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Jackson (IL)
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Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
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Kirkpatrick (AZ)
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Klein (FL)
Kline (MN)
Kosmas
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Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
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Pingree (ME)
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Poe (TX)
Polis (CO)
Pomeroy
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Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
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Snyder
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Stearns
Stupak
Sullivan
Sutton
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Taylor
Teague
Terry
Thompson (CA)
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Thornberry
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Van Hollen
Velázquez
Walden
Walz
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (FL)

NOES—2

Kucinich
Paul

NOT VOTING—18

Barrett (SC)
Blunt
Brown (SC)
Campbell
Dicks
Grayson
Herger
Hoekstra
Johnson, Sam
Pence
Rangel
Roskam
Rothman (NJ)
Sessions
Visclosky
Wamp
Waters
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAPUANO) (during the vote). There is 1 minute remaining in this vote.

□ 1638

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PENCE. Madam Speaker, I was absent from the House floor during rollcall votes 388 through 392. Had I been present, I would have voted "yes" on rollcall Nos. 388, 390 and 392; I would have voted "no" on rollcall Nos. 389 and 391.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5299

Mr. POE of Texas. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 5299.

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) "An Act to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later.

□ 1640

AFFORDABLE HEALTH CARE FOR AMERICA ACT

Mr. LEVIN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010".

TITLE I—HEALTH PROVISIONS

SEC. 101. PHYSICIAN PAYMENT UPDATE.

(a) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (10), in the heading, by striking "PORTION" and inserting "JANUARY THROUGH MAY "; and

(2) by adding at the end the following new paragraph:

"(11) UPDATE FOR JUNE THROUGH NOVEMBER OF 2010.—

"(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2010 for the period beginning on June 1, 2010, and ending on November 30, 2010, the update to the single conversion factor shall be 2.2 percent.

"(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR REMAINING PORTION OF 2010 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for the period beginning on December 1, 2010, and ending on December 31, 2010, and for 2011 and subsequent years as if subparagraph (A) had never applied.".

(b) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

SEC. 102. CLARIFICATION OF 3-DAY PAYMENT WINDOW.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) by adding at the end of subsection (a)(4) the following new sentence: "In applying the first sentence of this paragraph, the term 'other services related to the admission' includes all services that are not diagnostic services (other than ambulance and maintenance renal dialysis services) for which payment may be made under this title that are provided by a hospital (or an entity wholly owned or operated by the hospital) to a patient—

"(A) on the date of the patient's inpatient admission; or

"(B) during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of such admission unless the hospital demonstrates (in a form and manner, and at a time, specified by the Secretary) that such services are not related (as determined by the Secretary) to such admission."; and

(2) in subsection (d)(7)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) the determination of whether services provided prior to a patient's inpatient admission are related to the admission (as described in subsection (a)(4)).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

(c) NO REOPENING OF PREVIOUSLY BUNDLED CLAIMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not reopen a claim, adjust a claim, or make a payment pursuant to any request for payment under title XVIII of the Social Security Act, submitted by an entity (including a hospital or an entity wholly owned or operated by the hospital) for services described in paragraph (2) for purposes of treating, as unrelated to a patient's inpatient admission, services provided during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of the patient's inpatient admission.

(2) SERVICES DESCRIBED.—For purposes of paragraph (1), the services described in this paragraph are other services related to the admission (as described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by subsection (a)) which were previously included on a claim or request for payment submitted under part A of title XVIII of such Act for which a reopening, adjustment, or request for payment under part B of such title, was not submitted prior to the date of the enactment of this Act.

(d) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of this section (and amendments made by this section) by program instruction or otherwise.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as changing the policy described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as applied by the Secretary of Health and Human Services before the date of the enactment of this Act, with respect to diagnostic services.

SEC. 103. ESTABLISH A CMS–IRS DATA MATCH TO IDENTIFY FRAUDULENT PROVIDERS.

(a) AUTHORITY TO DISCLOSE RETURN INFORMATION CONCERNING OUTSTANDING TAX DEBTS FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

''(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information with respect to a taxpayer who has applied to enroll, or reenroll, as a provider of services or supplier under the Medicare program under title XVIII of the Social Security Act. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer;

''(ii) the amount of the delinquent tax debt owed by that taxpayer; and

''(iii) the taxable year to which the delinquent tax debt pertains.

''(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services for the purposes of, and to the extent necessary in, establishing the taxpayer's eligibility for enrollment or reenrollment in the Medicare program, or in any administrative or judicial proceeding relating to, or arising from, a denial of such enrollment or reenrollment, or in determining the level of enhanced oversight to be applied with respect to such taxpayer pursuant to section 1866(j)(3) of the Social Security Act.

''(C) DELINQUENT TAX DEBT.—For purposes of this paragraph, the term 'delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed pursuant to section 6323, but the term does not include a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, or a debt with respect to which a collection due process hearing under section 6330 is requested, pending, or completed and no payment is required.''.

(2) CONFORMING AMENDMENTS.—Section 6103(p)(4) of such Code, as amended by sections 1414 and 3308 of Public Law 111–148, in the matter preceding subparagraph (A) and in subparagraph (F)(ii), is amended by striking ''or (17)'' and inserting ''(17), or (22)'' each place it appears.

(b) SECRETARY'S AUTHORITY TO USE INFORMATION FROM THE DEPARTMENT OF TREASURY IN MEDICARE ENROLLMENTS AND REENROLLMENTS.—Section 1866(j)(2) of the Social Security Act (42 U.S.C. 1395cc(j)), as inserted by section 6401(a) of Public Law 111–148, is further amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) USE OF INFORMATION FROM THE DEPARTMENT OF TREASURY CONCERNING TAX DEBTS.—In reviewing the application of a provider of services or supplier to enroll or reenroll under the program under this title, the Secretary shall take into account the information supplied by the Secretary of the Treasury pursuant to section 6103(l)(22) of the Internal Revenue Code of 1986, in determining whether to deny such application or to apply enhanced oversight to such provider of services or supplier pursuant to paragraph (3) if the Secretary determines such provider of services or supplier owes such a debt.''.

