Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Griffith
Guthrie
Hall (TX)
Halvorson
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Himes
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy (NY)
Murphy, Tim
Myrick
Napolitano
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Salazar
Scalise
Schmidt
Schock
Sensenbrenner
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Boren
Brown-Waite, Ginny
Davis (AL)
Davis (KY)
Graves
Hastings (FL)
Jones
Melancon
Radanovich
Ryan (WI)
Sessions
Shuler

□ 1136

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTING MINORITY MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. PENCE. Mr. Speaker, by direction of the House Republican Conference I send to the desk a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1415

Resolved, That the following members be, and are hereby, elected to the following standing committees:

COMMITTEE ON ARMED SERVICES—Mr. Djou.

COMMITTEE ON THE BUDGET—Mr. Djou.

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM—Mr. Shuster.

Mr. PENCE (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TAX EXTENDERS ACT OF 2009

Mr. LEVIN. Mr. Speaker, pursuant to House Resolution 1403, I call up the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes, with the Senate amendment thereto, and have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''American Workers, State, and Business Relief Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

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

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

PART II—LOW-INCOME HOUSING CREDITS

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

Subtitle C—Business Tax Relief

Sec. 131. Research credit.
Sec. 132. Indian employment tax credit.
Sec. 133. New markets tax credit.
Sec. 134. Railroad track maintenance credit.
Sec. 135. Mine rescue team training credit.
Sec. 136. Employer wage credit for employees who are active duty members of the uniformed services.
Sec. 137. 5-year depreciation for farming business machinery and equipment.
Sec. 138. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 139. 7-year recovery period for motorsports entertainment complexes.
Sec. 140. Accelerated depreciation for business property on an Indian reservation.
Sec. 141. Enhanced charitable deduction for contributions of food inventory.
Sec. 142. Enhanced charitable deduction for contributions of book inventories to public schools.
Sec. 143. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
Sec. 144. Election to expense mine safety equipment.
Sec. 145. Special expensing rules for certain film and television productions.
Sec. 146. Expensing of environmental remediation costs.
Sec. 147. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 148. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 149. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
Sec. 150. Timber REIT modernization.
Sec. 151. Treatment of certain dividends and assets of regulated investment companies.
Sec. 152. RIC qualified investment entity treatment under FIRPTA.
Sec. 153. Exceptions for active financing income.
Sec. 154. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
Sec. 155. Reduction in corporate rate for qualified timber gain.
Sec. 156. Basis adjustment to stock of S corps making charitable contributions of property.
Sec. 157. Empowerment zone tax incentives.
Sec. 158. Tax incentives for investment in the District of Columbia.
Sec. 159. Renewal community tax incentives.
Sec. 160. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
Sec. 161. American Samoa economic development credit.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

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

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

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

SUBPART B—GO ZONE

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

SUBPART C—MIDWESTERN DISASTER AREAS

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

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

Sec. 201. Extension of unemployment insurance provisions.

Subtitle B—Health Provisions

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

Subtitle C—Other Provisions

Sec. 241. Extension of use of 2009 poverty guidelines.
Sec. 242. Refunds disregarded in the administration of Federal programs and federally assisted programs.
Sec. 243. State court improvement program.
Sec. 244. Extension of national flood insurance program.
Sec. 245. Emergency disaster assistance.
Sec. 246. Small business loan guarantee enhancement extensions.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

Sec. 301. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.
Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.
Sec. 303. Lookback for certain benefit restrictions.
Sec. 304. Lookback for credit balance rule for plans maintained by charities.

Subtitle B—Multiemployer Plans

Sec. 311. Adjustments to funding standard account rules.

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

Sec. 401. Exclusion of unprocessed fuels from the cellulosic biofuel producer credit.
Sec. 402. Prohibition on alternative fuel credit and alternative fuel mixture credit for black liquor.

Subtitle B—Homebuyer Credit

Sec. 411. Technical modifications to homebuyer credit.

Subtitle C—Economic Substance

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

Subtitle D—Additional Provisions

Sec. 431. Revision to the Medicare Improvement Fund.

TITLE V—SATELLITE TELEVISION EXTENSION

Sec. 500. Short title.

Subtitle A—Statutory Licenses

Sec. 501. Reference.
Sec. 502. Modifications to statutory license for satellite carriers.
Sec. 503. Modifications to statutory license for satellite carriers in local markets.
Sec. 504. Modifications to cable system secondary transmission rights under section 111.
Sec. 505. Certain waivers granted to providers of local-into-local service for all DMAs.
Sec. 506. Copyright Office fees.
Sec. 507. Termination of license.
Sec. 508. Construction.

