Extension and Localism Act of 2010.”; and

1 (9) *by adding at the end the following:*

2 “(9) *PRIMARY STREAM.*—A ‘primary stream’
3 *is—*

4 “(A) *the single digital stream of program-*
5 *ming that, before June 12, 2009, was substan-*
6 *tially duplicating the programming transmitted*
7 *by the television broadcast station as an analog*
8 *signal; or*

9 “(B) *if there is no stream described in sub-*
10 *paragraph (A), then the single digital stream of*
11 *programming transmitted by the television*
12 *broadcast station for the longest period of time.*

13 “(10) *PRIMARY TRANSMITTER.*—A ‘primary
14 *transmitter’ is a television or radio broadcast station*
15 *licensed by the Federal Communications Commission,*
16 *or by an appropriate governmental authority of Can-*
17 *ada or Mexico, that makes primary transmissions to*
18 *the public.*

19 “(11) *MULTICAST STREAM.*—A ‘multicast
20 *stream’ is a digital stream of programming that is*
21 *transmitted by a television broadcast station and is*
22 *not the station’s primary stream.*

23 “(12) *SIMULCAST.*—A ‘simulcast’ *is a multicast*
24 *stream of a television broadcast station that dupli-*

1 *ates the programming transmitted by the primary*
2 *stream or another multicast stream of such station.*

3 *“(13) SUBSCRIBER; SUBSCRIBE.—*

4 *“(A) SUBSCRIBER.—The term ‘subscriber’*
5 *means a person or entity that receives a sec-*
6 *ondary transmission service from a cable system*
7 *and pays a fee for the service, directly or indi-*
8 *rectly, to the cable system.*

9 *“(B) SUBSCRIBE.—The term ‘subscribe’*
10 *means to elect to become a subscriber.”.*

11 *(f) TIMING OF SECTION 111 PROCEEDINGS.—Section*
12 *804(b)(1) is amended by striking “2005” each place it ap-*
13 *pears and inserting “2015”.*

14 *(g) TECHNICAL AND CONFORMING AMENDMENTS.—*

15 *(1) CORRECTIONS TO FIX LEVEL DESIGNA-*
16 *TIONS.—Section 111 is amended—*

17 *(A) in subsections (a), (c), and (e), by strik-*
18 *ing “clause” each place it appears and inserting*
19 *“paragraph”;*

20 *(B) in subsection (c)(1), by striking*
21 *“clauses” and inserting “paragraphs”; and*

22 *(C) in subsection (e)(1)(F), by striking*
23 *“subclause” and inserting “subparagraph”.*

24 *(2) CONFORMING AMENDMENT TO HYPHENATE*
25 *NONNETWORK.—Section 111 is amended by striking*

1 “nonnetwork” each place it appears and inserting
2 “non-network”.

3 (3) *PREVIOUSLY UNDESIGNATED PARAGRAPH.*—
4 Section 111(e)(1) is amended by striking “second
5 paragraph of subsection (f)” and inserting “sub-
6 section (f)(2)”.

7 (4) *REMOVAL OF SUPERFLUOUS ANDS.*—Section
8 111(e) is amended—

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

11 (B) in paragraph (1)(B), by striking “and”
12 at the end;

13 (C) in paragraph (1)(C), by striking “and”
14 at the end;

15 (D) in paragraph (1)(D), by striking “and”
16 at the end; and

17 (E) in paragraph (2)(A), by striking “and”
18 at the end.

19 (5) *REMOVAL OF VARIANT FORMS REF-*
20 *ERENCES.*—Section 111 is amended—

21 (A) in subsection (e)(4), by striking “, and
22 each of its variant forms,”; and

23 (B) in subsection (f), by striking “and their
24 variant forms”.

1 (6) *CORRECTION TO TERRITORY REFERENCE.*—
2 Section 111(e)(2) is amended in the matter preceding
3 subparagraph (A) by striking “three territories” and
4 inserting “five entities”.

5 (h) *EFFECTIVE DATE WITH RESPECT TO MULTICAST*
6 *STREAMS.*—

7 (1) *IN GENERAL.*—Subject to paragraphs (2) and
8 (3), the amendments made by this section, to the ex-
9 tent such amendments assign a distant signal equiva-
10 lent value to the secondary transmission of the
11 multicast stream of a primary transmitter, shall take
12 effect on the date of the enactment of this Act.

13 (2) *DELAYED APPLICABILITY.*—

14 (A) *SECONDARY TRANSMISSIONS OF A*
15 *MULTICAST STREAM BEYOND THE LOCAL SERV-*
16 *ICE AREA OF ITS PRIMARY TRANSMITTER BE-*
17 *FORE 2010 ACT.*—In any case in which a cable
18 system was making secondary transmissions of a
19 multicast stream beyond the local service area of
20 its primary transmitter before the date of the en-
21 actment of this Act, a distant signal equivalent
22 value (referred to in paragraph (1)) shall not be
23 assigned to secondary transmissions of such
24 multicast stream that are made on or before
25 June 30, 2010.

1 (B) *MULTICAST STREAMS SUBJECT TO PRE-*
2 *EXISTING WRITTEN AGREEMENTS FOR THE SEC-*
3 *ONDARY TRANSMISSION OF SUCH STREAMS.—In*
4 *any case in which the secondary transmission of*
5 *a multicast stream of a primary transmitter is*
6 *the subject of a written agreement entered into*
7 *on or before June 30, 2009, between a cable sys-*
8 *tem or an association representing the cable sys-*
9 *tem and a primary transmitter or an associa-*
10 *tion representing the primary transmitter, a dis-*
11 *tant signal equivalent value (referred to in para-*
12 *graph (1)) shall not be assigned to secondary*
13 *transmissions of such multicast stream beyond*
14 *the local service area of its primary transmitter*
15 *that are made on or before the date on which*
16 *such written agreement expires.*

17 (C) *NO REFUNDS OR OFFSETS FOR PRIOR*
18 *STATEMENTS OF ACCOUNT.—A cable system that*
19 *has reported secondary transmissions of a*
20 *multicast stream beyond the local service area of*
21 *its primary transmitter on a statement of ac-*
22 *count deposited under section 111 of title 17,*
23 *United States Code, before the date of the enact-*
24 *ment of this Act shall not be entitled to any re-*
25 *fund, or offset, of royalty fees paid on account of*

1 *such secondary transmissions of such multicast*
2 *stream.*

3 (3) *DEFINITIONS.—In this subsection, the terms*
4 *“cable system”, “secondary transmission”, “multicast*
5 *stream”, and “local service area of a primary trans-*
6 *mitter” have the meanings given those terms in sec-*
7 *tion 111(f) of title 17, United States Code, as amend-*
8 *ed by this section.*

9 **SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF**
10 **LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

11 *Section 119 is amended by adding at the end the fol-*
12 *lowing new subsection:*

13 “(g) *CERTAIN WAIVERS GRANTED TO PROVIDERS OF*
14 *LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—*

15 “(1) *INJUNCTION WAIVER.—A court that issued*
16 *an injunction pursuant to subsection (a)(7)(B) before*
17 *the date of the enactment of this subsection shall*
18 *wave such injunction if the court recognizes the enti-*
19 *ty against which the injunction was issued as a*
20 *qualified carrier.*

21 “(2) *LIMITED TEMPORARY WAIVER.—*

22 “(A) *IN GENERAL.—Upon a request made*
23 *by a satellite carrier, a court that issued an in-*
24 *junction against such carrier under subsection*
25 *(a)(7)(B) before the date of the enactment of this*

1 *subsection shall waive such injunction with re-*
2 *spect to the statutory license provided under sub-*
3 *section (a)(2) to the extent necessary to allow*
4 *such carrier to make secondary transmissions of*
5 *primary transmissions made by a network sta-*
6 *tion to unserved households located in short mar-*
7 *kets in which such carrier was not providing*
8 *local service pursuant to the license under section*
9 *122 as of December 31, 2009.*

10 “(B) *EXPIRATION OF TEMPORARY WAIV-*
11 *ER.—A temporary waiver of an injunction*
12 *under subparagraph (A) shall expire after the*
13 *end of the 120-day period beginning on the date*
14 *such temporary waiver is issued unless extended*
15 *for good cause by the court making the tem-*
16 *porary waiver.*

17 “(C) *FAILURE TO PROVIDE LOCAL-INTO-*
18 *LOCAL SERVICE TO ALL DMAS.—*

19 “(i) *FAILURE TO ACT REASONABLY*
20 *AND IN GOOD FAITH.—If the court issuing*
21 *a temporary waiver under subparagraph*
22 *(A) determines that the satellite carrier that*
23 *made the request for such waiver has failed*
24 *to act reasonably or has failed to make a*

1 *good faith effort to provide local-into-local*
2 *service to all DMAs, such failure—*

3 “(I) *is actionable as an act of in-*
4 *fringement under section 501 and the*
5 *court may in its discretion impose the*
6 *remedies provided for in sections 502*
7 *through 506 and subsection (a)(6)(B)*
8 *of this section; and*

9 “(II) *shall result in the termi-*
10 *nation of the waiver issued under sub-*
11 *paragraph (A).*

12 “(ii) *FAILURE TO PROVIDE LOCAL-*
13 *INTO-LOCAL SERVICE.—If the court issuing*
14 *a temporary waiver under subparagraph*
15 *(A) determines that the satellite carrier that*
16 *made the request for such waiver has failed*
17 *to provide local-into-local service to all*
18 *DMAs, but determines that the carrier acted*
19 *reasonably and in good faith, the court may*
20 *in its discretion impose financial penalties*
21 *that reflect—*

22 “(I) *the degree of control the car-*
23 *rier had over the circumstances that*
24 *resulted in the failure;*

1 “(II) the quality of the carrier’s
2 efforts to remedy the failure; and

3 “(III) the severity and duration of
4 any service interruption.

5 “(D) SINGLE TEMPORARY WAIVER AVAIL-
6 ABLE.—An entity may only receive one tem-
7 porary waiver under this paragraph.

8 “(E) SHORT MARKET DEFINED.—For pur-
9 poses of this paragraph, the term ‘short market’
10 means a local market in which programming of
11 one or more of the four most widely viewed tele-
12 vision networks nationwide as measured on the
13 date of the enactment of this subsection is not of-
14 fered on the primary stream transmitted by any
15 local television broadcast station.

16 “(3) ESTABLISHMENT OF QUALIFIED CARRIER
17 RECOGNITION.—

18 “(A) STATEMENT OF ELIGIBILITY.—An en-
19 tity seeking to be recognized as a qualified car-
20 rier under this subsection shall file a statement
21 of eligibility with the court that imposed the in-
22 junction. A statement of eligibility must in-
23 clude—

24 “(i) an affidavit that the entity is pro-
25 viding local-into-local service to all DMAs;

1 “(ii) a request for a waiver of the in-
2 junction; and

3 “(iii) a certification issued pursuant to
4 section 342(a) of Communications Act of
5 1934.

6 “(B) GRANT OF RECOGNITION AS A QUALI-
7 FIED CARRIER.—Upon receipt of a statement of
8 eligibility, the court shall recognize the entity as
9 a qualified carrier and issue the waiver under
10 paragraph (1).

11 “(C) VOLUNTARY TERMINATION.—At any
12 time, an entity recognized as a qualified carrier
13 may file a statement of voluntary termination
14 with the court certifying that it no longer wishes
15 to be recognized as a qualified carrier. Upon re-
16 ceipt of such statement, the court shall reinstate
17 the injunction waived under paragraph (1).

18 “(D) LOSS OF RECOGNITION PREVENTS FU-
19 TURE RECOGNITION.—No entity may be recog-
20 nized as a qualified carrier if such entity had
21 previously been recognized as a qualified carrier
22 and subsequently lost such recognition or volun-
23 tarily terminated such recognition under sub-
24 paragraph (C).

1 “(4) *QUALIFIED CARRIER OBLIGATIONS AND*
2 *COMPLIANCE.*—

3 “(A) *CONTINUING OBLIGATIONS.*—

4 “(i) *IN GENERAL.*—*An entity recog-*
5 *nized as a qualified carrier shall continue*
6 *to provide local-into-local service to all*
7 *DMA.*s.