(c) AUTHORITY TO ADJUST PAYMENTS OF PROVIDERS OF SERVICES AND SUPPLIERS WITH THE SAME TAX IDENTIFICATION NUMBER FOR MEDICARE OBLIGATIONS.—Section 1866(j)(6) of the Social Security Act (42 U.S.C. 1395cc(j)(6)), as inserted by section 6401(a) of Public Law 111–148 and as redesignated by section 1304 of Public Law 111–152, is amended—

(1) in the paragraph heading, by striking ''PAST-DUE'' and inserting ''MEDICARE'';

(2) in subparagraph (A), by striking ''past-due obligations described in subparagraph (B)(ii) of an'' and inserting ''amount described in subparagraph (B)(ii) due from such''; and

(3) in subparagraph (B)(ii), by striking ''a past-due obligation'' and inserting ''an amount that is more than the amount required to be paid''.

TITLE II—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 201. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

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

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) ANNUAL LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

''(III) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

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

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of this title).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 302(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for

the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

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

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

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

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

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

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

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) ANNUAL LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

''(III) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

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

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043 of the Employee Retirement Income Security Act of 1974) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of title I of Employee Retirement Income Security Act of 1974).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 412(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

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

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

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

SEC. 202. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

''SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an 'election year'), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to 'such Act' or 'such Code' shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

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

''(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

''(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

''(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

''(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

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

''(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

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

''(B) the increased unfunded new liability for such plan year, and

''(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(d) ELECTION.—

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

''(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

''(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

''(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

''(3) INCREASED UNFUNDED NEW LIABILITY.—The term 'increased unfunded new liability'

means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

''(4) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

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

(1) by striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) by adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

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

SEC. 203. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

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

''(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(I) such percentage, as determined without regard to this subparagraph, or

''(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

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

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

''(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term 'applicable provision' means—

''(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(II) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

''(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

''(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term 'applicable provision' means—

''(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(ii) subsection (e).''.

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 204. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(f) of the Employee Retirement Income Security Act of 1974 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

''(I) such ratio, as determined without regard to this subparagraph, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007, and before September 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and before January 1, 2011, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3) of the Internal Revenue Code of 1986.''.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 430(f) of the Internal Revenue Code of 1986 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year of a plan shall be the greater of—

''(I) such ratio, as determined without regard to this subsection, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007 and before September 1, 2008, as determined under rules prescribed by the Secretary.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

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

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after August 31, 2009.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2008.

Subtitle B—Multiemployer Plans

SEC. 211. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year beginning after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE III—BUDGETARY PROVISIONS

SEC. 301. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Amend the title so as to read: ''An Act to provide a physician payment update, to provide pension funding relief, and for other purposes.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. LEVIN) and the gentleman from California (Mr. HERGER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. LEVIN. Mr. Speaker, I ask unanimous consent that 10 minutes of my time be controlled by the gentleman

from California (Mr. WAXMAN), the chairman of the Energy and Commerce Committee, on the Senate amendments to H.R. 3962.

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

There was no objection.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I shall use.

This is a flawed bill that we are now considering. We are forced to consider it because of the Republican filibuster of action on the jobs and tax bill now pending in the other body. This bill does not adequately address the need for a longer-term solution to avoid the disastrous cut in Medicare physician reimbursement that is currently impacting doctors and, most importantly, seniors and military servicemembers.

Republicans in the other body have been stonewalling the basic bill, the jobs bill, week after week after week. Doing so, they have placed a hammerlock on the lives of millions of Americans. A much better course would be for Republicans in the other body to begin to side with the American people instead of stonewalling against them, and not with their party leaders nor the Tea Party, and allow a straight up-or-down vote on the comprehensive jobs bill pending in the other body.

Instead, they are willing to put politics before people, and they are leaving millions of unemployed workers thrown out of work by this recession through no fault of their own without their unemployment insurance benefits. Instead, they seem willing to let loopholes that permit jobs to be shipped overseas continue to remain open. Republicans, in a word, are saying to the American people that they care more about their political futures than they do the daily lives of millions and millions of Americans.

We will not let that stand. We will continue to stand on the side of seniors and the physicians who treat them, on the side of unemployed workers and their families, on the side of millions who are looking for jobs, on the side of youth seeking employment, and on the side of those who would benefit from tax measures and bond measures that are supporting millions of jobs.

I reserve the balance of my time.

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

For the fourth time in 6 months, Democrats' inability to properly manage the Medicare program is causing doctors to confront a 21 percent cut in their Medicare reimbursement rates. In fact, this cut went into effect on June 1, forcing Medicare to pay claims for physicians' services with the 21 percent cut. In practical terms, this means that for a standard office visit, physicians are now being paid $8 less than they received in 2007. This is unacceptable and irresponsible.

As a result of the Democrats' failure to address this issue in a timely manner, tens of millions of taxpayer dollars will be required to reprocess these claims and send new checks to doctors, all because the majority Democrats could not finish their work on time.

Physicians' practices, like most small businesses, are hurt by the dereliction of duty. Dr. Joel Bolen from Montgomery, Alabama, said about the delayed payments, quote, ''We have already eliminated one staff position, and that has resulted in a major reduction in some services.'' Dr. Jen Brull from Plainville, Kansas, had to juggle a $10,000 temporary drop in revenue while claims were held up when payments were delayed for 15 days in April of this year, a major stress on a small practice.