Subtitle B—Communications Provisions

Sec. 521. Reference.
Sec. 522. Extension of authority.
Sec. 523. Significantly viewed stations.
Sec. 524. Digital television transition conforming amendments.
Sec. 525. Application pending completion of rulemakings.
Sec. 526. Process for issuing qualified carrier certification.
Sec. 527. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.
Sec. 528. Savings clause regarding definitions.
Sec. 529. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision

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

Subtitle D—Severability

Sec. 541. Severability.

TITLE VI—OTHER PROVISIONS

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

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

Sec. 701. Determination of budgetary effects.

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 101. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 102. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 103. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended by striking ''5-year period'' and inserting ''6-year period''.

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

SEC. 104. CREDIT FOR REFINED COAL FACILITIES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(d)(8) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 105. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

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

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

SEC. 106. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 107. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 108. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

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

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

SEC. 109. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 110. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 111. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

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

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

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

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 114. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

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

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 116. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 117. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

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

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

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

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

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

Subtitle C—Business Tax Relief

SEC. 131. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 132. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 133. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

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

SEC. 134. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 135. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 136. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

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

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 138. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

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

(b) CONFORMING AMENDMENTS.—

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

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

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

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

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 141. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 142. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 143. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 144. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

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

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 146. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 147. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

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

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 148. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 149. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 150. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking ''means'' and all that follows and inserting ''means December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking ''the first taxable year beginning after the date of the enactment of this subparagraph'' and inserting ''in a taxable year beginning on or before the termination date''.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting ''in taxable years beginning'' after ''dispositions''.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting ''in a taxable year beginning'' after ''sale''.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting ''in a taxable year beginning'' after ''In the case of a sale''.

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

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

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 152. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act, and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 153. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 154. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) is amended by striking ''ending'' and all that follows through ''such date''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) is amended to read as follows:

''(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.''.

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

SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 157. EMPOWERMENT ZONE TAX INCENTIVES.

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

(1) by striking ''December 31, 2009'' in subsection (d)(1)(A)(i) and inserting ''December 31, 2010'', and

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

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section,

the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

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

SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

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

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

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

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 159. RENEWAL COMMUNITY TAX INCENTIVES.

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

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010'', and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014' ''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking ''after 2001 and before 2010'' and inserting ''which begins after 2001 and before the date referred to in subsection (g)''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

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

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

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

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 171. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

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

SEC. 172. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

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

SEC. 173. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 174. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 175. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 181. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 182. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

Subpart B—GO Zone

SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 184. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 185. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act

of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

Subpart C—Midwestern Disaster Areas

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

(a) IN GENERAL.—Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended—

(1) by striking ''January 1, 2010'' both places it appears and inserting ''January 1, 2011'', and

(2) by striking ''December 31, 2009'' both places it appears and inserting ''December 31, 2010''.

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

SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

(a) IN GENERAL.—Section 702(e)(4)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2009.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 201. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''April 5, 2010'' each place it appears and inserting ''December 31, 2010'';

(B) in the heading for subsection (b)(2), by striking ''APRIL 5, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in subsection (b)(3), by striking ''September 4, 2010'' and inserting ''May 31, 2011''.

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

(A) in paragraph (1)(B), by striking ''April 5, 2010'' and inserting ''December 31, 2010'';

(B) in the heading for paragraph (2), by striking ''APRIL 5, 2010'' and inserting ''DECEMBER 31, 2010''; and

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

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

(A) by striking ''April 5, 2010'' each place it appears and inserting ''January 1, 2011''; and

(B) in subsection (c), by striking ''September 4, 2010'' and inserting ''June 1, 2011''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''September 4, 2010'' and inserting ''May 31, 2011''.

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

(1) in subparagraph (C), by striking ''and'' at the end; and

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

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

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

Subtitle B—Health Provisions

SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3 of the Temporary Extension Act of 2010, is amended by striking ''March 31, 2010'' and inserting ''December 31, 2010''.

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

''(18) RULES RELATED TO 2010 EXTENSION.—

''(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's 2010 transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

''(i) such individual's qualifying event was on or after April 1, 2010 and prior to the date of enactment of this paragraph, and

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under paragraph (16)(D)(ii) (as applied by subparagraph (D) of this paragraph), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).

''(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's 2010 transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

''(C) 2010 TRANSITION PERIOD.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'transition period' means, with respect to any assistance eligible individual, any period of coverage if—

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the American Workers, State, and Business Relief Act of 2010, and

''(II) paragraph (1)(A) applies to such period by reason of the amendments made by section 211 of the American Workers, State, and Business Relief Act of 2010.