8 “(ii) *COOPERATION WITH GAO EXAM-*
9 *INATION.*—*An entity recognized as a quali-*
10 *fied carrier shall fully cooperate with the*
11 *Comptroller General in the examination re-*
12 *quired by subparagraph (B).*

13 “(B) *QUALIFIED CARRIER COMPLIANCE EX-*
14 *AMINATION.*—

15 “(i) *EXAMINATION AND REPORT.*—*The*
16 *Comptroller General shall conduct an exam-*
17 *ination and publish a report concerning the*
18 *qualified carrier’s compliance with the roy-*
19 *alty payment and household eligibility re-*
20 *quirements of the license under this section.*
21 *The report shall address the qualified car-*
22 *rier’s conduct during the period beginning*
23 *on the date on which the qualified carrier*
24 *is recognized as such under paragraph*
25 *(3)(B) and ending on December 31, 2011.*

1 “(ii) *RECORDS OF QUALIFIED CAR-*
2 *RIER.—Beginning on the date that is one*
3 *year after the date on which the qualified*
4 *carrier is recognized as such under para-*
5 *graph (3)(B), but not later than October 1,*
6 *2011, the qualified carrier shall provide the*
7 *Comptroller General with all records that*
8 *the Comptroller General, in consultation*
9 *with the Register of Copyrights, considers to*
10 *be directly pertinent to the following re-*
11 *quirements under this section:*

12 “(I) *Proper calculation and pay-*
13 *ment of royalties under the statutory*
14 *license under this section.*

15 “(II) *Provision of service under*
16 *this license to eligible subscribers only.*

17 “(iii) *SUBMISSION OF REPORT.—The*
18 *Comptroller General shall file the report re-*
19 *quired by clause (i) not later than March 1,*
20 *2012, with the court referred to in para-*
21 *graph (1) that issued the injunction, the*
22 *Register of Copyrights, the Committees on*
23 *the Judiciary and on Energy and Com-*
24 *merce of the House of Representatives, and*
25 *the Committees on the Judiciary and on*

1 *Commerce, Science, and Transportation of*
2 *the Senate.*

3 “(iv) *EVIDENCE OF INFRINGEMENT.—*
4 *The Comptroller General shall include in*
5 *the report a statement of whether the exam-*
6 *ination by the Comptroller General indi-*
7 *cated that there is substantial evidence that*
8 *a copyright holder could bring a successful*
9 *action under this section against the quali-*
10 *fied carrier for infringement. The Comp-*
11 *troller General shall consult with the Reg-*
12 *ister of Copyrights in preparing such state-*
13 *ment.*

14 “(v) *SUBSEQUENT EXAMINATION.—If*
15 *the report includes the Comptroller Gen-*
16 *eral’s statement that there is substantial*
17 *evidence that a copyright holder could bring*
18 *a successful action under this section*
19 *against the qualified carrier for infringe-*
20 *ment, the Comptroller General shall, not*
21 *later than 6 months after the report under*
22 *clause (i) is published, initiate another ex-*
23 *amination of the qualified carrier’s compli-*
24 *ance with the royalty payment and house-*
25 *hold eligibility requirements of the license*

1 *under this section since the last report was*
2 *filed under clause (iii). The Comptroller*
3 *General shall file a report on such examina-*
4 *tion with the court referred to in paragraph*
5 *(1) that issued the injunction, the Register*
6 *of Copyrights, the Committees on the Judi-*
7 *ciary and on Energy and Commerce of the*
8 *House of Representatives, and the Commit-*
9 *tees on the Judiciary and on Commerce,*
10 *Science, and Transportation of the Senate.*
11 *The report shall include a statement de-*
12 *scribed in clause (iv), prepared in consulta-*
13 *tion with the Register of Copyrights.*

14 “(vi) COMPLIANCE.—Upon motion
15 filed by an aggrieved copyright owner, the
16 court recognizing an entity as a qualified
17 carrier shall terminate such designation
18 upon finding that the entity has failed to
19 cooperate with the examinations required by
20 this subparagraph.

21 “(C) AFFIRMATION.—A qualified carrier
22 shall file an affidavit with the district court and
23 the Register of Copyrights 30 months after such
24 status was granted stating that, to the best of the

1 *affiant's knowledge, it is in compliance with the*
2 *requirements for a qualified carrier.*

3 “(D) *COMPLIANCE DETERMINATION.*—Upon
4 *the motion of an aggrieved television broadcast*
5 *station, the court recognizing an entity as a*
6 *qualified carrier may make a determination of*
7 *whether the entity is providing local-into-local*
8 *service to all DMAs.*

9 “(E) *PLEADING REQUIREMENT.*—In any
10 *motion brought under subparagraph (D), the*
11 *party making such motion shall specify one or*
12 *more designated market areas (as such term is*
13 *defined in section 122(j)(2)(C)) for which the*
14 *failure to provide service is being alleged, and,*
15 *for each such designated market area, shall plead*
16 *with particularity the circumstances of the al-*
17 *leged failure.*

18 “(F) *BURDEN OF PROOF.*—In any pro-
19 *ceeding to make a determination under subpara-*
20 *graph (D), and with respect to a designated*
21 *market area for which failure to provide service*
22 *is alleged, the entity recognized as a qualified*
23 *carrier shall have the burden of proving that the*
24 *entity provided local-into-local service with a*
25 *good quality satellite signal to at least 90 per-*

1 *cent of the households in such designated market*
2 *area (based on the most recent census data re-*
3 *leased by the United States Census Bureau) at*
4 *the time and place alleged.*

5 “(5) *FAILURE TO PROVIDE SERVICE.*—

6 “(A) *PENALTIES.*—*If the court recognizing*
7 *an entity as a qualified carrier finds that such*
8 *entity has willfully failed to provide local-into-*
9 *local service to all DMAs, such finding shall re-*
10 *sult in the loss of recognition of the entity as a*
11 *qualified carrier and the termination of the*
12 *waiver provided under paragraph (1), and the*
13 *court may, in its discretion—*

14 “(i) *treat such failure as an act of in-*
15 *fringement under section 501, and subject*
16 *such infringement to the remedies provided*
17 *for in sections 502 through 506 and sub-*
18 *section (a)(6)(B) of this section; and*

19 “(ii) *impose a fine of not less than*
20 *\$250,000 and not more than \$5,000,000.*

21 “(B) *EXCEPTION FOR NONWILLFUL VIOLA-*
22 *TION.*—*If the court determines that the failure to*
23 *provide local-into-local service to all DMAs is*
24 *nonwillful, the court may in its discretion im-*

1 *pose financial penalties for noncompliance that*
2 *reflect—*

3 *“(i) the degree of control the entity had*
4 *over the circumstances that resulted in the*
5 *failure;*

6 *“(ii) the quality of the entity’s efforts*
7 *to remedy the failure and restore service;*
8 *and*

9 *“(iii) the severity and duration of any*
10 *service interruption.*

11 “(6) *PENALTIES FOR VIOLATIONS OF LICENSE.—*
12 *A court that finds, under subsection (a)(6)(A), that*
13 *an entity recognized as a qualified carrier has will-*
14 *fully made a secondary transmission of a primary*
15 *transmission made by a network station and embody-*
16 *ing a performance or display of a work to a sub-*
17 *scriber who is not eligible to receive the transmission*
18 *under this section shall reinstate the injunction*
19 *waived under paragraph (1), and the court may*
20 *order statutory damages of not more than \$2,500,000.*

21 “(7) *LOCAL-INTO-LOCAL SERVICE TO ALL DMAS*
22 *DEFINED.—For purposes of this subsection:*

23 “(A) *IN GENERAL.—An entity provides*
24 *‘local-into-local service to all DMAs’ if the entity*
25 *provides local service in all designated market*

1 *areas (as such term is defined in section*
2 *122(j)(2)(C)) pursuant to the license under sec-*
3 *tion 122.*

4 “(B) *HOUSEHOLD COVERAGE.*—*For pur-*
5 *poses of subparagraph (A), an entity that makes*
6 *available local-into-local service with a good*
7 *quality satellite signal to at least 90 percent of*
8 *the households in a designated market area based*
9 *on the most recent census data released by the*
10 *United States Census Bureau shall be considered*
11 *to be providing local service to such designated*
12 *market area.*

13 “(C) *GOOD QUALITY SATELLITE SIGNAL DE-*
14 *FINED.*—*The term ‘good quality signal’ has the*
15 *meaning given such term under section 342(e)(2)*
16 *of Communications Act of 1934.”.*

17 **SEC. 506. COPYRIGHT OFFICE FEES.**

18 *Section 708(a) is amended—*

19 (1) *in paragraph (8), by striking “and” after the*
20 *semicolon;*

21 (2) *in paragraph (9), by striking the period and*
22 *inserting a semicolon;*

23 (3) *by inserting after paragraph (9) the fol-*
24 *lowing:*

1 “(10) on filing a statement of account based on
2 secondary transmissions of primary transmissions
3 pursuant to section 119 or 122; and

4 “(11) on filing a statement of account based on
5 secondary transmissions of primary transmissions
6 pursuant to section 111.”; and

7 (4) by adding at the end the following new sen-
8 tence: “Fees established under paragraphs (10) and
9 (11) shall be reasonable and may not exceed one-half
10 of the cost necessary to cover reasonable expenses in-
11 curred by the Copyright Office for the collection and
12 administration of the statements of account and any
13 royalty fees deposited with such statements.”.

14 **SEC. 507. TERMINATION OF LICENSE.**

15 Section 1003(a)(2)(A) of Public Law 111–118 is
16 amended by striking “March 28, 2010” and inserting “De-
17 cember 31, 2014”.

18 **SEC. 508. CONSTRUCTION.**

19 Nothing in section 111, 119, or 122 of title 17, United
20 States Code, including the amendments made to such sec-
21 tions by this subtitle, shall be construed to affect the mean-
22 ing of any terms under the Communications Act of 1934,
23 except to the extent that such sections are specifically cross-
24 referenced in such Act or the regulations issued thereunder.

1 ***Subtitle B—Communications***
2 ***Provisions***

3 **SEC. 521. REFERENCE.**

4 *Except as otherwise provided, whenever in this subtitle*
5 *an amendment is made to a section or other provision, the*
6 *reference shall be considered to be made to such section or*
7 *provision of the Communications Act of 1934 (47 U.S.C.*
8 *151 et seq.).*

9 **SEC. 522. EXTENSION OF AUTHORITY.**

10 *Section 325(b) is amended—*

11 (1) *in paragraph (2)(C), by striking “March 28,*
12 *2010” and inserting “December 31, 2014”; and*

13 (2) *in paragraph (3)(C), by striking “March 29,*
14 *2010” each place it appears in clauses (ii) and (iii)*
15 *and inserting “January 1, 2015”.*

16 **SEC. 523. SIGNIFICANTLY VIEWED STATIONS.**

17 (a) *IN GENERAL.—Paragraphs (1) and (2) of section*
18 *340(b) are amended to read as follows:*

19 “(1) *SERVICE LIMITED TO SUBSCRIBERS TAKING*
20 *LOCAL-INTO-LOCAL SERVICE.—This section shall*
21 *apply only to retransmissions to subscribers of a sat-*
22 *ellite carrier who receive retransmissions of a signal*
23 *from that satellite carrier pursuant to section 338.*

24 “(2) *SERVICE LIMITATIONS.—A satellite carrier*
25 *may retransmit to a subscriber in high definition for-*

1 *mat the signal of a station determined by the Com-*
2 *mission to be significantly viewed under subsection*
3 *(a) only if such carrier also retransmits in high defi-*
4 *inition format the signal of a station located in the*
5 *local market of such subscriber and affiliated with the*
6 *same network whenever such format is available from*
7 *such station.”.*

8 *(b) RULEMAKING REQUIRED.—Within 210 days after*
9 *the date of the enactment of this Act, the Federal Commu-*
10 *nications Commission shall take all actions necessary to*
11 *promulgate a rule to implement the amendments made by*
12 *subsection (a).*

13 **SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING**
14 **AMENDMENTS.**

15 *(a) SECTION 338.—Section 338 is amended—*

16 *(1) in subsection (a), by striking “(3) EFFECTIVE*
17 *DATE.—No satellite” and all that follows through*
18 *“until January 1, 2002.”; and*

19 *(2) by amending subsection (g) to read as fol-*
20 *lows:*

21 *“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RE-*
22 *CEPTION ANTENNA.—*

23 *“(1) SINGLE RECEPTION ANTENNA.—Each sat-*
24 *ellite carrier that retransmits the signals of local tele-*
25 *vision broadcast stations in a local market shall re-*

1 *transmit such stations in such market so that a sub-*
2 *scriber may receive such stations by means of a single*
3 *reception antenna and associated equipment.*

4 “(2) *ADDITIONAL RECEPTION ANTENNA.—If the*
5 *carrier retransmits the signals of local television*
6 *broadcast stations in a local market in high defini-*
7 *tion format, the carrier shall retransmit such signals*
8 *in such market so that a subscriber may receive such*
9 *signals by means of a single reception antenna and*
10 *associated equipment, but such antenna and associ-*
11 *ated equipment may be separate from the single re-*
12 *ception antenna and associated equipment used to*
13 *comply with paragraph (1).”.*

14 (b) *SECTION 339.—Section 339 is amended—*

15 (1) *in subsection (a)—*

16 (A) *in paragraph (1)(B), by striking “Such*
17 *two network stations” and all that follows*
18 *through “more than two network stations.”; and*

19 (B) *in paragraph (2)—*

20 (i) *in the heading for subparagraph*
21 *(A), by striking “TO ANALOG SIGNALS”;*

22 (ii) *in subparagraph (A)—*

23 (I) *in the heading for clause (i),*
24 *by striking “ANALOG”;*

25 (II) *in clause (i)—*

1 (aa) by striking “analog”
2 each place it appears; and

3 (bb) by striking “October 1,
4 2004” and inserting “October 1,
5 2009”;

6 (III) in the heading for clause
7 (ii), by striking “ANALOG”; and

8 (IV) in clause (i)—

9 (aa) by striking “analog”
10 each place it appears; and

11 (bb) by striking “2004” and
12 inserting “2009”;

13 (iii) by amending subparagraph (B) to
14 read as follows:

15 “(B) RULES FOR OTHER SUBSCRIBERS.—

16 “(i) IN GENERAL.—In the case of a
17 subscriber of a satellite carrier who is eligi-
18 ble to receive the signal of a network station
19 under this section (in this subparagraph re-
20 ferred to as a ‘distant signal’), other than
21 subscribers to whom subparagraph (A) ap-
22 plies, the following shall apply:

23 “(I) In a case in which the sat-
24 ellite carrier makes available to that
25 subscriber, on January 1, 2005, the

1 *signal of a local network station affili-*
2 *ated with the same television network*
3 *pursuant to section 338, the carrier*
4 *may only provide the secondary trans-*
5 *missions of the distant signal of a sta-*
6 *tion affiliated with the same network*
7 *to that subscriber if the subscriber's*
8 *satellite carrier, not later than March*
9 *1, 2005, submits to that television net-*
10 *work the list and statement required by*
11 *subparagraph (F)(i).*

12 *“(II) In a case in which the sat-*
13 *ellite carrier does not make available to*
14 *that subscriber, on January 1, 2005,*
15 *the signal of a local network station*
16 *pursuant to section 338, the carrier*
17 *may only provide the secondary trans-*
18 *missions of the distant signal of a sta-*
19 *tion affiliated with the same network*
20 *to that subscriber if—*

21 *“(aa) that subscriber seeks to*
22 *subscribe to such distant signal*
23 *before the date on which such car-*
24 *rier commences to carry pursuant*
25 *to section 338 the signals of sta-*

1 *tions from the local market of*
2 *such local network station; and*

3 *“(bb) the satellite carrier,*
4 *within 60 days after such date,*
5 *submits to each television network*
6 *the list and statement required by*
7 *subparagraph (F)(i).*

8 *“(i) SPECIAL CIRCUMSTANCES.—A*
9 *subscriber of a satellite carrier who was*
10 *lawfully receiving the distant signal of a*
11 *network station on the day before the date*
12 *of enactment of the Satellite Television Ex-*
13 *ension and Localism Act of 2010 may re-*
14 *ceive both such distant signal and the local*
15 *signal of a network station affiliated with*
16 *the same network until such subscriber*
17 *chooses to no longer receive such distant sig-*
18 *nal from such carrier, whether or not such*
19 *subscriber elects to subscribe to such local*
20 *signal.”;*

21 *(iv) in subparagraph (C)—*

22 *(I) by striking “analog”;*

23 *(II) in clause (i), by striking “the*
24 *Satellite Home Viewer Extension and*

1 *Reauthorization Act of 2004; and” and*
2 *inserting the following:*

3 *“the Satellite Television Extension and Lo-*
4 *calism Act of 2010 and, at the time such*
5 *person seeks to subscribe to receive such sec-*
6 *ondary transmission, resides in a local*
7 *market where the satellite carrier makes*
8 *available to that person the signal of a local*
9 *network station affiliated with the same tel-*
10 *evision network pursuant to section 338*
11 *(and the retransmission of such signal by*
12 *such carrier can reach such subscriber); or”;*
13 *and*

14 *(III) by amending clause (ii) to*
15 *read as follows:*

16 *“(ii) lawfully subscribes to and receives*
17 *a distant signal on or after the date of en-*
18 *actment of the Satellite Television Exten-*
19 *sion and Localism Act of 2010, and, subse-*
20 *quent to such subscription, the satellite car-*
21 *rier makes available to that subscriber the*
22 *signal of a local network station affiliated*
23 *with the same network as the distant signal*
24 *(and the retransmission of such signal by*
25 *such carrier can reach such subscriber), un-*

1 *less such person subscribes to the signal of*
2 *the local network station within 60 days*
3 *after such signal is made available.”;*

4 *(v) in subparagraph (D)—*

5 *(I) in the heading, by striking*
6 *“DIGITAL”;*

7 *(II) by striking clauses (i), (iii)*
8 *through (v), (vii) through (ix), and*
9 *(xi);*

10 *(III) by redesignating clause (vi)*
11 *as clause (i) and transferring such*
12 *clause to appear before clause (ii);*

13 *(IV) by amending such clause (i)*
14 *(as so redesignated) to read as follows:*

15 *“(i) ELIGIBILITY AND SIGNAL TEST-*
16 *ING.—A subscriber of a satellite carrier*
17 *shall be eligible to receive a distant signal*
18 *of a network station affiliated with the*
19 *same network under this section if, with re-*
20 *spect to a local network station, such sub-*
21 *scriber—*

22 *“(I) is a subscriber whose house-*
23 *hold is not predicted by the model spec-*
24 *ified in subsection (c)(3) to receive the*
25 *signal intensity required under section*

1 73.622(e)(1) or, in the case of a low-
2 power station or translator station
3 transmitting an analog signal, section
4 73.683(a) of title 47, Code of Federal
5 Regulations, or a successor regulation;

6 “(II) is determined, based on a
7 test conducted in accordance with sec-
8 tion 73.686(d) of title 47, Code of Fed-
9 eral Regulations, or any successor reg-
10 ulation, not to be able to receive a sig-
11 nal that exceeds the signal intensity
12 standard in section 73.622(e)(1) or, in
13 the case of a low-power station or
14 translator station transmitting an
15 analog signal, section 73.683(a) of such
16 title, or a successor regulation; or

17 “(III) is in an unserved house-
18 hold, as determined under section
19 119(d)(10)(A) of title 17, United States
20 Code.”;

21 (V) in clause (ii)—

22 (aa) by striking “DIGITAL”
23 in the heading;

1 *(bb) by striking “digital” the*
2 *first two places such term ap-*
3 *pears;*

4 *(cc) by striking “Satellite*
5 *Home Viewer Extension and Re-*
6 *authorization Act of 2004” and*
7 *inserting “Satellite Television Ex-*
8 *tension and Localism Act of*
9 *2010”; and*

10 *(dd) by striking “, whether*
11 *or not such subscriber elects to*
12 *subscribe to local digital signals”;*

13 *(VI) by inserting after clause (ii)*
14 *the following new clause:*

15 *“(iii) TIME-SHIFTING PROHIBITED.—*
16 *In a case in which the satellite carrier*
17 *makes available to an eligible subscriber*
18 *under this subparagraph the signal of a*
19 *local network station pursuant to section*
20 *338, the carrier may only provide the dis-*
21 *tant signal of a station affiliated with the*
22 *same network to that subscriber if, in the*
23 *case of any local market in the 48 contig-*
24 *uous States of the United States, the distant*
25 *signal is the secondary transmission of a*

1 *station whose prime time network program-*
2 *ming is generally broadcast simultaneously*
3 *with, or later than, the prime time network*
4 *programming of the affiliate of the same*
5 *network in the local market.”; and*

6 *(VII) by redesignating clause (x)*
7 *as clause (iv); and*

8 *(vi) in subparagraph (E), by striking*
9 *“distant analog signal or” and all that fol-*
10 *lows through “(B), or (D))” and inserting*
11 *“distant signal”;*

12 *(2) in subsection (c)—*

13 *(A) by amending paragraph (3) to read as*
14 *follows:*

15 *“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE*
16 *MODEL AND ON-LOCATION TESTING REQUIRED.—*

17 *“(A) PREDICTIVE MODEL.—Within 210*
18 *days after the date of the enactment of the Sat-*
19 *ellite Television Extension and Localism Act of*
20 *2010, the Commission shall develop and pre-*
21 *scribe by rule a point-to-point predictive model*
22 *for reliably and presumptively determining the*
23 *ability of individual locations, through the use of*
24 *an antenna, to receive signals in accordance*
25 *with the signal intensity standard in section*

1 73.622(e)(1) of title 47, Code of Federal Regula-
2 tions, or a successor regulation, including to ac-
3 count for the continuing operation of translator
4 stations and low power television stations. In
5 prescribing such model, the Commission shall
6 rely on the Individual Location Longley-Rice
7 model set forth by the Commission in CS Docket
8 No. 98–201, as previously revised with respect to
9 analog signals, and as recommended by the Com-
10 mission with respect to digital signals in its Re-
11 port to Congress in ET Docket No. 05–182, FCC
12 05–199 (released December 9, 2005). The Com-
13 mission shall establish procedures for the contin-
14 ued refinement in the application of the model
15 by the use of additional data as it becomes avail-
16 able.

17 “(B) ON-LOCATION TESTING.—The Commis-
18 sion shall issue an order completing its rule-
19 making proceeding in ET Docket No. 06–94
20 within 210 days after the date of enactment of
21 the Satellite Television Extension and Localism
22 Act of 2010. In conducting such rulemaking, the
23 Commission shall seek ways to minimize con-
24 sumer burdens associated with on-location test-
25 ing.”;

1 (B) by amending paragraph (4)(A) to read
2 as follows:

3 “(A) *IN GENERAL.*—If a subscriber’s request
4 for a waiver under paragraph (2) is rejected and
5 the subscriber submits to the subscriber’s satellite
6 carrier a request for a test verifying the sub-
7 scriber’s inability to receive a signal of the sig-
8 nal intensity referenced in clause (i) of sub-
9 section (a)(2)(D), the satellite carrier and the
10 network station or stations asserting that the re-
11 transmission is prohibited with respect to that
12 subscriber shall select a qualified and inde-
13 pendent person to conduct the test referenced in
14 such clause. Such test shall be conducted within
15 30 days after the date the subscriber submits a
16 request for the test. If the written findings and
17 conclusions of a test conducted in accordance
18 with such clause demonstrate that the subscriber
19 does not receive a signal that meets or exceeds
20 the requisite signal intensity standard in such
21 clause, the subscriber shall not be denied the re-
22 transmission of a signal of a network station
23 under section 119(d)(10)(A) of title 17, United
24 States Code.”;

1 (C) in paragraph (4)(B), by striking “the
2 signal intensity” and all that follows through
3 “United States Code” and inserting “such req-
4 uisite signal intensity standard”; and

5 (D) in paragraph (4)(E), by striking
6 “Grade B intensity”.

7 (c) SECTION 340.—Section 340(i) is amended by strik-
8 ing paragraph (4).

9 **SEC. 525. APPLICATION PENDING COMPLETION OF**
10 **RULEMAKINGS.**

11 (a) *IN GENERAL.*—During the period beginning on the
12 date of the enactment of this Act and ending on the date
13 on which the Federal Communications Commission adopts
14 rules pursuant to the amendments to the Communications
15 Act of 1934 made by section 523 and section 524 of this
16 title, the Federal Communications Commission shall follow
17 its rules and regulations promulgated pursuant to sections
18 338, 339, and 340 of the Communications Act of 1934 as
19 in effect on the day before the date of the enactment of this
20 Act.

21 (b) *TRANSLATOR STATIONS AND LOW POWER TELE-*
22 *VISION STATIONS.*—Notwithstanding subsection (a), for
23 purposes of determining whether a subscriber within the
24 local market served by a translator station or a low power
25 television station affiliated with a television network is eli-

1 gible to receive distant signals under section 339 of the
2 Communications Act of 1934, the rules and regulations of
3 the Federal Communications Commission for determining
4 such subscriber's eligibility as in effect on the day before
5 the date of the enactment of this Act shall apply until the
6 date on which the translator station or low power television
7 station is licensed to broadcast a digital signal.

8 (c) *DEFINITIONS.*—As used in this subtitle:

9 (1) *LOCAL MARKET; LOW POWER TELEVISION*
10 *STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-*
11 *VISION BROADCAST STATION.*—The terms “local mar-
12 ket”, “low power television station”, “satellite car-
13 rier”, “subscriber”, and “television broadcast station”
14 have the meanings given such terms in section 338(k)
15 of the Communications Act of 1934.

16 (2) *NETWORK STATION; TELEVISION NETWORK.*—
17 The terms “network station” and “television network”
18 have the meanings given such terms in section 339(d)
19 of such Act.