Senior citizens have been hurt as well. Earlier this week, one of my constituents visited my office in Redding, California, to share his story. His doctor is not accepting any more Medicare patients until Congress deals with the 21 percent cut. As a result, he has been forced to postpone an essential surgery.

The new president of the American Medical Association, Dr. Cecil Wilson, said, ''This is no way to run a major health coverage program. Already the instability caused by repeated short-term delays is taking its toll.'' The newspaper Politico declared that ''never before has Congress allowed such a deep Medicare cut to go into effect at this scale.''

The legislation before us provides physicians with a 6-month reprieve of the 21 percent cut by providing them a 2.2 percent rate increase through November. But after November, the 21 percent cut returns. And 1 month after that, the cut goes even deeper, totaling 26 percent in January. Perhaps my friends on the other side of the aisle believe this will be someone else's problem in December.

Mr. Speaker, ironically, the bill before us today uses the same bill number as the Democrats' health bill that passed the House in November of last year. It's ironic, because Republicans argued for months that the Democrats should address the flawed Medicare physician payment formula in their health care overhaul. After all, if they could find more than one-half trillion dollars in cuts to Medicare, you would think they could find a couple dollars to fix the SGR; except, they didn't, allowing them to shield the true cost of their trillion-dollar government takeover of health care. It's one of the many reasons we should replace that flawed law with reform Americans can afford, and then we can address a true long-term fix for our doctors.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I rise in support of this suspension, and I yield myself such time as I may consume.

After all is said and done, no one can say this is a great bill. It's a disappointment. It's an embarrassment that we are here today to ask for only 5 months' extension for the doctors who take care of our Medicare patients to be paid for the work that they are doing. But it has come to this.

Because of the dysfunctional rules in the United States Senate, they could not get a bill for jobs passed. They could not get FMAP to assist the States for their Medicaid payment. They couldn't get extension of unemployment insurance. People are losing their unemployment insurance, or if they lose their jobs, they won't have it available to them.

What we have before us is one little piece. It is at least for 5 months to extend the physician fee reimbursement. I can't say that we should be proud of this. This should have been fixed permanently. And this is the best we can do, so let's vote ''aye.''

I reserve the balance of my time and urge my colleagues to support the suspension.

Mr. HERGER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

□ 1650

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act that we have before us.

For too long my Democrat colleagues have been playing games with the physician reimbursement fix. Playing chicken with the deadline time and time and time again and putting Medicare beneficiaries at risk while hurting small businesses across the country.

I've the highest number of constituents on Medicare of any Member of Congress. Believe me, I have heard from them loud and clear that they are disgusted with how long it took because their doctors are indeed refusing to take patients.

Whether it's the handling of the oil spill or their inability to put together a budget, it seems that even the basic responsibilities of running the government have become far too difficult for them. I'm glad to see this bill finally come before the House today, but I would remind all of our constituents that this could have been prevented. Months ago, my Republican colleagues and I offered and voted for a longer fix that would have been fully paid for.

Americans are tired of the credit card mentality of Washington. This is a voting card, ladies and gentlemen. It is not a credit card.

Mr. LEVIN. I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), a distinguished member of the Ways and Means Committee.

Ms. BERKLEY. Thank you, Mr. Chairman, for your extraordinary work.

Every day I receive calls from dedicated physicians who tell me that if this 21 percent cut goes through they are no longer going to be able to continue to treat their Medicare patients. They're not threatening me when they say it. They're talking the truth. They

simply can no longer afford to treat their senior patients.

Doctors are small business people. They've got payrolls to make and rent to pay, utilities, just like the rest of us; but time is long past due to permanently fix the way doctors in this country get compensated for treating Medicare patients. We need to fix this SGR. We need to fix it permanently.

We're playing a very dangerous political game with our seniors' health care, and we are forcing doctors to make unspeakable choices. I am supporting this 6-month fix to keep the doctors working and to give seniors the health care that they deserve and that they are entitled to, but I would urge my Republican colleagues in the Senate that they should do what's right by the American people and let's get this thing permanently fixed.

Mr. HERGER. I yield 1 minute to the gentleman from Tennessee (Mr. ROE), who is also a physician.

Mr. ROE of Tennessee. I thank the gentleman for yielding.

Why was this so hard? House Republicans have been saying for months that we'd be happy to support legislation ensuring seniors have access to doctors. They were warned to cut spending to stop the deficits from going any higher. Doctors and patients both are benefiting under this legislation, but today's headline should be this: bipartisan solutions are possible when the majority tries to meet the minority halfway.

When we cut spending, we can address many of the critical problems facing our country. Hopefully, today's bill isn't the end of bipartisan cooperation. Our economy is still in dire straits, and Republicans can help Democrats get people back to work only if the majority lets us. Otherwise, the job loss and exploding deficits we've seen for the past 18 months will only continue, and no one benefits from that.

I can tell you as a physician three things will happen with these cuts: one, patients lose access to doctors; two, the quality of their care goes down; and, three, their costs will go up.

I urge my colleagues to support this legislation.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), distinguished chairman of the Health Subcommittee of Energy and Commerce.

Mr. PALLONE. Thank you, Mr. WAXMAN.

I'm listening to the debate on the other side of the aisle, and I just can't believe what I hear. We passed, the House Democrats, the majority, passed a comprehensive permanent fix to the SGR, and we only had one Republican vote on the other side.

I heard the gentleman from California say it's not someone else's problem. That's true. It's also the Republican problem. You have a responsibility as Republicans to help us out, and you're not helping us out at all. When this jobs bill that included the SGR, and that was a 2-year fix, passed a couple of weeks ago here in the House, we had just a handful of Republican votes; and that's what it's been all along, Republicans not willing to do anything for any kind of permanent fix for this SGR for the physicians' reimbursement rate or not voting for 2 years. Now, we're down to 6 months because that's all we have left.