''(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

''(D) NOTIFICATION.—Notification provisions similar to the provisions of paragraph (16)(E) shall apply for purposes of this paragraph.''.

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

SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

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

SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

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

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)'';

(ii) by striking ''January 1, 2010'' and inserting ''January 1, 2011''; and

(iii) by striking ''and'' at the end;

(B) in clause (ii)(II), by striking the period at the end and inserting ''; and'';

(C) by inserting after clause (ii)(II) the following new clause:

''(iii)(I) subject to subclause (II), with respect to items and services furnished on or after January 1, 2011, the accreditation requirement of clause (i) shall not apply to a pharmacy described in subparagraph (G); and

''(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.''; and

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

''If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).''; and

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

''(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

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

''(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

''(iii) The pharmacy submits to the Secretary an attestation, in a form and manner, and at a time, specified by the Secretary, that the pharmacy meets the criteria described in clauses (i) and (ii).

''(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.''.

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

(1) in the first sentence, by striking ''The'' and inserting ''Except as provided in the third sentence, the''; and

(2) by adding at the end the following new sentences: ''Notwithstanding the preceding sentences, any alternative quality standards and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.''.

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

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w–3).

(e) WAIVER OF 1-YEAR REENROLLMENT BAR.—In the case of a pharmacy described in subparagraph (G) of section 1834(a)(20) of the Social Security Act, as added by subsection (a), whose billing privileges were revoked prior to January 1, 2011, by reason of noncompliance with subparagraph (F)(i) of such section, the Secretary of Health and Human Services shall waive any reenrollment bar imposed pursuant to section 424.535(d) of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this Act) for such pharmacy to reapply for such privileges.

SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

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

SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.

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

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''; and

(B) in each of clauses (i) and (ii), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

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

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

(1) in the first sentence, by striking ''2010'' and inserting ''2011''; and

(2) by adding at the end the following new sentence: ''For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.''.

SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

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

SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''and 2009'' and inserting ''2009, and 2010''.

SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2010''and inserting ''2011''; and

(B) in the second sentence, by striking ''or 2009'' and inserting '', 2009, or 2010''; and

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

(b) PERMITTING ALL SOLE COMMUNITY HOSPITALS TO BE ELIGIBLE FOR HOLD HARMLESS.—Section 1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)(III)) is amended by adding at the end the following new sentence: ''In the case of covered OPD services furnished on or after January 1, 2010, and before January 1, 2011, the preceding sentence shall be applied without regard to the 100-bed limitation.''.

SEC. 219. EHR CLARIFICATION.

(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.—

(1) MEDICARE.—Section 1848(o)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(o)(1)(C)(ii)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(2) MEDICAID.—Section 1903(t)(3)(D) of the Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5)).

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking ''5-year period'' and inserting ''6-year period''.

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

(a) EXTENSION OF CERTAIN PAYMENT RULES.—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111–5), is amended by striking ''3-year period'' each place it appears and inserting ''4-year period''.

(b) EXTENSION OF MORATORIUM.—Section 114(d)(1) of such Act (42 U.S.C. 1395ww note), as amended by section 4302(b) of the American Recovery and Reinvestment Act (Public Law 111–5), in the matter preceding subparagraph (A), is amended by striking ''3-year period'' and inserting ''4-year period''.

SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

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

(1) by striking ''2010, and for'' and inserting ''2010, for''; and

(2) by inserting ''and for making grants to all States under subsection (g), such sums as may be necessary in fiscal year 2011, to remain available until expended'' before the period at the end.

SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''September 30, 2009'' and inserting ''September 30, 2010''.

(b) SPECIAL RULE FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2010, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

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

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 405(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2266).

SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking ''2011'' and inserting ''2012''.

(b) TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.

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

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

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services' memorandum with the subject ''2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans'') to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w–27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

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

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for

Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note) is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

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

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $2,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

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

SEC. 231. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to titles XVIII and XIX of the Social Security Act, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 232. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(3), by striking ''first calendar quarter'' and inserting ''first 3 calendar quarters'';

(2) in subsection (c)—

(A) in paragraph (2)(B), by striking ''July 1, 2010'' and inserting ''January 1, 2011'';

(B) in paragraph (3)(B)(i), by striking ''July 1, 2010'' each place it appears and inserting ''January 1, 2011''; and

(C) in paragraph (4)(C)(ii), by striking ''the 3-consecutive-month period beginning with January 2010'' and inserting ''any 3-consecutive-month period that begins after December 2009 and ends before January 2011'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2)—

(i) by inserting ''of such Act'' after ''1923''; and

(ii) by adding at the end the following new sentence: ''Voluntary contributions by a political subdivision to the non-Federal share of expenditures under the State Medicaid plan or to the non-Federal share of payments under section 1923 of the Social Security Act shall not be considered to be required contributions for purposes of this section.''; and

(C) by adding at the end the following:

''(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.''; and

(4) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.