20 **SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**
21 **TIFICATION.**

22 Part I of title III is amended by adding at the end
23 the following new section:

1 **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**
2 **CERTIFICATION.**

3 “(a) *CERTIFICATION.*—*The Commission shall issue a*
4 *certification for the purposes of section 119(g)(3)(A)(iii) of*
5 *title 17, United States Code, if the Commission determines*
6 *that—*

7 “(1) *a satellite carrier is providing local service*
8 *pursuant to the statutory license under section 122 of*
9 *such title in each designated market area; and*

10 “(2) *with respect to each designated market area*
11 *in which such satellite carrier was not providing such*
12 *local service as of the date of enactment of the Sat-*
13 *ellite Television Extension and Localism Act of*
14 *2010—*

15 “(A) *the satellite carrier’s satellite beams*
16 *are designed, and predicted by the satellite man-*
17 *ufacturer’s pre-launch test data, to provide a*
18 *good quality satellite signal to at least 90 per-*
19 *cent of the households in each such designated*
20 *market area based on the most recent census*
21 *data released by the United States Census Bu-*
22 *reau; and*

23 “(B) *there is no material evidence that there*
24 *has been a satellite or sub-system failure subse-*
25 *quent to the satellite’s launch that precludes the*

1 *ability of the satellite carrier to satisfy the re-*
2 *quirements of subparagraph (A).*

3 “(b) *INFORMATION REQUIRED.—Any entity seeking*
4 *the certification provided for in subsection (a) shall submit*
5 *to the Commission the following information:*

6 “(1) *An affidavit stating that, to the best of the*
7 *affiant’s knowledge, the satellite carrier provides local*
8 *service in all designated market areas pursuant to the*
9 *statutory license provided for in section 122 of title*
10 *17, United States Code, and listing those designated*
11 *market areas in which local service was provided as*
12 *of the date of enactment of the Satellite Television Ex-*
13 *tension and Localism Act of 2010.*

14 “(2) *For each designated market area not listed*
15 *in paragraph (1):*

16 “(A) *Identification of each such designated*
17 *market area and the location of its local receive*
18 *facility.*

19 “(B) *Data showing the number of house-*
20 *holds, and maps showing the geographic dis-*
21 *tribution thereof, in each such designated market*
22 *area based on the most recent census data re-*
23 *leased by the United States Census Bureau.*

24 “(C) *Maps, with superimposed effective*
25 *isotropically radiated power predictions obtained*

1 *in the satellite manufacturer’s pre-launch tests,*
2 *showing that the contours of the carrier’s satellite*
3 *beams as designed and the geographic area that*
4 *the carrier’s satellite beams are designed to cover*
5 *are predicted to provide a good quality satellite*
6 *signal to at least 90 percent of the households in*
7 *such designated market area based on the most*
8 *recent census data released by the United States*
9 *Census Bureau.*

10 “(D) *For any satellite relied upon for cer-*
11 *tification under this section, an affidavit stating*
12 *that, to the best of the affiant’s knowledge, there*
13 *have been no satellite or sub-system failures sub-*
14 *sequent to the satellite’s launch that would de-*
15 *grade the design performance to such a degree*
16 *that a satellite transponder used to provide local*
17 *service to any such designated market area is*
18 *precluded from delivering a good quality satellite*
19 *signal to at least 90 percent of the households in*
20 *such designated market area based on the most*
21 *recent census data released by the United States*
22 *Census Bureau.*

23 “(E) *Any additional engineering, des-*
24 *ignated market area, or other information the*
25 *Commission considers necessary to determine*

1 *whether the Commission shall grant a certifi-*
2 *cation under this section.*

3 “(c) *CERTIFICATION ISSUANCE.*—

4 “(1) *PUBLIC COMMENT.*—*The Commission shall*
5 *provide 30 days for public comment on a request for*
6 *certification under this section.*

7 “(2) *DEADLINE FOR DECISION.*—*The Commis-*
8 *sion shall grant or deny a request for certification*
9 *within 90 days after the date on which such request*
10 *is filed.*

11 “(d) *SUBSEQUENT AFFIRMATION.*—*An entity granted*
12 *qualified carrier status pursuant to section 119(g) of title*
13 *17, United States Code, shall file an affidavit with the Com-*
14 *mission 30 months after such status was granted stating*
15 *that, to the best of the affiant’s knowledge, it is in compli-*
16 *ance with the requirements for a qualified carrier.*

17 “(e) *DEFINITIONS.*—*For the purposes of this section:*

18 “(1) *DESIGNATED MARKET AREA.*—*The term*
19 *‘designated market area’ has the meaning given such*
20 *term in section 122(j)(2)(C) of title 17, United States*
21 *Code.*

22 “(2) *GOOD QUALITY SATELLITE SIGNAL.*—

23 “(A) *IN GENERAL.*—*The term “good quality*
24 *satellite signal” means—*

1 “(i) a satellite signal whose power level
2 as designed shall achieve reception and de-
3 modulation of the signal at an availability
4 level of at least 99.7 percent using—

5 “(I) models of satellite antennas
6 normally used by the satellite carrier’s
7 subscribers; and

8 “(II) the same calculation meth-
9 odology used by the satellite carrier to
10 determine predicted signal availability
11 in the top 100 designated market
12 areas; and

13 “(ii) taking into account whether a
14 signal is in standard definition format or
15 high definition format, compression method-
16 ology, modulation, error correction, power
17 level, and utilization of advances in tech-
18 nology that do not circumvent the intent of
19 this section to provide for non-discrimina-
20 tory treatment with respect to any com-
21 parable television broadcast station signal,
22 a video signal transmitted by a satellite
23 carrier such that—

24 “(I) the satellite carrier treats all
25 television broadcast stations’ signals

1 *the same with respect to statistical*
2 *multiplexer prioritization; and*

3 “(II) *the number of video signals*
4 *in the relevant satellite transponder is*
5 *not more than the then current greatest*
6 *number of video signals carried on any*
7 *equivalent transponder serving the top*
8 *100 designated market areas.*

9 “(B) *DETERMINATION.—For the purposes of*
10 *subparagraph (A), the top 100 designated market*
11 *areas shall be as determined by Nielsen Media*
12 *Research and published in the Nielsen Station*
13 *Index Directory and Nielsen Station Index*
14 *United States Television Household Estimates or*
15 *any successor publication as of the date of a sat-*
16 *ellite carrier’s application for certification under*
17 *this section.”.*

18 **SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEF-**
19 **INITION DIGITAL SIGNALS OF NONCOMMER-**
20 **CIAL EDUCATIONAL TELEVISION STATIONS.**

21 *(a) IN GENERAL.—Section 338(a) is amended by add-*
22 *ing at the end the following new paragraph:*

23 “(5) *NONDISCRIMINATION IN CARRIAGE OF HIGH*
24 *DEFINITION SIGNALS OF NONCOMMERCIAL EDU-*
25 *CATIONAL TELEVISION STATIONS.—*

1 “(A) *EXISTING CARRIAGE OF HIGH DEFINI-*
2 *TION SIGNALS.—If, before the date of enactment*
3 *of the Satellite Television Extension and Local-*
4 *ism Act of 2010, an eligible satellite carrier is*
5 *providing, under section 122 of title 17, United*
6 *States Code, any secondary transmissions in*
7 *high definition format to subscribers located*
8 *within the local market of a television broadcast*
9 *station of a primary transmission made by that*
10 *station, then such satellite carrier shall carry the*
11 *signals in high-definition format of qualified*
12 *noncommercial educational television stations lo-*
13 *cated within that local market in accordance*
14 *with the following schedule:*

15 “(i) *By December 31, 2010, in at least*
16 *50 percent of the markets in which such sat-*
17 *ellite carrier provides such secondary trans-*
18 *missions in high definition format.*

19 “(ii) *By December 31, 2011, in every*
20 *market in which such satellite carrier pro-*
21 *vides such secondary transmissions in high*
22 *definition format.*

23 “(B) *NEW INITIATION OF SERVICE.—If, on*
24 *or after the date of enactment of the Satellite*
25 *Television Extension and Localism Act of 2010,*

1 *an eligible satellite carrier initiates the provi-*
2 *sion, under section 122 of title 17, United States*
3 *Code, of any secondary transmissions in high*
4 *definition format to subscribers located within*
5 *the local market of a television broadcast station*
6 *of a primary transmission made by that station,*
7 *then such satellite carrier shall carry the signals*
8 *in high-definition format of all qualified non-*
9 *commercial educational television stations lo-*
10 *cated within that local market.”.*

11 **(b) DEFINITIONS.**—*Section 338(k) is amended—*

12 *(1) by redesignating paragraphs (2) through (8)*
13 *as paragraphs (3) through (9), respectively;*

14 *(2) by inserting after paragraph (1) the fol-*
15 *lowing new paragraph:*

16 **“(2) ELIGIBLE SATELLITE CARRIER.**—*The term*
17 *‘eligible satellite carrier’ means any satellite carrier*
18 *that is not a party to a carriage contract that—*

19 *“(A) governs carriage of at least 30 quali-*
20 *fied noncommercial educational television sta-*
21 *tions; and*

22 *“(B) is in force and effect within 60 days*
23 *after the date of enactment of the Satellite Tele-*
24 *vision Extension and Localism Act of 2010.”;*

1 (3) by redesignating paragraphs (6) through (9)
 2 (as previously redesignated) as paragraphs (7)
 3 through (10), respectively; and

4 (4) by inserting after paragraph (5) (as so redesi-
 5 gnated) the following new paragraph:

6 “(6) *QUALIFIED NONCOMMERCIAL EDUCATIONAL*
 7 *TELEVISION STATION.*—The term ‘qualified non-
 8 commercial educational television station’ means any
 9 full-power television broadcast station that—

10 “(A) under the rules and regulations of the
 11 Commission in effect on March 29, 1990, is li-
 12 censed by the Commission as a noncommercial
 13 educational broadcast station and is owned and
 14 operated by a public agency, nonprofit founda-
 15 tion, nonprofit corporation, or nonprofit associa-
 16 tion; and

17 “(B) has as its licensee an entity that is eli-
 18 gible to receive a community service grant, or
 19 any successor grant thereto, from the Corpora-
 20 tion for Public Broadcasting, or any successor
 21 organization thereto, on the basis of the formula
 22 set forth in section 396(k)(6)(B) of this title.”.

23 **SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.**

24 Nothing in this subtitle or the amendments made by
 25 this subtitle shall be construed to affect—

1 (1) *the meaning of the terms “program related”*
2 *and “primary video” under the Communications Act*
3 *of 1934; or*

4 (2) *the meaning of the term “multicast” in any*
5 *regulations issued by the Federal Communications*
6 *Commission.*

7 **SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.**

8 *Section 335(b) is amended—*

9 (1) *by inserting “**STATE PUBLIC AFFAIRS,**”*
10 *after “**EDUCATIONAL,**” in the heading;*

11 (2) *by striking paragraph (1) and inserting the*
12 *following:*

13 “(1) *CHANNEL CAPACITY REQUIRED.—*

14 “(A) *IN GENERAL.—Except as provided in*
15 *subparagraph (B), the Commission shall require,*
16 *as a condition of any provision, initial author-*
17 *ization, or authorization renewal for a provider*
18 *of direct broadcast satellite service providing*
19 *video programming, that the provider of such*
20 *service reserve a portion of its channel capacity,*
21 *equal to not less than 4 percent nor more than*
22 *7 percent, exclusively for noncommercial pro-*
23 *gramming of an educational or informational*
24 *nature.*

1 “(B) *REQUIREMENT FOR QUALIFIED SAT-*
2 *ELLITE PROVIDER.*—*The Commission shall re-*
3 *quire, as a condition of any provision, initial*
4 *authorization, or authorization renewal for a*
5 *qualified satellite provider of direct broadcast*
6 *satellite service providing video programming,*
7 *that such provider reserve a portion of its chan-*
8 *nel capacity, equal to not less than 3.5 percent*
9 *nor more than 7 percent, exclusively for non-*
10 *commercial programming of an educational or*
11 *informational nature.”;*

12 (3) *in paragraph (5), by striking “For purposes*
13 *of the subsection—” and inserting “For purposes of*
14 *this subsection:”;* and

15 (4) *by adding at the end of paragraph (5) the*
16 *following:*

17 “(C) *The term ‘qualified satellite provider’*
18 *means any provider of direct broadcast satellite*
19 *service that—*

20 “(i) *provides the retransmission of the*
21 *State public affairs networks of at least 15*
22 *different States;*

23 “(ii) *offers the programming of State*
24 *public affairs networks upon reasonable*
25 *prices, terms, and conditions as determined*

1 *by the Commission under paragraph (4);*

2 *and*

3 *“(iii) does not delete any noncommer-*
4 *cial programming of an educational or in-*
5 *formational nature in connection with the*
6 *carriage of a State public affairs network.*

7 *“(D) The term ‘State public affairs network’*
8 *means a non-commercial non-broadcast network*
9 *or a noncommercial educational television sta-*
10 *tion—*

11 *“(i) whose programming consists of in-*
12 *formation about State government delibera-*
13 *tions and public policy events; and*

14 *“(ii) that is operated by—*

15 *“(I) a State government or sub-*
16 *division thereof;*

17 *“(II) an organization described in*
18 *section 501(c)(3) of the Internal Rev-*
19 *enue Code of 1986 that is exempt from*
20 *taxation under section 501(a) of such*
21 *Code and that is governed by an inde-*
22 *pendent board of directors; or*

23 *“(III) a cable system.”.*

1 ***Subtitle C—Reports and Savings***
2 ***Provision***

3 **SEC. 531. DEFINITION.**

4 *In this subtitle, the term “appropriate Congressional*
5 *committees” means the Committees on the Judiciary and*
6 *on Commerce, Science, and Transportation of the Senate*
7 *and the Committees on the Judiciary and on Energy and*
8 *Commerce of the House of Representatives.*

9 **SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO**
10 **STATUTORY LICENSING.**

11 *Not later than 1 year after the date of the enactment*
12 *of this Act, and after consultation with the Federal Commu-*
13 *nications Commission, the Register of Copyrights shall sub-*
14 *mit to the appropriate Congressional committees a report*
15 *containing—*

16 (1) *proposed mechanisms, methods, and rec-*
17 *ommendations on how to implement a phase-out of*
18 *the statutory licensing requirements set forth in sec-*
19 *tions 111, 119, and 122 of title 17, United States*
20 *Code, by making such sections inapplicable to the sec-*
21 *ondary transmission of a performance or display of*
22 *a work embodied in a primary transmission of a*
23 *broadcast station that is authorized to license the*
24 *same secondary transmission directly with respect to*