And I don't like it anymore than anybody else, but I'm going to vote for it today; and I hope that all of you will join us in voting for it. When you talk about the fact we have a problem here, the problem is you're not willing to help us out.

I heard the gentleman from Tennessee who is a physician say, well, it's got to be paid for. Well, where are the cuts that he's proposing to pay for it? In other social programs and other jobs? That's the problem here. We had a comprehensive jobs package that included this SGR. It would have had a summer jobs program. It had a lot of things to put Americans back to work, bring jobs back from overseas, tax cuts, and changes in the Tax Code that would have made a difference.

But we don't get any Republican support. We don't get anything. All you do is sit there and say that you want to solve this problem, but don't put up any votes or come up with any solutions whatsoever. So we're forced today to deal with this and we're going to vote for it, but if I keep hearing more and more about permanent fix, there's no support on the other side of the aisle for permanent fix. Don't kid those doctors and make them believe that you're going to vote for some kind of permanent fix. You never have. I don't see it.

I remember when you were in the majority and we kept kicking the can down the road. We inherited this mess from all of you. So don't sit here and talk about what you're going to do to make a difference. You're not helping at all. You're not solving the problem. You're part of the problem, not part of the solution.

Mr. HERGER. Just in response, we as Republican last November had a 4-year fix that was paid for, and I might mention that the legislation that the gentleman was referring to that we opposed had a $200 billion deficit on it, and that's why we opposed it.

Mr. Speaker, while I intend to support this bill and urge its passage, our work does not end here. We must find a long-term, stable and fiscally responsible solution to this problem.

I yield the balance of my time to the gentleman from Illinois (Mr. SHIMKUS).

The SPEAKER pro tempore. Without objection, the gentleman from Illinois will control the time.

There was no objection.

Mr. SHIMKUS. I yield such time as he may consume to the gentleman from Texas, Dr. BURGESS.

Mr. BURGESS. I thank the gentleman for yielding.

Just as a historical note, I think I should point out when it comes to this issue, there's actually plenty of blame to go around because after all it was in 1988 when a Democratic Congress, voting under the Omnibus Budget Reconciliation Act of 1988, created this problem under the guise of the RVRBS, and it's gone through several names and several acronyms since then. But that's when it began.

It was really a very predictable consequence of Congress' interference in the practice of medicine. Since 1988, there have been multiple Congresses; there have been multiple administrations, both Republican and Democratic. The opportunity to fix this thing has been there, but it has not been taken.

Patching the payment system is extremely unsatisfactory, but the alternative is absolutely unthinkable. Let me tell you this for a minute what it means in a one- or two-doctor office practicing primary care when the head of CMS holds your paycheck for 1 week, 2 weeks, now 3 weeks. Even if you're doing as little as 15 percent Medicare in your business, that cash flow that's disrupted across the counter means that that doctor's office is likely not going to be able to take a paycheck that month; and what's even worse, they may have to go out and borrow money for operational expenses.

I know that never troubles this Congress to borrow money for operational expenses—we do it all the time—but when you're a small businessperson and you're borrowing for operational expenses, it's extremely frightening because you don't know when you're going to be able to make that up.

Now, we have a bill that's retroactive to the first of the month so those checks will be reissued, and that's a good thing. Unfortunately, the expiration date on this bill is November 30. As was pointed out previously by the ranking member on the Ways and Means Health Subcommittee on December 31 of this year a 26 percent reduction occurs.

What happens in early November of this year is that every private insurance company that pegs its reimbursement to Medicare is going to recalculate its reimbursement based on that 26 percent if we don't do something before then.

□ 1700

Let us commit, with this window of opportunity that we have given ourselves between now and November 30, that we are going to work on this problem.

I've had a bill up there some time, H.R. 3693. Yes, it's problematic because of the cost, but it's not a real cost because we've already dispensed that money to the doctors; the doctors have already used that to run their practices. This is ''Bernie Madoff'' accounting that should make any one of us in this body ashamed to continue it.

Let's recommit to fixing this problem. Let's redouble our efforts. Let's leave aside the partisanship. I will remind some of the speakers on the other side, I have voted with you on this issue in the past. I didn't like the policy you put forward. I thought it was very bad policy at the time, but it was worth it to me to get this issue solved because our Nation's seniors, our patients, our doctors depend upon this.

Mr. LEVIN. Mr. Speaker, I yield myself 15 seconds.

The gentleman acknowledges he voted for a permanent fix. He was the only one on the Republican side. There was nobody else. You have refused, on the Republican side, to vote for a permanent fix.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LEVIN. I yield myself another 15 seconds.

Instead, we're stuck with this bill because we could not get a single vote for a bill that is better than this in the Senate from a Republican. That's why we're here today.

I now yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. We have a unique opportunity today. I've heard from the other side, the Republicans, who are saying that they want to have a permanent fix. We on the Democratic side have shown that by pushing forward, we had a $68 billion bill that went over to the Senate that would do that.

Now, ladies and gentlemen, people all across this Nation are paining, they are crying to see this House of Representatives work in a bipartisan way, and there is no more critical or important issue to show that than on this issue.

The future of our health care system rests on the ability to be able to have our physicians to be able to receive payment for their services. I've talked to physicians—I talked to a group of them today—and many of them not only are refusing to serve Medicare patients now, but they're losing hope in the health care system.

We've just passed a new health care bill. It's going to bring 37 million more people on, many of them are going to be senior citizens. We're growing more senior citizens. Let's be fair to our physicians. Let's save our health care system. And let us come together as Democrats and Republicans this day and come back and get a permanent fix on this issue.

Mr. SHIMKUS. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 1 minute to the chairman emeritus of the Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, we have before us a wonderful opportunity; we can begin to solve a problem that's going to destroy our medical care system in this country.