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

(b) FUNDING.—

(1) IN GENERAL.—Subsection (f)(1) of such section is amended by inserting ''and for fiscal year 2010, $1,600,000,'' after ''$6,000,000,''.

(2) AVAILABILITY.—Subsection (f)(2) of such section is amended by striking ''2010'' and inserting ''2014 or until expended''.

(c) REPORTS.—

(1) QUALITY IMPROVEMENT AND SAVINGS.—Subsection (e)(3) of such section is amended by striking ''December 1, 2008'' and inserting ''18 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

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

Subtitle C—Other Provisions

SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) is amended—

(1) by striking ''before March 31, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

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

''SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

''(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

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

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

SEC. 243. STATE COURT IMPROVEMENT PROGRAM.

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

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 1005 of Public Law 111–118, is further amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''. The amendment made by this section shall be considered to have taken effect on February 28, 2010.

SEC. 245. EMERGENCY DISASTER ASSISTANCE.

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

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

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

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

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

(b) SUPPLEMENTAL DIRECT PAYMENT.—

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

(2) ACRE PROGRAM.—Eligible producers that received payments under section 1105 of the

Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

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

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

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

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

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible specialty crop producers;

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

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

(i) the manner in which the State provided assistance;

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

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(5) PROHIBITION.—An eligible specialty crop producer that receives assistance under this subsection shall be ineligible to receive assistance under subsection (b).

(6) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

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

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

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

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

(B) the county-eligible production, as determined under paragraph (5).

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

(A) the sum of the county-eligible production, as determined under paragraph (5); by

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

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

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

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(B) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(C) PROVISION OF GRANTS.—

(i) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2008 calendar year, as determined by the Secretary.

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

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

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

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

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

(I) the manner in which the State provided assistance;

(II) the amounts of assistance provided per species of aquaculture; and

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

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

(3) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

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

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

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

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

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

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

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

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that

filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

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

(3) LOANS.—

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

(B) ELIGIBILITY.—

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

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

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

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

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

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section and the amendment made by this section.

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

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

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

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

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 246. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration—Business Loans Program Account'', $560,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section, for loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), or section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section; and

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

Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

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

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''March 28, 2010'' and inserting ''December 31, 2010''.

(3) EFFECTIVE DATE FOR LOAN GUARANTEES.—The amendment made by paragraph (2) shall take effect on February 27, 2010.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(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. 302. 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. 303. 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. 304. 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 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).''.

(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. 311. 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 IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 40(b)(6) is amended by adding at the end the following new clause:

''(iii) EXCLUSION OF UNPROCESSED FUELS.—The term 'cellulosic biofuel' shall not include any fuel if—

''(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

''(II) the ash content of such fuel is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

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

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER CREDIT.

(a) EXPANDED DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking ''or'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

(3) by adding at the end the following new paragraphs:

''(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

''(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).''.

(b) MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking ''returns for taxable years ending after the date of the enactment of this Act'' and inserting ''returns filed after the date of the enactment of this Act''.

(c) EFFECTIVE DATES.—

(1) DOCUMENTATION REQUIREMENTS.—The amendments made by subsection (a) shall apply to purchases on or after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle C—Economic Substance

SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

''(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

''(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

''(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

''(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

''(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

''(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

''(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

''(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection had never been enacted.

''(E) TRANSACTION.—The term 'transaction' includes a series of transactions.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.''.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

''(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.''.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

''(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

''(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term 'nondisclosed noneconomic substance transaction' means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended—

(A) by striking ''section 6662(h)'' and inserting ''subsections (h) or (i) of section 6662''; and

(B) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)'' in paragraph (4)(A), as so redesignated, and inserting ''paragraph (3)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).''.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)(C)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)(C)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).''.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

Subtitle D—Additional Provisions

SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(A) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended by striking ''$20,740,000,000'' and inserting ''$12,740,000,000''.

TITLE V—SATELLITE TELEVISION EXTENSION

SEC. 500. SHORT TITLE.

This title may be cited as the ''Satellite Television Extension and Localism Act of 2010''.