1 *all of the performances and displays embodied in such*
2 *primary transmission;*

3 (2) *any recommendations for alternative means*
4 *to implement a timely and effective phase-out of the*
5 *statutory licensing requirements set forth in sections*
6 *111, 119, and 122 of title 17, United States Code;*
7 *and*

8 (3) *any recommendations for legislative or ad-*
9 *ministrative actions as may be appropriate to achieve*
10 *such a phase-out.*

11 **SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
12 **STATUTORY LICENSING MODIFICATIONS.**

13 (a) *STUDY.*—*The Comptroller General shall conduct a*
14 *study that analyzes and evaluates the changes to the car-*
15 *riage requirements currently imposed on multichannel*
16 *video programming distributors under the Communications*
17 *Act of 1934 (47 U.S.C. 151 et seq.) and the regulations pro-*
18 *mulgated by the Federal Communications Commission that*
19 *would be required or beneficial to consumers, and such other*
20 *matters as the Comptroller General deems appropriate, if*
21 *Congress implemented a phase-out of the current statutory*
22 *licensing requirements set forth under sections 111, 119,*
23 *and 122 of title 17, United States Code. Among other*
24 *things, the study shall consider the impact such a phase-*

1 *out and related changes to carriage requirements would*
2 *have on consumer prices and access to programming.*

3 (b) *REPORT.—Not later than 1 year after the date of*
4 *the enactment of this Act, the Comptroller General shall re-*
5 *port to the appropriate Congressional committees the results*
6 *of the study, including any recommendations for legislative*
7 *or administrative actions.*

8 **SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAM-**
9 **MING.**

10 *Not later than 1 year after the date of the enactment*
11 *of this Act, the Federal Communications Commission shall*
12 *submit to the appropriate Congressional committees a re-*
13 *port containing an analysis of—*

14 (1) *the number of households in a State that re-*
15 *ceive the signals of local broadcast stations assigned*
16 *to a community of license that is located in a dif-*
17 *ferent State;*

18 (2) *the extent to which consumers in each local*
19 *market have access to in-state broadcast programming*
20 *over the air or from a multichannel video program-*
21 *ming distributor; and*

22 (3) *whether there are alternatives to the use of*
23 *designated market areas, as defined in section 122 of*
24 *title 17, United States Code, to define local markets*

1 *that would provide more consumers with in-state*
2 *broadcast programming.*

3 **SEC. 535. LOCAL NETWORK CHANNEL BROADCAST RE-**
4 **PORTS.**

5 *(a) REQUIREMENT.—*

6 *(1) IN GENERAL.—On the 180th day after the*
7 *date of the enactment of this Act, and on each suc-*
8 *ceeding anniversary of such 180th day, each satellite*
9 *carrier shall submit an annual report to the Federal*
10 *Communications Commission setting forth—*

11 *(A) each local market in which it—*

12 *(i) retransmits signals of 1 or more tel-*
13 *evision broadcast stations with a commu-*
14 *nity of license in that market;*

15 *(ii) has commenced providing such sig-*
16 *nals in the preceding 1-year period; and*

17 *(iii) has ceased to provide such signals*
18 *in the preceding 1-year period; and*

19 *(B) detailed information regarding the use*
20 *and potential use of satellite capacity for the re-*
21 *transmission of local signals in each local mar-*
22 *ket.*

23 *(2) TERMINATION.—The requirement under*
24 *paragraph (1) shall cease after each satellite carrier*
25 *has submitted 5 reports under such paragraph.*

1 **(b) FCC STUDY; REPORT.**—

2 **(1) STUDY.**—*If no satellite carrier files a request*
3 *for a certification under section 342 of the Commu-*
4 *nications Act of 1934 (as added by section 526 of this*
5 *title) within 180 days after the date of the enactment*
6 *of this Act, the Federal Communications Commission*
7 *shall initiate a study of—*

8 **(A)** *incentives that would induce a satellite*
9 *carrier to provide the signals of 1 or more tele-*
10 *vision broadcast stations licensed to provide sig-*
11 *nals in local markets in which the satellite car-*
12 *rier does not provide such signals; and*

13 **(B)** *the economic and satellite capacity con-*
14 *ditions affecting delivery of local signals by sat-*
15 *ellite carriers to these markets.*

16 **(2) REPORT.**—*Within 1 year after the date of the*
17 *initiation of the study under paragraph (1), the Fed-*
18 *eral Communications Commission shall submit a re-*
19 *port to the appropriate Congressional committees con-*
20 *taining its findings, conclusions, and recommenda-*
21 *tions.*

22 **(c) DEFINITIONS.**—*In this section—*

23 **(1)** *the terms “local market” and “satellite car-*
24 *rier” have the meaning given such terms in section*

1 339(d) of the Communications Act of 1934 (47 U.S.C.
2 339(d)); and

3 (2) the term “television broadcast station” has
4 the meaning given such term in section 325(b)(7) of
5 such Act (47 U.S.C. 325(b)(7)).

6 **SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGO-**
7 **TIATED LICENSES.**

8 (a) *IN GENERAL.*—Nothing in this title, title 17,
9 United States Code, the Communications Act of 1934, regu-
10 lations promulgated by the Register of Copyrights under
11 this title or title 17, United States Code, or regulations pro-
12 mulgated by the Federal Communications Commission
13 under this title or the Communications Act of 1934 shall
14 be construed to prevent a multichannel video programming
15 distributor from retransmitting a performance or display
16 of a work pursuant to an authorization granted by the
17 copyright owner or, if within the scope of its authorization,
18 its licensee.

19 (b) *LIMITATION.*—Nothing in subsection (a) shall be
20 construed to affect any obligation of a multichannel video
21 programming distributor under section 325(b) of the Com-
22 munications Act of 1934 to obtain the authority of a tele-
23 vision broadcast station before retransmitting that station’s
24 signal.

1 **SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPY-**
2 **RIGHT.**

3 (a) *EFFECTIVE DATE.*—Unless specifically provided
4 otherwise, this title, and the amendments made by this title,
5 shall take effect on February 27, 2010, and with the excep-
6 tion of the reference in subsection (b), all references to the
7 date of enactment of this Act shall be deemed to refer to
8 February 27, 2010, unless otherwise specified.

9 (b) *NONINFRINGEMENT OF COPYRIGHT.*—The sec-
10 ondary transmission of a performance or display of a work
11 embodied in a primary transmission is not an infringement
12 of copyright if it was made by a satellite carrier on or after
13 February 27, 2010, and prior to enactment of this Act, and
14 was in compliance with the law as in existence on February
15 27, 2010.

16 **Subtitle D—Severability**

17 **SEC. 541. SEVERABILITY.**

18 *If any provision of this title, an amendment made by*
19 *this title, or the application of such provision or amend-*
20 *ment to any person or circumstance is held to be unconsti-*
21 *tutional, the remainder of this title, the amendments made*
22 *by this title, and the application of such provision or*
23 *amendment to any person or circumstance shall not be af-*
24 *ected thereby.*

1 **TITLE VI—OTHER PROVISIONS**

2 **SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAY-**
3 **MENT UPDATE.**

4 *Paragraph (10) of section 1848(d) of the Social Secu-*
5 *rity Act, as added by section 1011(a) of the Department*
6 *of Defense Appropriations Act, 2010 (Public Law 111–118),*
7 *is amended—*

8 (1) *in subparagraph (A), by striking “March 31,*
9 *2010” and inserting “September 30, 2010”; and*

10 (2) *in subparagraph (B), by striking “April 1,*
11 *2010” and inserting “October 1, 2010”.*

12 **SEC. 602. ELECTION TO TEMPORARILY UTILIZE UNUSED**
13 **AMT CREDITS DETERMINED BY DOMESTIC IN-**
14 **VESTMENT.**

15 (a) *IN GENERAL.—Section 53 is amended by adding*
16 *at the end the following new subsection:*

17 “(g) *ELECTION FOR CORPORATIONS WITH UNUSED*
18 *CREDITS.—*

19 “(1) *IN GENERAL.—If a corporation elects to*
20 *have this subsection apply, then notwithstanding any*
21 *other provision of law, the limitation imposed by sub-*
22 *section (c) for any such taxable year shall be in-*
23 *creased by the AMT credit adjustment amount.*

24 “(2) *AMT CREDIT ADJUSTMENT AMOUNT.—For*
25 *purposes of paragraph (1), the term ‘AMT credit ad-*

1 *justment amount’ means with respect to any taxable*
2 *year beginning in 2010, the lesser of—*

3 *“(A) 50 percent of a corporation’s min-*
4 *imum tax credit determined under subsection*
5 *(b), or*

6 *“(B) 10 percent of new domestic invest-*
7 *ments made during such taxable year.*

8 *“(3) NEW DOMESTIC INVESTMENTS.—For pur-*
9 *poses of this subsection, the term ‘new domestic in-*
10 *vestments’ means the cost of qualified property (as de-*
11 *finied in section 168(k)(2)(A)(i))—*

12 *“(A) the original use of which commences*
13 *with the taxpayer during the taxable year, and*

14 *“(B) which is placed in service in the*
15 *United States by the taxpayer during such tax-*
16 *able year.*

17 *“(4) CREDIT REFUNDABLE.—For purposes of*
18 *subsections (b) and (c) of section 6401, the aggregate*
19 *increase in the credits allowable under part IV of sub-*
20 *chapter A for any taxable year resulting from the ap-*
21 *plication of this subsection shall be treated as allowed*
22 *under subpart C of such part (and not to any other*
23 *subpart).*

24 *“(5) ELECTION.—*

1 “(A) *IN GENERAL.*—An election under this
2 subsection shall be made at such time and in
3 such manner as prescribed by the Secretary, and
4 once effective, may be revoked only with the con-
5 sent of the Secretary.

6 “(B) *INTERIM ELECTIONS.*—Until such time
7 as the Secretary prescribes a manner for making
8 an election under this subsection, a taxpayer is
9 treated as having made a valid election by pro-
10 viding written notification to the Secretary and
11 the Commissioner of Internal Revenue of such
12 election.

13 “(6) *TREATMENT OF CERTAIN PARTNERSHIP IN-*
14 *VESTMENTS.*—For purposes of this subsection, any
15 corporation’s allocable share of any new domestic in-
16 vestments by a partnership more than 90 percent of
17 the capital and profits interest in which is owned by
18 such corporation (directly or indirectly) at all times
19 during the taxable year in which an election under
20 this subsection is in effect shall be considered new do-
21 mestic investments of such corporation for such tax-
22 able year.

23 “(7) *NO DOUBLE BENEFIT.*—Notwithstanding
24 clause (iii)(II) of section 172(b)(1)(H), any taxpayer
25 which has previously made an election under such

1 *section shall be deemed to have revoked such election*
2 *by the making of its first election under this sub-*
3 *section.*

4 “(8) *REGULATIONS.*—*The Secretary may issue*
5 *such regulations or other guidance as may be nec-*
6 *essary or appropriate to carry out this subsection, in-*
7 *cluding to prevent fraud and abuse under this sub-*
8 *section.*

9 “(9) *TERMINATION.*—*This subsection shall not*
10 *apply to any taxable year that begins after December*
11 *31, 2010.”.*

12 (b) *QUICK REFUND OF REFUNDABLE CREDIT.*—*Sec-*
13 *tion 6425 is amended by adding at the end the following*
14 *new subsection:*

15 “(e) *ALLOWANCE OF AMT CREDIT ADJUSTMENT*
16 *AMOUNT.*—*The amount of an adjustment under this section*
17 *as determined under subsection (c)(2) for any taxable year*
18 *may be increased to the extent of the corporation’s AMT*
19 *credit adjustment amount determined under section 53(g)*
20 *for such taxable year.”.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2009.*

1 **SEC. 603. INFORMATION REPORTING FOR RENTAL PROP-**
2 **ERTY EXPENSE PAYMENTS.**

3 (a) *IN GENERAL.*—Section 6041 is amended by adding
4 at the end the following new subsection:

5 “(h) *TREATMENT OF RENTAL PROPERTY EXPENSE*
6 *PAYMENTS.*—

7 “(1) *IN GENERAL.*—Solely for purposes of sub-
8 section (a) and except as provided in paragraph (2),
9 a person receiving rental income from real estate shall
10 be considered to be engaged in a trade or business of
11 renting property.