Doctors are abandoning Medicare patients because they can no longer afford to serve them. And it is turning out that we are now finding that we are losing the capability of addressing one of the greatest health problems we've got, and that is seeing to it that physicians do take care of our people and that they have the necessary resources to do it.

This is a proposal which has to be adopted today. I commend the gentleman from Texas who has urged the House to work together, and I commend him for having had the courage to say so, but it is something that we must do.

We came close to having this issue solved with a permanent fix. The law of interest, compounded interest, tells us that we have a big problem. The numbers in this have grown to $210 billion, and they will grow more. It is time that the House resolves this question so we can assure that we take care of our people, we deal with their health, we preserve Medicare, and we do what is necessary to carry out our responsibility in a fiscally responsible way.

We are, in good part, in this mess because of the United States Senate, which diligently disregards its responsibilities on all matters of this kind. And regrettably, as we look to see, we find that this is the best thing that we can do because they refuse to do better. They will tell us that because of their incompetence, we must therefore bow to them and do things the way they only can do them.

I urge my colleagues to vote for this legislation. And then let us prepare to work together to try and resolve this matter because the time is wasting and the whole system is about to collapse because of our failure to properly address it.

Mr. SHIMKUS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. MAFFEI).

(Mr. MAFFEI asked and was given permission to revise and extend his remarks.)

Mr. MAFFEI. Mr. Speaker, many of the doctors in my Upstate New York district have started to turn away new Medicare patients because of the 21 percent cut that has already started, and seniors are fearful that their physicians may soon drop out of Medicare altogether. Those doctors who still accept seniors have taken huge risks with their practice. At a time when we should be promoting improved access to physicians, a doctor payment cut of this magnitude will only decrease access, especially for our seniors, and sometimes with tragic results.

Seniors and their doctors should not pay the price for partisan politics. They should have the peace of mind to know that the doctor of their choice will be available to see them. And physicians should know that the work they perform will be reimbursed fairly, without having to worry about cuts month after month.

Now, Mr. Speaker, while it is clear that the Medicare payment system is broken and needs to be fixed permanently, there is an urgent need to provide an immediate and temporary solution. If you cannot cure the patient, at least find a treatment. If you cannot administer a long-term treatment, at least stop the bleeding.

Mr. Speaker, this band-aid is just that. It stops the bleeding temporarily. But lives and livelihoods are hanging in the balance. We have made a commitment to provide for our seniors, and I will stand with our seniors and our physicians.

Mr. SHIMKUS. I continue to reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to a very important member of our committee, the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. I thank the chair of the full Energy and Commerce Committee for yielding.

To my Republican colleagues, we make history on the floor of the House, and we did when we passed the health care bill, but you can't rewrite it. The House passed a bill, H.R. 3961, that only had one Member from the Republican Party who voted for that bill that was the permanent fix for this doctor situation so that our doctors wouldn't be cut 21 percent as of last week. One vote, and it was my colleague from Texas, Dr. BURGESS. That's why this is so important today.

We wish we could pass a better bill and a long-term fix, but we can't get it through the United States Senate; so we're going to November. You had a chance to step up and do it, but you didn't do it. We passed that bill with only one Republican vote.

This legislation is so important because Medicare is so important. Our seniors need to be able to go to a doctor, and yet we're seeing doctors say they can't afford to treat them anymore because we didn't do the permanent fix. That's why this bill is so important today, to get us through November. Hopefully we will be able to then do a permanent fix so doctors will be able to see our senior citizens.

Mr. Speaker, I rise today in support of Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act.

This legislation will prevent a 21-percent cut in Medicare physician payment reimbursements through November 30, and makes the so-called doc fix retroactive to June 1, when a previous stop gap measure expired.

While Congress enacted stop-gap measures for rate cuts scheduled for several months, yesterday CMS began mailing reimbursement checks to physicians who accept Medicare with the 21-percent reduction in their reimbursement.

This legislation before us today is another temporary fix and amends the legislation we sent to the Senate, which would be a permanent fix to the Medicare physician payment system, but we need to ensure that our seniors will continue to have access to their physicians and doctors will continue to accept Medicare.

It is clear that this current physician payment system contains some inherent flaws that must be addressed to ensure the long term viability of Medicare and access to beneficiaries.

My hometown of Houston contains some of the world's best medical facilities, where the scope of care is unmatched.

Yet, I meet physicians working in every medical specialty who say that this current Medicare physician payment system threatens our Medicare beneficiaries' access to the health care that they provide.

I support the legislation today to ensure our physicians will not receive a 21-percent cut in their Medicare reimbursement rates, but in November we will need to revisit this issue and enact a permanent fix to the physician payment system.

Mr. SHIMKUS. I continue to reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Thank you for yielding, Mr. Chairman.

Mr. Speaker, this is not what we should be doing. What is needed is a permanent fix for the SGR. But I do urge my colleagues to vote for at least a short-term measure that would stop the 21 percent cut in physician reimbursement.

As a family physician who had a practice that was at least one-third Medicare patients, I know how low the reimbursement is for the important work we do after long years of training. That cut and the one slated to follow would have cause many physicians to close their doors to some of the individuals who need it most. Even when I was in practice over 14 years ago, the fees were so low that I was one of a handful of doctors who saw Medicare patients. It has only gotten worse since then.

And it is not that doctors don't want to take care of the elderly and disabled patients, it is what we went into the profession to do; but to be able to do that, we have to be able to meet our overhead, pay staff, purchase supplies, and take care of our families. The 2.2 percent increase is a start, but doctors need certainty and stability.

□ 1710

The other body and our colleagues on the other side of the aisle need to step up and support what Democrats tried to do during health care reform. We need to help doctors provide the care that they want to provide to our seniors. Let us fix the SGR once and for all, even if we have to do it as part of a supplemental. Ensuring the care of some of our most vulnerable is that important and that urgent.

Mr. SHIMKUS. Mr. Speaker, I continue to reserve the balance of my time.

GENERAL LEAVE

Mr. LEVIN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the Senate amendments to H.R. 3962.

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

There was no objection.

Mr. LEVIN. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 1 minute to another important member of our committee, the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I rise in favor of this piece of legislation. As we only have about a minute, my observation, after listening to all of my colleagues and to my dear friends, is thank God physicians don't practice medicine the way we practice enacting legislation.

Can you imagine if you were wheeled into the emergency room? You'd have five qualified physicians, and they'd all start arguing about, ''How are we going to save the life of this particular patient?'' They don't come to any real conclusion. Some say, We need to do this immediately. Some of them say, We can wait 6 months. Others say, We can wait 2 years.

It doesn't work. It doesn't work in that operating room, and it shouldn't work in this Chamber. We are all in agreement. We are all in agreement that it is broken, and now we have given the other side a chance to work with us.

Last year, as it has already been pointed out, we had something that was for an extended period of time that was going to work on a solution which would give the doctors the kind of predictability they require in order to have practices where they can open their doors in the morning, but we only got one vote from the other side. You know, let's all put that aside today. Let's start working together. It's 6 months. It's not long enough. We acknowledge it. Let us just rededicate ourselves to making sure that doctors can practice medicine.

Mr. SHIMKUS. Mr. Speaker, I continue to reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 1 minute to the gentlewoman from Texas (Ms. SHEILA JACKSON LEE).

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today to support the permanent fix for doctors. That's what we have been saying as Democrats for more than a year.

I want to thank the leadership, who has taken the calls of Members who are representing their doctors and seniors and who are saying we have got to do this.

So let me tell the doctors of America: Look at what your friends look like—Democrats, who have been fighting over and over again. I promised physicians in my area, the doctors who work in inner city neighborhoods, that we were not going to leave them without help.

I hope the other body and my friends on the other side of the aisle, the Republicans, will really understand the facts. We have to join together. Doctors help save lives. They tend to our seniors. It is important that they have the reimbursement they need.

We rise today to support the 6-month fix, but we rise today to say the Democrats have been fighting to get this right. We are going to get it right. We are going to provide for the physicians. We are going to stop this 21 percent cut, and we are going to provide doctors for Americans who are waiting for us to do our jobs.

Support the legislation.

Physicians, your friends are us.

Mr. Speaker, I rise today in strong support of H.R. 3962, the ''Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010,'' a provision that retroactively reverses the 21 percent cut in Medicare payments to physicians scheduled for June 1, 2010; and also provides a 2.2 percent status report to physician payments through November 30, 2010. This provision also protects TRICARE military families dedicated to the service of this nation.

Mr. Speaker, I would like to pay special tribute to my good friend, Chairman HENRY WAXMAN, for his lifetime of devoted service to the cause of affordable health care for all Americans. I also thank the Democratic leadership, led by Speaker PELOSI, making health care affordable for Medicare beneficiaries a central issue. Democrats promised to chart a new direction for America if given the chance to lead. Today, we take another giant step toward fulfilling that promise.

For nearly a decade, Medicare patients and the doctors who treat them have been held hostage by short-term patches to an unworkable Sustainable Growth Rate (SGR) formula. In the months to come, I look forward to working with Members of Congress from both sides of the aisle to repeal the SGR formula and to replace it with a permanent physician payment system for Medicare that rewards value and ends the uncertainty for patients and providers alike. In addition, the bill provides enhanced Medicaid funding to states to assist them with the added costs of providing health coverage to underserved and underrepresented individuals and for home and community based services that must be extended.

Under current law, all outpatient services provided within three days before an inpatient admission and are related to the inpatient admission must be included in the bundled payment for that admission. The provision closes a loophole that had allowed the unbundling of services and submission of adjustment claims seeking separate and additional Medicare payments. This provision provides temporary, targeted funding relief for single employer and multiemployer pension plans that suffered significant losses in asset value due to the steep

market slide in 2008. Employers that elect the relief would be required to make additional contributions to the plan if they pay compensation to any employee in excess of $1 million, pay extraordinary dividends, or engage in extraordinary stock buybacks during the first part of the relief period. Additional relief is available to certain plans sponsored by charitable organizations.

Mr. Speaker, this provision will provide much needed fiscal relief to the states and to unemployed individuals.

Although this fix is for 6 months, I am committed to working with my colleagues to deliver a permanent fix for our nation's physicians, and I am committed to fight for critical job-creating measures, on behalf of all of the American people and to strengthen our economy, as well as such vital provisions as extending unemployment benefits for the millions who have lost their jobs through no fault of their own.

We must uphold our responsibility to the seniors and persons with disabilities who depend upon the Medicare program and the military families who depend upon the TRICARE program. The 21 percent cut in fees that physicians are seeing now is jeopardizing the relationship between Medicare and TRICARE patients and their doctors, and we cannot allow that to stand. This is a matter of whether seniors will have access to care or whether that access to care will be diminished because doctors will no longer be able to afford to continue to sustain their businesses with the cuts under the SGR for Medicare. That is why I support passage of this legislation. Over the months we struggled with Republicans over this issue.

I continuously spoke to doctors in my district to say, I would not forget this important issue. I worked with the leadership, voted for a permanent fix and continued to call on the Senate to move this bill. Now we have a temporary fix of 6 months.

However, I will work for a permanent fix with the Democratic leadership in spite of those of my Republican colleagues who oppose it. I believe in bipartisanship to help doctors and patients including seniors, get reimbursed and get the care they need.

I support this legislation.