12 “(2) *EXCEPTIONS.*—Paragraph (1) shall not
13 apply to—

14 “(A) any individual, including any indi-
15 vidual who is an active member of the uniformed
16 services, if substantially all rental income is de-
17 rived from renting the principal residence (with-
18 in the meaning of section 121) of such individual
19 on a temporary basis,

20 “(B) any individual who receives rental in-
21 come of not more than the minimal amount, as
22 determined under regulations prescribed by the
23 Secretary, and

24 “(C) any other individual for whom the re-
25 quirements of this section would cause hardship,

1 *as determined under regulations prescribed by*
2 *the Secretary.”.*

3 **(b) EFFECTIVE DATE.**—*The amendment made by this*
4 *section shall apply to payments made after December 31,*
5 *2010.*

6 **SEC. 604. EXTENSION OF LOW-INCOME HOUSING CREDIT**
7 **RULES FOR BUILDINGS IN GO ZONES.**

8 *Section 1400N(c)(5) is amended by striking “January*
9 *1, 2011” and inserting “January 1, 2013”.*

10 **SEC. 605. INCREASE IN INFORMATION RETURN PENALTIES.**

11 **(a) FAILURE TO FILE CORRECT INFORMATION RE-**
12 **TURNS.**—

13 **(1) IN GENERAL.**—*Subsections (a)(1), (b)(1)(A),*
14 *and (b)(2)(A) of section 6721 are each amended by*
15 *striking “\$50” and inserting “\$100”.*

16 **(2) AGGREGATE ANNUAL LIMITATION.**—*Sub-*
17 *sections (a)(1), (d)(1)(A), and (e)(3)(A) of section*
18 *6721 are each amended by striking “\$250,000” and*
19 *inserting “\$1,500,000”.*

20 **(b) REDUCTION WHERE CORRECTION WITHIN 30**
21 **DAYS.**—

22 **(1) IN GENERAL.**—*Subparagraph (A) of section*
23 *6721(b)(1) is amended by striking “\$15” and insert-*
24 *ing “\$30”.*

1 (2) *AGGREGATE ANNUAL LIMITATION.*—Sub-
2 sections (b)(1)(B) and (d)(1)(B) of section 6721 are
3 each amended by striking “\$75,000” and inserting
4 “\$250,000”.

5 (c) *REDUCTION WHERE CORRECTION ON OR BEFORE*
6 *AUGUST 1.*—

7 (1) *IN GENERAL.*—Subparagraph (A) of section
8 6721(b)(2) is amended by striking “\$30” and insert-
9 ing “\$60”.

10 (2) *AGGREGATE ANNUAL LIMITATION.*—Sub-
11 sections (b)(2)(B) and (d)(1)(C) of section 6721 are
12 each amended by striking “\$150,000” and inserting
13 “\$500,000”.

14 (d) *AGGREGATE ANNUAL LIMITATIONS FOR PERSONS*
15 *WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.*—
16 Paragraph (1) of section 6721(d) is amended—

17 (1) by striking “\$100,000” in subparagraph (A)
18 and inserting “\$500,000”,

19 (2) by striking “\$25,000” in subparagraph (B)
20 and inserting “\$75,000”, and

21 (3) by striking “\$50,000” in subparagraph (C)
22 and inserting “\$200,000”.

23 (e) *PENALTY IN CASE OF INTENTIONAL DISREGARD.*—
24 Paragraph (2) of section 6721(e) is amended by striking
25 “\$100” and inserting “\$250”.

1 (f) *ADJUSTMENT FOR INFLATION.*—Section 6721 is
2 amended by adding at the end the following new subsection:

3 “(f) *ADJUSTMENT FOR INFLATION.*—

4 “(1) *IN GENERAL.*—For each fifth calendar year
5 beginning after 2012, each of the dollar amounts
6 under subsections (a), (b), (d) (other than paragraph
7 (2)(A) thereof), and (e) shall be increased by such dol-
8 lar amount multiplied by the cost-of-living adjust-
9 ment determined under section 1(f)(3) determined by
10 substituting ‘calendar year 2011’ for ‘calendar year
11 1992’ in subparagraph (B) thereof.

12 “(2) *ROUNDING.*—If any amount adjusted under
13 paragraph (1)—

14 “(A) is not less than \$75,000 and is not a
15 multiple of \$500, such amount shall be rounded
16 to the next lowest multiple of \$500, and

17 “(B) is not described in subparagraph (A)
18 and is not a multiple of \$10, such amount shall
19 be rounded to the next lowest multiple of \$10.”.

20 (g) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply with respect to information returns re-
22 quired to be filed on or after January 1, 2011.

1 **SEC. 606. TAX-EXEMPT BOND FINANCING.**

2 (a) *IN GENERAL.*—Paragraphs (2)(D) and (7)(C) of
3 section 1400N(a) are each amended by striking “January
4 1, 2011” and inserting “January 1, 2012”.

5 (b) *CONFORMING AMENDMENTS.*—Sections 702(d)(1)
6 and 704(a) of the Heartland Disaster Tax Relief Act of
7 2008 (Public Law 110–343; 122 Stat. 3913, 3919) are each
8 amended by striking “January 1, 2011” each place it ap-
9 pears and inserting “January 1, 2012”.

10 **SEC. 607. APPLICATION OF LEVY TO PAYMENTS TO FED-**
11 **ERAL VENDORS RELATING TO PROPERTY.**

12 (a) *IN GENERAL.*—Section 6331(h)(3) is amended by
13 striking “goods or services” and inserting “property, goods,
14 or services”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this
16 section shall apply to levies approved after the date of the
17 enactment of this Act.

18 **SEC. 608. ELECTION FOR REFUNDABLE LOW-INCOME HOUS-**
19 **ING CREDIT FOR 2010.**

20 Subsection (n) of section 42, as added by section 121,
21 is amended to read as follows:

22 “(n) *ELECTION FOR REFUNDABLE CREDITS.*—

23 “(1) *IN GENERAL.*—The housing credit agency of
24 each State shall be allowed a credit in an amount
25 equal to such State’s 2010 low-income housing refund-

1 *able credit election amount, which shall be payable by*
2 *the Secretary as provided in paragraph (5).*

3 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
4 CREDIT ELECTION AMOUNT.—For purposes of this
5 subsection, the term ‘2010 low-income housing refund-
6 able credit election amount’ means, with respect to
7 any State, such amount as the State may elect which
8 does not exceed 85 percent of the product of—

9 “(A) the sum of—

10 “(i) 100 percent of the State housing
11 credit ceiling for 2010 which is attributable
12 to amounts described in clauses (i) and (iii)
13 of subsection (h)(3)(C), plus any increase in
14 the State housing credit ceiling for 2010
15 made by reason of section 1400N(c) (includ-
16 ing as such section is applied by reason of
17 sections 702(d)(2) and 704(b) of the Tax
18 Extenders and Alternative Minimum Tax
19 Relief Act of 2008), and

20 “(ii) 40 percent of the State housing
21 credit ceiling for 2010 which is attributable
22 to amounts described in clauses (ii) and
23 (iv) of such subsection, plus any increase in
24 the State housing credit ceiling for 2010

1 *made by reason of the application of such*
2 *section 702(d)(2) and 704(b), multiplied by*
3 *“(B) 10.*

4 *For purposes of subparagraph (A)(ii), in the case of*
5 *any area to which section 702(d)(2) or 704(b) of the*
6 *Tax Extenders and Alternative Minimum Tax Relief*
7 *Act of 2008 applies, section 1400N(c)(1)(A) shall be*
8 *applied without regard to clause (i)*

9 “(3) *COORDINATION WITH NON-REFUNDABLE*
10 *CREDIT.—For purposes of this section, the amounts*
11 *described in clauses (i) through (iv) of subsection*
12 *(h)(3)(C) with respect to any State for 2010 shall*
13 *each be reduced by so much of such amount as is*
14 *taken into account in determining the amount of the*
15 *credit allowed with respect to such State under para-*
16 *graph (1).*

17 “(4) *SPECIAL RULE FOR BASIS.—Basis of a*
18 *qualified low-income building shall not be reduced by*
19 *the amount of any payment made under this sub-*
20 *section.*

21 “(5) *PAYMENT OF CREDIT; USE TO FINANCE*
22 *LOW-INCOME BUILDINGS.—The Secretary shall pay to*
23 *the housing credit agency of each State an amount*
24 *equal to the credit allowed under paragraph (1).*
25 *Rules similar to the rules of subsections (c) and (d)*

1 of section 1602 of the American Recovery and Rein-
2 vestment Tax Act of 2009 shall apply with respect to
3 any payment made under this paragraph, except that
4 such subsection (d) shall be applied by substituting
5 ‘January 1, 2012’ for ‘January 1, 2011’.”

6 **SEC. 609. LOW-INCOME HOUSING GRANT ELECTION.**

7 (a) **CLARIFICATION OF ELIGIBILITY OF LOW-INCOME**
8 **HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT**
9 **ELECTION.**—Paragraph (1) of section 1602(b) of the Amer-
10 ican Recovery and Reinvestment Tax Act of 2009 is amend-
11 ed—

12 (1) by inserting “, plus any increase in the State
13 housing credit ceiling for 2009 attributable to any
14 State housing credit ceiling returned in 2009 to the
15 State by reason of section 1400N(c) of such Code (in-
16 cluding as such section is applied by reason of sec-
17 tions 702(d)(2) and 704(b) of the Tax Extenders and
18 Alternative Minimum Tax Relief Act of 2008)” after
19 “1986” in subparagraph (A), and

20 (2) by inserting “, plus any increase in the State
21 housing credit ceiling for 2009 attributable to any ad-
22 ditional State housing credit ceiling made by reason
23 of the application of such section 702(d)(2) and
24 704(b)” after “such section” in subparagraph (B).

1 **(b) APPLICATION OF ADDITIONAL HOUSING CREDIT**
2 **AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.**—Sub-
3 *section (b) of section 1602 of the American Recovery and*
4 *Reinvestment Tax Act of 2009, as amended by subsection*
5 *(a), is amended by adding at the end the following flush*
6 *sentence:*

7 *“For purposes of paragraph (1)(B), in the case of any area*
8 *to which section 702(d)(2) or 704(b) of the Tax Extenders*
9 *and Alternative Minimum Tax Relief Act of 2008 applies,*
10 *section 1400N(c)(1)(A) of such Code shall be applied with-*
11 *out regard to clause (i).”.*

12 **(c) EFFECTIVE DATE.**—*The amendments made by this*
13 *section shall apply as if included in the enactment of section*
14 *1602 of the American Recovery and Reinvestment Tax Act*
15 *of 2009.*

16 **SEC. 610. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS**
17 **TO ROTH DESIGNATED ACCOUNTS.**

18 **(a) IN GENERAL.**—*Section 402A(c) of the Internal*
19 *Revenue Code of 1986 is amended by adding at the end*
20 *the following new paragraph:*

21 **“(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH**
22 **ACCOUNTS.**—

23 **“(A) IN GENERAL.**—*Notwithstanding sec-*
24 *tions 402(c), 403(b)(8), and 457(e)(16), in the*

1 *case of any distribution to which this paragraph*
2 *applies—*

3 “(i) *there shall be included in gross in-*
4 *come any amount which would be includible*
5 *were it not part of a qualified rollover con-*
6 *tribution,*

7 “(ii) *section 72(t) shall not apply, and*

8 “(iii) *unless the taxpayer elects not to*
9 *have this clause apply, any amount re-*
10 *quired to be included in gross income for*
11 *any taxable year beginning in 2010 by rea-*
12 *son of this paragraph shall be so included*
13 *ratably over the 2-taxable-year period be-*
14 *ginning with the first taxable year begin-*
15 *ning in 2011.*

16 *Any election under clause (iii) for any distribu-*
17 *tions during a taxable year may not be changed*
18 *after the due date for such taxable year.*

19 “(B) *DISTRIBUTIONS TO WHICH PARA-*
20 *GRAPH APPLIES.—In the case of an applicable*
21 *retirement plan which includes a qualified Roth*
22 *contribution program, this paragraph shall*
23 *apply to a distribution from such plan other*
24 *than from a designated Roth account which is*
25 *contributed in a qualified rollover contribution*

1 to the designated Roth account maintained
2 under such plan for the benefit of the individual
3 to whom the distribution is made.

4 “(C) *OTHER RULES.*—The rules of subpara-
5 graphs (D), (E), and (F) of section 408A(d)(3)
6 (as in effect for taxable years beginning after
7 2009) shall apply for purposes of this para-
8 graph.”.

9 **SEC. 611. MODIFICATION OF STANDARDS FOR WINDOWS,**
10 **DOORS, AND SKYLIGHTS WITH RESPECT TO**
11 **THE CREDIT FOR NONBUSINESS ENERGY**
12 **PROPERTY.**

13 (a) *IN GENERAL.*—Paragraph (4) of section 25C(c) is
14 amended by striking “unless” and all that follows and in-
15 serting “unless—

16 “(A) in the case of any component placed in
17 service after the date which is 90 days after the
18 date of the enactment of the American Workers,
19 State, and Business Relief Act of 2010, such
20 component meets the criteria for such compo-
21 nents established by the 2010 Energy Star Pro-
22 gram Requirements for Residential Windows,
23 Doors, and Skylights, Version 5.0 (or any subse-
24 quent version of such requirements which is in
25 effect after January 4, 2010),

1 “(B) in the case of any component placed
2 in service after the date of the enactment of the
3 American Workers, State, and Business Relief
4 Act of 2010 and on or before the date which is
5 90 days after such date, such component meets
6 the criteria described in subparagraph (A) or is
7 equal to or below a U factor of 0.30 and SHGC
8 of 0.30, and

9 “(C) in the case of any component which is
10 a garage door, such component is equal to or
11 below a U factor of 0.30 and SHGC of 0.30.”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply to property placed in service after the
14 date of the enactment of this Act.