Mr. SHIMKUS. Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank my friend for yielding.

Mr. Speaker, a lot of Americans seem to have been misled that they are not going to be able to see their doctors under Medicare anymore because of some legislation that came out of here. This bill today makes it emphatically clear that that is emphatically not true.

The bill today restores the full reimbursement rate for doctors and for other providers who see America's senior citizens. The majority of us wanted to make that a permanent fix last summer. Only one minority Member voted for that. Just a few weeks ago, the majority of us wanted to extend that far beyond this. Almost no one on the minority side voted for that. Today, I assume just about everybody is going to vote for this, and I'm glad, but let the record be clear: No one here is prepared to see a day when Medicare doctors turn their patients away. That is not the truth.

Mr. SHIMKUS. Mr. Speaker, I yield myself the balance of my time.

I appreciate the comments. I was going to be cool, calm, and collected, of course, as I normally am on the committee, Mr. Chairman, as you know. But of course, I am required to respond to just a couple of points.

I agree with my colleague who just spoke that we want to get this fixed and that we want to do it now, and I'm going to talk about the importance of paying for it. Though, the public has to understand that we are 39 seats in the minority. The only bipartisan vote was the ''no'' vote on the health care bill. For the protestations that, from the Republicans, there was only one vote, the reality is you could do whatever you want, but the bipartisan vote was ''no'' against the health care bill.

Why? $500 billion cuts in Medicare—and we talked about this yesterday in committee—not on Medicare Advantage but on hospital cuts, on doc cuts across the board, and on tax increases. $1 trillion in new spending.

You'd think, if you're going to spend $1 trillion more, you could fix this. In fact, you all promised it, but because of the policy and the politics, you had to accept the Senate bill that really didn't do it. The promises you made to some doctor organization you could not keep. That is why we are here again.

We know the CBO and we know the CMS actuary say premiums are going to go up and that benefits are going to be cut. Our health care system is going to change because we are going to migrate away from the employer-based health care system. Some of us believe that was the intent of the law that you passed. So there is an important part of this debate:

First of all, we have a $13.5 trillion debt. Now, I'm not going to lay that all on my colleagues' shoulders, because a lot of it is our fault. We get it. We were put in the minority because of our frivolous, reckless spending, but I think you'd better be very, very careful that you're going down that same path. A $13.5 trillion debt makes the argument to the public today that we have to pay for things, that we have to pay for the services that we think are important.

As for all of the other things on the spending side that this was connected to, we didn't pay for it all. I don't know about you and your districts, but my folks are saying, Stop going into debt. Stop obligating yourselves to things that we cannot pay for. Stop mortgaging our grandchildren's futures.

So that's what this is about. That's why we support this bill, because you know what? It's paid for. Maybe we are getting the message. Maybe we are turning the corner. Maybe we realize now that, if it's important enough to have, it's important enough to pay for.

This costs $6.4 billion. It is a 2.2 percent increase in reimbursement levels. If the bill is not passed, Medicare physicians will face a 20 percent reduction in reimbursement rates. We want them to see our seniors, and we want them to be paid for their services.

It's curious. It ends in November. Things happen in November. December is not paid for. January is not paid for. In fact, as we went along this process, we had month extensions throughout this process instead of addressing the issue early on. I'll be honest, Mr. Speaker, we'll accept a lot of our blame for the position we're in.

□ 1720

But we're not in the majority now. And the public has changed, and they say, Start paying for the services that you think are important, whether it's discretionary or it's entitlement. And that's why we support this bill. The doctors need it.

I appreciate my colleagues and their support in the debate.

I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, in the 30 seconds I have left, let's pass this bill and go on to fix this problem. We owe it to the seniors who were promised Medicare coverage. And Medicare coverage means that they ought to have access to physicians who are paid for the care that they give those Medicare recipients.

I urge an ''aye'' vote.

I yield back the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself the balance of my time.

I understand the Senate is about to vote—I think has begun its vote—on the comprehensive jobs bill, helping to pay for it, so that companies don't ship jobs overseas. So what we're doing now, in view of what seems inevitable in the Senate, is take up one piece of that bill. The SGR provision is in the bill now before the Senate, and that, I'm afraid, will be turned down. And what the fact is, we have to act because patients, military personnel, their physicians, need action. But it's the inaction of Republicans in the other House; it really is bringing us to this point.

And despite efforts, and valiant efforts, by the majority leader in the Senate, in the other House, and the Finance chair in the other body, it now seems absolutely certain there won't be a single Republican vote for that comprehensive bill that has this piece in it.

What the Democrats in the other body have faced is a Republican phalanx, without a single one on the minority side willing to step up and vote for a bill that this country needs. So I serve notice: We on this side will not give up. A million and half Americans today who are out of work, who are looking for work, have lost their benefits because of the phalanx in the other

body. There's reference to turning the corner here. No. The minority in the other House, as was true here, have been turning their backs.

So much is at stake. I mentioned just a few parts of that bill—the R&D tax credit; Build America Bonds that have helped put millions of people to work; provisions regarding housing; summer employment for 300,000 young people who want to work, who need work. So because of this phalanx among Republicans in the other body, as was true here, we were faced with this alternative to pass this so-called fix now.

And it's interesting. We tried some months ago to have a permanent resolution of this. And, as mentioned, only one Republican voted for it. In May, we had a 19-month provision in the jobs bill, and it just could not pass the Senate, apparently, and very, very few, if any, here on the Republican side supported it.

So here we are. A Republican phalanx. So we're going to act on this bill. And I assure you, we on this side will not give up on the basic interest of the American people.

Mr. VAN HOLLEN. Mr. Speaker, I rise in support of legislation to retroactively reverse a 21 percent payment cut for doctors in Medicare and TRICARE and update the flawed Medicare physician payment formula.