15 **SEC. 612. PARTICIPANTS IN GOVERNMENT SECTION 457**
16 **PLANS ALLOWED TO TREAT ELECTIVE DEFER-**
17 **ALS AS ROTH CONTRIBUTIONS.**

18 (a) *IN GENERAL.*—Section 402A(e)(1) (defining appli-
19 cable retirement plan) is amended by striking “and” at the
20 end of subparagraph (A), by striking the period at the end
21 of subparagraph (B) and inserting “, and”, and by adding
22 at the end the following:

23 “(C) an eligible deferred compensation plan
24 (as defined in section 457(b)) of an eligible em-
25 ployer described in section 457(e)(1)(A).”.

1 (b) *ELECTIVE DEFERRALS.*—Section 402A(e)(2) (de-
2 *fining elective deferral*) is amended to read as follows:

3 “(2) *ELECTIVE DEFERRAL.*—The term ‘*elective*
4 *deferral*’ means—

5 “(A) any elective deferral described in sub-
6 *paragraph (A) or (C) of section 402(g)(3), and*

7 “(B) any elective deferral of compensation
8 *by an individual under an eligible deferred com-*
9 *penetration plan (as defined in section 457(b)) of*
10 *an eligible employer described in section*
11 *457(e)(1)(A).”.*

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

15 **SEC. 613. EXTENSION OF SPECIAL ALLOWANCE FOR CER-**
16 **TAIN PROPERTY.**

17 (a) *IN GENERAL.*—Section 15345(d)(1)(D) of the *Flood*
18 *Conservation and Energy Act of 2008 (Public Law 110-*
19 *246)* is amended by striking “December 31, 2009” and in-
20 *serting “December 31, 2010”.*

21 (b) **CONFORMING AMENDMENT.**—Section
22 *15345(d)(1)(F) of such Act is amended by striking “Janu-*
23 *ary 1, 2008” and inserting “January 1, 2010”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect as if included in section 15345 of*
3 *the Food Conservation and Energy Act of 2008.*

4 **SEC. 614. APPLICATION OF BAD CHECKS PENALTY TO ELEC-**
5 **TRONIC PAYMENTS.**

6 (a) *IN GENERAL.*—*Section 6657 is amended—*

7 (1) *by striking “If any check or money order in*
8 *payment of any amount” and inserting “If any in-*
9 *strument in payment, by any commercially accept-*
10 *able means, of any amount”, and*

11 (2) *by striking “such check” each place it ap-*
12 *pears and inserting “such instrument”.*

13 (b) *EFFECTIVE DATES.*—*The amendments made by*
14 *this section shall apply to instruments tendered after the*
15 *date of the enactment of this Act.*

16 **SEC. 615. GRANTS FOR ENERGY EFFICIENT APPLIANCES IN**
17 **LIEU OF TAX CREDIT.**

18 *In the case of any taxable year which includes the last*
19 *day of calendar year 2009 or calendar year 2010, a tax-*
20 *payer who elects to waive the credit which would otherwise*
21 *be determined with respect to the taxpayer under section*
22 *45M of the Internal Revenue Code of 1986 for such taxable*
23 *year shall be treated as making a payment against the tax*
24 *imposed under subtitle A of such Code for such taxable year*
25 *in an amount equal to 85 percent of the amount of the cred-*

1 *it which would otherwise be so determined. Such payment*
2 *shall be treated as made on the later of the due date of the*
3 *return of such tax or the date on which such return is filed.*
4 *Elections under this section may be made separately for*
5 *2009 and 2010, but once made shall be irrevocable.*

6 **SEC. 616. BUDGETARY EFFECTS OF LEGISLATION PASSED**
7 **BY THE SENATE.**

8 *(a) ESTABLISHMENT OF WEB PAGE.—*

9 *(1) IN GENERAL.—Not later than 90 days after*
10 *the enactment of this Act, the Secretary of the Senate*
11 *shall establish on the official website of the United*
12 *States Senate (www.senate.gov) a page entitled “In-*
13 *formation on the Budgetary Effects of Legislation*
14 *Considered by the Senate” which shall include—*

15 *(A) links to appropriate pages on the*
16 *website of the Congressional Budget Office*
17 *(www.cbo.gov) that contain cost estimates of leg-*
18 *islation passed by the Senate; and*

19 *(B) as available, links to pages with any*
20 *other information produced by the Congressional*
21 *Budget Office that summarize or further explain*
22 *the budgetary effects of legislation considered by*
23 *the Senate.*

24 *(2) UPDATES.—The Secretary of the Senate shall*
25 *update this page every 3 months.*

1 **(b) CBO REQUIREMENTS.**—*Nothing in this section*
2 *shall be construed as imposing any new requirements on*
3 *the Congressional Budget Office.*

4 **SEC. 617. SENATE SPENDING DISCLOSURE.**

5 **(a) IN GENERAL.**—*The Secretary of the Senate shall*
6 *post prominently on the front page of the public website*
7 *of the Senate (<http://www.senate.gov/>) the following infor-*
8 *mation:*

9 **(1)** *The total amount of discretionary and direct*
10 *spending passed by the Senate that has not been paid*
11 *for, including emergency designated spending or*
12 *spending otherwise exempted from PAYGO require-*
13 *ments.*

14 **(2)** *The total amount of net spending authorized*
15 *in legislation passed by the Senate, as scored by CBO.*

16 **(3)** *The number of new government programs*
17 *created in legislation passed by the Senate.*

18 **(4)** *The totals for paragraphs (1) through (3) as*
19 *passed by both Houses of Congress and signed into*
20 *law by the President.*

21 **(b) DISPLAY.**—*The information tallies required by*
22 *subsection (a) shall be itemized by bill and date, updated*
23 *weekly, and archived by calendar year.*

24 **(c) EFFECTIVE DATE.**—*The PAYGO tally required by*
25 *subsection (a)(1) shall begin with the date of enactment of*

1 *the Statutory Pay-As-You-Go Act of 2010 and the author-*
2 *ization tally required by subsection (a)(2) shall apply to*
3 *all legislation passed beginning January 1, 2010.*

4 **SEC. 618. ALLOCATION OF GEOTHERMAL RECEIPTS.**

5 *Notwithstanding any other provision of law, for fiscal*
6 *year 2010 only, all funds received from sales, bonuses, roy-*
7 *alties, and rentals under the Geothermal Steam Act of 1970*
8 *(30 U.S.C. 1001 et seq.) shall be deposited in the Treasury,*
9 *of which—*

10 *(1) 50 percent shall be used by the Secretary of*
11 *the Treasury to make payments to States within the*
12 *boundaries of which the leased land and geothermal*
13 *resources are located;*

14 *(2) 25 percent shall be used by the Secretary of*
15 *the Treasury to make payments to the counties within*
16 *the boundaries of which the leased land or geothermal*
17 *resources are located; and*

18 *(3) 25 percent shall be deposited in miscellaneous*
19 *receipts.*

20 **SEC. 619. QUALIFYING TIMBER CONTRACT OPTIONS.**

21 *(a) DEFINITIONS.—In this section:*

22 *(1) QUALIFYING CONTRACT.—The term “quali-*
23 *fying contract” means a contract that has not been*
24 *terminated by the Bureau of Land Management for*
25 *the sale of timber on lands administered by the Bu-*

1 *reau of Land Management that meets all of the fol-*
2 *lowing criteria:*

3 *(A) The contract was awarded during the*
4 *period beginning on January 1, 2005, and end-*
5 *ing on December 31, 2008.*

6 *(B) There is unharvested volume remaining*
7 *for the contract.*

8 *(C) The contract is not a salvage sale.*

9 *(D) The Secretary determined there is not*
10 *an urgent need to harvest under the contract due*
11 *to deteriorating timber conditions that developed*
12 *after the award of the contract.*

13 *(2) SECRETARY.—The term “Secretary” means*
14 *the Secretary of the Interior, acting through the Di-*
15 *rector of Bureau of Land Management.*

16 *(3) TIMBER PURCHASER.—The term “timber*
17 *purchaser” means the party to the qualifying contract*
18 *for the sale of timber from lands administered by the*
19 *Bureau of Land Management.*

20 *(b) MARKET-RELATED CONTRACT EXTENSION OP-*
21 *TION.—Upon a timber purchaser’s written request, the Sec-*
22 *retary may make a one-time modification to the qualifying*
23 *contract to add 3 years to the contract expiration date if*
24 *the written request—*

1 (1) *is received by the Secretary not later than 90*
2 *days after the date of enactment of this Act; and*

3 (2) *contains a provision releasing the United*
4 *States from all liability, including further consider-*
5 *ation or compensation, resulting from the modifica-*
6 *tion under this subsection of the term of a qualifying*
7 *contract.*

8 (c) *REPORTING.*—*Not later than 6 months after the*
9 *date of the enactment of this Act, the Secretary shall submit*
10 *to Congress a report detailing a plan and timeline to pro-*
11 *mulgate new regulations authorizing the Bureau of Land*
12 *Management to extend timber contracts due to changes in*
13 *market conditions.*

14 (d) *REGULATIONS.*—*Not later than 2 years after the*
15 *date of the enactment of this Act, the Secretary shall pro-*
16 *mulgate new regulations authorizing the Bureau of Land*
17 *Management to extend timber contracts due to changes in*
18 *market conditions.*

19 (e) *NO SURRENDER OF CLAIMS.*—*This section shall*
20 *not have the effect of surrendering any claim by the United*
21 *States against any timber purchaser that arose under a*
22 *timber sale contract, including a qualifying contract, before*
23 *the date on which the Secretary adjusts the contract term*
24 *under subsection (b).*

1 **SEC. 620. ARRA PLANNING AND REPORTING.**

2 *Section 1512 of the American Recovery and Reinvest-*
3 *ment Act of 2009 (Public Law 111–5; 123 Stat. 287) is*
4 *amended—*

5 *(1) in subsection (d)—*

6 *(A) in the subsection heading, by inserting*
7 *“PLANS AND” after “AGENCY”;*

8 *(B) by striking “Not later than” and insert-*
9 *ing the following:*

10 *“(1) DEFINITION.—In this subsection, the term*
11 *‘covered program’ means a program for which funds*
12 *are appropriated under this division—*

13 *“(A) in an amount that is—*

14 *“(i) more than \$2,000,000,000; and*

15 *“(ii) more than 150 percent of the*
16 *funds appropriated for the program for fis-*
17 *cal year 2008; or*

18 *“(B) that did not exist before the date of en-*
19 *actment of this Act.*

20 *“(2) PLANS.—Not later than July 1, 2010, the*
21 *head of each agency that distributes recovery funds*
22 *shall submit to Congress and make available on the*
23 *website of the agency a plan for each covered pro-*
24 *gram, which shall, at a minimum, contain—*

25 *“(A) a description of the goals for the cov-*
26 *ered program using recovery funds;*

1 “(B) a discussion of how the goals described
2 in subparagraph (A) relate to the goals for ongoing
3 activities of the covered program, if applicable;
4

5 “(C) a description of the activities that the
6 agency will undertake to achieve the goals described
7 in subparagraph (A);

8 “(D) a description of the total recovery
9 funding for the covered program and the recovery
10 funding for each activity under the covered
11 program, including identifying whether the activity
12 will be carried out using grants, contracts,
13 or other types of funding mechanisms;

14 “(E) a schedule of milestones for major
15 phases of the activities under the covered program,
16 with planned delivery dates;

17 “(F) performance measures the agency will
18 use to track the progress of each of the activities
19 under the covered program in meeting the goals
20 described in subparagraph (A), including performance
21 targets, the frequency of measurement,
22 and a description of the methodology for each
23 measure;

24 “(G) a description of the process of the
25 agency for the periodic review of the progress of

1 *the covered program towards meeting the goals*
2 *described in subparagraph (A); and*

3 *“(H) a description of how the agency will*
4 *hold program managers accountable for achiev-*
5 *ing the goals described in subparagraph (A).*

6 *“(3) REPORTS.—*

7 *“(A) IN GENERAL.—Not later than”;* and
8 *(C) by adding at the end the following:*

9 *“(B) REPORTS ON PLANS.—Not later than*
10 *30 days after the end of the calendar quarter*
11 *ending September 30, 2010, and every calendar*
12 *quarter thereafter during which the agency obli-*
13 *gates or expends recovery funds, the head of each*
14 *agency that developed a plan for a covered pro-*
15 *gram under paragraph (2) shall submit to Con-*
16 *gress and make available on a website of the*
17 *agency a report for each covered program that—*

18 *“(i) discusses the progress of the agency*
19 *in implementing the plan;*

20 *“(ii) describes the progress towards*
21 *achieving the goals described in paragraph*
22 *(2)(A) for the covered program;*

23 *“(iii) discusses the status of each activ-*
24 *ity carried out under the covered program,*
25 *including whether the activity is completed;*

1 “(iv) details the unobligated and unex-
2 pired balances and total obligations and
3 outlays under the covered program;

4 “(v) discusses—

5 “(I) whether the covered program
6 has met the milestones for the covered
7 program described in paragraph
8 (2)(E);

9 “(II) if the covered program has
10 failed to meet the milestones, the rea-
11 sons why; and

12 “(III) any changes in the mile-
13 stones for the covered program, includ-
14 ing the reasons for the change;