Rather than the 21 percent payment cut, physicians will see a 2.2 percent update in their payment rates through November, 30, 2010. Though I would prefer a permanent, long-term solution to this problem, this legislation is necessary so that Medicare beneficiaries can continue to see their doctor of choice and access the care they need. The uncertainty of payments is causing difficulties for physicians who provide services under Medicare because their practices cannot adequately plan for the expenses they incur for treating Medicare beneficiaries.

Congress needs to fix this problem in a permanent manner. The House has passed legislation this Congress that would have done exactly that. Unfortunately, it was blocked in the Senate.

Mr. Speaker, while I urge my colleagues to support this bill before us, I also urge all my colleagues in both the House and Senate to recommit themselves to passing legislation that will permanently fix Medicare payments to physicians.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise today in support of provisions contained in H.R. 3962, which will temporarily fix the Sustainable Growth Rate—or SGR—formula. This legislation will undo the twenty-one percent cut in Medicare reimbursements to physicians that took place on June 1st. Without prompt action, these cuts will do serious harm to physicians and patients alike.

With a 21 percent cut, payments to physicians would be well below their overhead costs and could jeopardize continued access for Medicare beneficiaries to their physicians. We have a duty to our retirees to be there for them when they are in need, so I fully and enthusiastically support the provisions that restore Medicare reimbursement rates.

However, I want to register my profound concern over a provision in H.R. 3962 that utilizes a new application of what's known as the "72-hour rule" as an offset for the SGR temporary fix. This provision dictates how a hospital must bundle certain Medicare payments for reimbursement.

My home state of Florida was among the states included in the first round of the Recovery Audit Contractors Program, overseeing the 72-hour rule. Some Florida hospitals that have undergone audits had either inadvertently overbilled or underbilled.

Hospitals that inadvertently overbilled are obligated to repay the appropriate amount, and have already done so. But, hospitals that inadvertently underbilled, would be immediately precluded, if this passes, from resubmitting claims in compliance with existing regulations to recoup underpayments.

It is my understanding that many hospitals are still reviewing a large number of possible underpayments for submittal. If they are precluded from resubmitting claims because of changes in this legislation, Florida hospitals could face $225 million in losses. This retroactive application constitutes changing the rules of the game after the services were provided, and is simply not fair to providers.

We owe it to both our physicians and our hospitals to treat them fairly when they care for our seniors under Medicare. Assuming this legislation becomes law, I strongly encourage the Centers for Medicare and Medicaid Services to administer this new application of the 72-hour rule in the most equitable manner possible and limit the adverse impacts on hospitals to the greatest extent possible.

Ms. SCHAKOWSKY. Mr. Speaker, this week, the first round of provider payments with a 21 percent cut was sent to physicians who treat Medicare beneficiaries.

This drastic reduction in reimbursements is quite simply unacceptable. Doctors in my district who provide life-saving care to seniors and people with disabilities have called me to say they won't be able to see Medicare patients much longer. Patients have called begging that we prevent the cuts.

I am a strong supporter of a permanent fix to the flawed sustainable growth rate that continues to create instability for providers and uncertainty for Medicare beneficiaries.

H.R. 3961, which passed the House in November 2009, would have responsibly fixed the flawed formula—but Senate Republicans have refused to come to the table to negotiate a permanent solution. For that reason, while I will vote for this bill to stop the pay cuts, I think it falls far short of what is needed.

Under the pay-go agreement, we had agreed to fix physician payments without taking money from other parts of Medicare until December 31, 2011. I am disappointed that we have not stuck to this original agreement.

Senate Amendments to H.R. 3962—also known as the physician payment fix—is not perfect legislation. But without action this cut will create a crisis for Medicare beneficiaries and providers. I simply cannot allow that to happen, and will vote in support of this bill.

This bill will ensure that doctors who see Medicare patients over the next six months receive fair payments. It will ensure that senior citizens and persons with disabilities have access to their doctors. And it gives us time to permanently fix the flawed formula. It is not perfect, but it would be irresponsible not to act.

Mr. RYAN of Wisconsin. Mr. Speaker, I voted for this legislation because it avoided deep reductions to Medicare physician pay but was offset to avoid any increase in the deficit. While I support this legislation, I have some concerns about where this leads us in the future.

First, this legislation illustrates why we must fundamentally reform Medicare. Our Nation's physicians who treat Medicare beneficiaries currently face a 21 percent reduction. It is critically important that we correct this. Although this legislation provides a much-needed temporary solution, it makes the Medicare physician problem even greater when this short-term fix expires in six months, requiring a 26 percent reduction to payment rates. That is completely untenable.

Unfortunately, that is precisely the path that the health care bill enacted earlier this year puts us on. In addition to Medicare and Medicaid's obligations, that bill created two new health care entitlements. I think this legislation is the sign of things to come. We will increasingly face difficult reductions to medical providers or require that health care be rationed through government bureaucracies. We will be told that to avoid this we need to either run up the debt or raise taxes on the American people. I think that is a false choice and we should instead fundamentally reform these programs to put them on a sustainable path.

Second, I have some concerns with the pension relief provisions of this bill. Companies are struggling to get by due to a stagnant economy. This legislation will provide temporary pension relief. Under our cash-based budget, these pension relief provisions produce savings over the next ten years. We do not have a full analysis of the long-term consequences of the pension provisions, but it appears these savings are likely to be more than offset by greater federal obligations that will appear outside the ten year window we use to enforce the budget. While this pension relief may make sense in today's economic environment, we need to explore the budgetary impact of these pension provisions to get a better understanding of the full impact before we pursue this as an offset for future legislation.

Mr. LEVIN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3962.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SHIMKUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1730

CONFERENCE REPORT ON H.R. 2194, COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the