15 “(vi) discusses the performance of the
16 covered program, including—

17 “(I) whether the covered program
18 has met the performance measures for
19 the covered program described in para-
20 graph (2)(F);

21 “(II) if the covered program has
22 failed to meet the performance meas-
23 ures, the reasons why; and

1 “(III) any trends in information
2 relating to the performance of the cov-
3 ered program; and

4 “(vii) evaluates the ability of the cov-
5 ered program to meet the goals of the cov-
6 ered program given the performance of the
7 covered program.”;

8 (2) in subsection (f)—

9 (A) by striking “Within 180 days” and in-
10 serting the following:

11 “(1) IN GENERAL.—Within 180 days”; and

12 (B) by adding at the end the following:

13 “(2) PENALTIES.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graphs (B), (C), and (D), the Attorney General
16 may bring a civil action in an appropriate
17 United States district court against a recipient
18 of recovery funds from an agency that does not
19 provide the information required under sub-
20 section (c) or knowingly provides information
21 under subsection (c) that contains a material
22 omission or misstatement. In a civil action
23 under this paragraph, the court may impose a
24 civil penalty on a recipient of recovery funds in
25 an amount not more than \$250,000. Any

1 *amounts received from a civil penalty under this*
2 *paragraph shall be deposited in the general fund*
3 *of the Treasury.*

4 “(B) NOTIFICATION.—

5 “(i) IN GENERAL.—*The head of an*
6 *agency shall provide a written notification*
7 *to a recipient of recovery funds from the*
8 *agency that fails to provide the information*
9 *required under subsection (c). A notification*
10 *under this subparagraph shall provide the*
11 *recipient with information on how to com-*
12 *ply with the necessary reporting require-*
13 *ments and notice of the penalties for failing*
14 *to do so.*

15 “(ii) LIMITATION.—*A court may not*
16 *impose a civil penalty under subparagraph*
17 *(A) relating to the failure to provide infor-*
18 *mation required under subsection (c) if, not*
19 *later than 31 days after the date of the noti-*
20 *fication under clause (i), the recipient of the*
21 *recovery funds provides the information.*

22 “(C) CONSIDERATIONS.—*In determining the*
23 *amount of a penalty under this paragraph for a*
24 *recipient of recovery funds, a court shall con-*
25 *sider—*

1 “(i) the number of times the recipient
2 has failed to provide the information re-
3 quired under subsection (c);

4 “(ii) the amount of recovery funds pro-
5 vided to the recipient;

6 “(iii) whether the recipient is a gov-
7 ernment, nonprofit entity, or educational
8 institution; and

9 “(iv) whether the recipient is a small
10 business concern (as defined under section 3
11 of the Small Business Act (15 U.S.C. 632)),
12 with particular consideration given to busi-
13 nesses with not more than 50 employees.

14 “(D) *APPLICABILITY.*—This paragraph
15 shall apply to any report required to be sub-
16 mitted on or after the date of enactment of this
17 paragraph.

18 “(E) *NONEXCLUSIVITY.*—The imposition of
19 a civil penalty under this subsection shall not
20 preclude any other criminal, civil, or adminis-
21 trative remedy available to the United States or
22 any other person under Federal or State law.

23 “(3) *TECHNICAL ASSISTANCE.*—Each agency dis-
24 tributing recovery funds shall provide technical assist-
25 ance, as necessary, to assist recipients of recovery

1 *funds in complying with the requirements to provide*
2 *information under subsection (c), which shall include*
3 *providing recipients with a reminder regarding each*
4 *reporting requirement.*

5 “(4) *PUBLIC LISTING.*—

6 “(A) *IN GENERAL.*—Not later than 45 days
7 *after the end of each calendar quarter, and sub-*
8 *ject to the notification requirements under para-*
9 *graph (2)(B), the Board shall make available on*
10 *the website established under section 1526 a list*
11 *of all recipients of recovery funds that did not*
12 *provide the information required under sub-*
13 *section (c) for the calendar quarter.*

14 “(B) *CONTENTS.*—A list made available
15 *under subparagraph (A) shall, for each recipient*
16 *of recovery funds on the list, include the name*
17 *and address of the recipient, the identification*
18 *number for the award, the amount of recovery*
19 *funds awarded to the recipient, a description of*
20 *the activity for which the recovery funds were*
21 *provided, and, to the extent known by the Board,*
22 *the reason for noncompliance.*

23 “(5) *REGULATIONS AND REPORTING.*—

24 “(A) *REGULATIONS.*—Not later than 90
25 *days after the date of enactment of this para-*

1 *graph, the Attorney General, in consultation*
2 *with the Director of the Office of Management*
3 *and Budget and the Chairperson, shall promul-*
4 *gate regulations regarding implementation of*
5 *this section.*

6 “(B) *REPORTING.*—

7 “(i) *IN GENERAL.*—*Not later than July*
8 *1, 2010, and every 3 months thereafter, the*
9 *Director of the Office of Management and*
10 *Budget, in consultation with the Chair-*
11 *person, shall submit to Congress a report on*
12 *the extent of noncompliance by recipients of*
13 *recovery funds with the reporting require-*
14 *ments under this section.*

15 “(ii) *CONTENTS.*—*Each report sub-*
16 *mitted under clause (i) shall include—*

17 “(I) *information, for the quarter*
18 *and in total, regarding the number*
19 *and amount of civil penalties imposed*
20 *and collected under this subsection,*
21 *sorted by agency and program;*

22 “(II) *information on the steps*
23 *taken by the Federal Government to re-*
24 *duce the level of noncompliance; and*

1 “(III) any other information de-
2 termined appropriate by the Direc-
3 tor.”; and

4 (3) by adding at the end the following:

5 “(i) *TERMINATION.*—The reporting requirements
6 under this section shall terminate on September 30, 2013.”.

7 **SEC. 621. GAO STUDY.**

8 Not later than 180 days after the date of enactment
9 of this Act, the Comptroller General shall report to Congress
10 detailing—

11 (1) the pattern of job loss in the New England
12 and Midwest States over the past 20 years;

13 (2) the role of the off-shoring of manufacturing
14 jobs in overall job loss in the regions; and

15 (3) recommendations to attract industries and
16 bring jobs to the region.

17 **SEC. 622. EXTENSION AND MODIFICATION OF SECTION 45**

18 **CREDIT FOR REFINED COAL FROM STEEL IN-**
19 **DUSTRY FUEL.**

20 (a) *CREDIT PERIOD.*—

21 (1) *IN GENERAL.*—Subclause (II) of section
22 45(e)(8)(D)(ii) is amended to read as follows:

23 “(II) *CREDIT PERIOD.*—In lieu of
24 the 10-year period referred to in
25 clauses (i) and (ii)(II) of subpara-

1 *graph (A), the credit period shall be*
2 *the period beginning on the date that*
3 *the facility first produces steel industry*
4 *fuel that is sold to an unrelated person*
5 *after September 30, 2008, and ending*
6 *2 years after such date.”.*

7 (2) *CONFORMING AMENDMENT.—Section*
8 *45(e)(8)(D) is amended by striking clause (iii) and*
9 *by redesignating clause (iv) as clause (iii).*

10 (b) *EXTENSION OF PLACED-IN-SERVICE DATE.—Sub-*
11 *paragraph (A) of section 45(d)(8) is amended—*

12 (1) *by striking “(or any modification to a facil-*
13 *ity)”, and*

14 (2) *by striking “2010” and inserting “2011”.*

15 (c) *CLARIFICATIONS.—*

16 (1) *STEEL INDUSTRY FUEL.—Subclause (I) of*
17 *section 45(c)(7)(C)(i) is amended by inserting “, a*
18 *blend of coal and petroleum coke, or other coke feed-*
19 *stock” after “on coal”.*

20 (2) *OWNERSHIP INTEREST.—Section 45(d)(8) is*
21 *amended by adding at the end the following new flush*
22 *sentence:*

23 *“With respect to a facility producing steel industry*
24 *fuel, no person (including a ground lessor, customer,*
25 *supplier, or technology licensor) shall be treated as*

1 *having an ownership interest in the facility or as oth-*
2 *erwise entitled to the credit allowable under sub-*
3 *section (a) with respect to such facility if such per-*
4 *son's rent, license fee, or other entitlement to net pay-*
5 *ments from the owner of such facility is measured by*
6 *a fixed dollar amount or a fixed amount per ton, or*
7 *otherwise determined without regard to the profit or*
8 *loss of such facility.”.*

9 (3) *PRODUCTION AND SALE.—Subparagraph (D)*
10 *of section 45(e)(8), as amended by subsection (a)(2),*
11 *is amended by redesignating clause (iii) as clause (iv)*
12 *and by inserting after clause (ii) the following new*
13 *clause:*

14 “(iii) *PRODUCTION AND SALE.—The*
15 *owner of a facility producing steel industry*
16 *fuel shall be treated as producing and sell-*
17 *ing steel industry fuel where that owner*
18 *manufactures such steel industry fuel from*
19 *coal, a blend of coal and petroleum coke, or*
20 *other coke feedstock to which it has title.*
21 *The sale of such steel industry fuel by the*
22 *owner of the facility to a person who is not*
23 *the owner of the facility shall not fail to*
24 *qualify as a sale to an unrelated person*

1 solely because such purchaser may also be a
2 ground lessor, supplier, or customer.”.

3 (d) *SPECIFIED CREDIT FOR PURPOSES OF ALTER-*
4 *NATIVE MINIMUM TAX EXCLUSION.*—Subclause (II) of sec-
5 *tion 38(c)(4)(B)(iii) is amended by inserting “(in the case*
6 *of a refined coal production facility producing steel indus-*
7 *try fuel, during the credit period set forth in section*
8 *45(e)(8)(D)(ii)(II))” after “service”.*

9 (e) *EFFECTIVE DATES.*—

10 (1) *IN GENERAL.*—The amendments made by
11 subsections (a), (b), and (d) shall take effect on the
12 date of the enactment of this Act.

13 (2) *CLARIFICATIONS.*—The amendments made by
14 subsection (c) shall take effect as if included in the
15 amendments made by the Energy Improvement and
16 Extension Act of 2008.

17 **SEC. 623. MODIFICATIONS TO MINE RESCUE TEAM TRAIN-**
18 **ING CREDIT AND ELECTION TO EXPENSE AD-**
19 **VANCED MINE SAFETY EQUIPMENT.**

20 (a) *MINE RESCUE TEAM TRAINING CREDIT ALLOW-*
21 *ABLE AGAINST AMT.*—Subparagraph (B) of section
22 *38(c)(4) is amended—*

23 (1) *by redesignating clauses (vi), (vii), and (viii)*
24 *as clauses (vii), (viii), and (ix), respectively, and*

1 (2) by inserting after clause (v) the following
2 new clause:

3 “(vi) the credit determined under sec-
4 tion 45N.”.

5 (b) *ELECTION TO EXPENSE ADVANCED MINE SAFETY*
6 *EQUIPMENT ALLOWABLE AGAINST AMT.*—Subparagraph
7 (C) of section 56(g)(4) is amended by adding at the end
8 the following new clause:

9 “(vii) *SPECIAL RULE FOR ELECTION*
10 *TO EXPENSE ADVANCED MINE SAFETY*
11 *EQUIPMENT.*—Clause (i) shall not apply to
12 amounts deductible under section 179E.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to taxable years beginning after Decem-
15 ber 31, 2009.

16 **SEC. 624. APPLICATION OF CONTINUOUS LEVY TO EMPLOY-**
17 **MENT TAX LIABILITY OF CERTAIN FEDERAL**
18 **CONTRACTORS.**

19 (a) *IN GENERAL.*—Section 6330(h) is amended by in-
20 serting “or if the person subject to the levy (or any prede-
21 cessor thereof) is a Federal contractor that was identified
22 as owing such employment taxes through the Federal Pay-
23 ment Levy Program” before the period at the end of the
24 first sentence.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to levies issued after December 31, 2010.*

3 ***TITLE VII—DETERMINATION OF***
4 ***BUDGETARY EFFECTS***

5 ***SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.***

6 (a) *IN GENERAL.*—*The budgetary effects of this Act,*
7 *for the purpose of complying with the Statutory Pay-As-*
8 *You-Go-Act of 2010, shall be determined by reference to the*
9 *latest statement titled “Budgetary Effects of PAYGO Legis-*
10 *lation” for this Act, submitted for printing in the Congres-*
11 *sional Record by the Chairman of the Senate Budget Com-*
12 *mittee, provided that such statement has been submitted*
13 *prior to the vote on passage.*

14 (b) *EMERGENCY DESIGNATION.*—*Sections 201, 211,*
15 *and 232 of this Act are designated as an emergency require-*
16 *ment pursuant to section 4(g) of the Statutory Pay-As-You-*
17 *Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)) and*
18 *section 403(a) of S. Con. Res. 13 (111th Congress), the con-*
19 *current resolution on the budget for fiscal year 2010. In*
20 *the House of Representatives, sections 201, 211, and 232*

- 1 *of this Act are designated as an emergency for purposes of*
- 2 *pay-as-you-go principles.*

Attest:

Secretary.

11TH CONGRESS
2^D SESSION

H.R. 4213

AMENDMENT