Subtitle A—Statutory Licenses

SEC. 501. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking ''**superstations and network stations for private home viewing**'' and inserting ''**distant television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.''.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network of—

''(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

''(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;'';

(B) in subparagraph (B)—

(i) by striking ''subsection (a)(14)'' and inserting ''subsection (a)(13),''; and

(ii) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(C) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(11)''.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

''(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

''(A) July 1, 2010, for multicast streams that exist on December 31, 2009; and

''(B) January 1, 2011, for all other multicast streams.''.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon at the end;

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

(3) by adding at the end the following:

''(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).''.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: ''(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—'';

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and'';

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

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

''(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'';

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting ''(including the filing fee specified in paragraph (1)(C))'' after ''shall receive all fees''; and

(B) by striking ''paragraph (4)'' and inserting ''paragraph (5)'';

(6) in paragraph (4), as redesignated—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(7) in paragraph (5), as redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking ''ANALOG'';

(B) in subparagraph (A)—

(i) by striking ''primary analog transmissions'' and inserting ''primary transmissions''; and

(ii) by striking ''July 1, 2004'' and inserting ''July 1, 2009'';

(C) in subparagraph (B)—

(i) by striking ''January 2, 2005, the Librarian of Congress'' and inserting ''May 1, 2010, the Copyright Royalty Judges''; and

(ii) by striking ''primary analog transmission'' and inserting ''primary transmissions'';

(D) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''(i) Voluntary agreements'' and inserting the following:

''(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements''; and

(II) by striking ''that a parties'' and inserting ''that are parties''; and

(ii) in clause (ii)—

(I) by striking ''(ii)(I) Within'' and inserting the following:

''(ii) PROCEDURE FOR ADOPTION OF FEES.—

''(I) PUBLICATION OF NOTICE.—Within'';

(II) in subclause (I), by striking ''an arbitration proceeding pursuant to subparagraph (E)'' and inserting ''a proceeding under subparagraph (F)'';

(III) in subclause (II), by striking ''(II) Upon receiving a request under subclause (I), the Librarian of Congress'' and inserting the following:

''(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges''; and

(IV) in subclause (III)—

(aa) by striking ''(III) The Librarian'' and inserting the following:

''(III) ADOPTION OF FEES.—The Copyright Royalty Judges'';

(bb) by striking ''an arbitration proceeding'' and inserting ''the proceeding under subparagraph (F)''; and

(cc) by striking ''the arbitration proceeding'' and inserting ''that proceeding'';

(F) in subparagraph (E)—

(i) by striking ''Copyright Office'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking ''March 28, 2010'' and inserting ''December 31, 2014''; and

(G) in subparagraph (F)—

(i) in the heading, by striking ''COMPULSORY ARBITRATION'' and inserting ''COPYRIGHT ROYALTY JUDGES PROCEEDING'';

(ii) in clause (i)—

(I) in the heading, by striking ''PROCEEDINGS'' and inserting ''THE PROCEEDING'';

(II) in the matter preceding subclause (I)—

(aa) by striking ''May 1, 2005, the Librarian of Congress'' and inserting ''July 1, 2010, the Copyright Royalty Judges'';

(bb) by striking ''arbitration proceedings'' and inserting ''a proceeding'';

(cc) by striking ''fee to be paid'' and inserting ''fees to be paid'';

(dd) by striking ''primary analog transmission'' and inserting ''the primary transmissions''; and

(ee) by striking ''distributors'' and inserting ''distributors—'';

(III) in subclause (II)—

(aa) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(bb) by striking ''arbitration''; and

(IV) by amending the last sentence to read as follows: ''Such proceeding shall be conducted under chapter 8.'';

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—'';

(iv) by amending clause (iii) to read as follows:

''(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.''; and

(v) in clause (iv)—

(I) in the heading, by striking ''FEE'' and inserting ''FEES''; and

(II) by striking ''fee referred to in (iii)'' and inserting ''fees referred to in clause (iii)''.

(2) Paragraph (2) is amended to read as follows:

''(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.''.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

''(8) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

''(14) MULTICAST STREAM.—The term 'multicast stream' means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.''.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

''(15) PRIMARY STREAM.—The term 'primary stream' means—

''(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

''(B) if there is no stream described in subparagraph (A), then either—

''(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

''(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.''.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking ''which'' each place it appears and inserting ''that''.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking ''superstation'' each place it appears in a heading and each place it appears in text and inserting ''non-network station''; and

(2) by striking ''superstations'' each place it appears in a heading and each place it appears in text and inserting ''non-network stations''.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''(5), (6), and (8)'' and inserting ''(4), (5), and (7)'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)'' and inserting ''subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)'';

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.''; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking ''under paragraph (3) or''; and

(II) by striking ''paragraph (12)'' and inserting ''paragraph (11)''; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

''(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).''.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking ''analog'' each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

''(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the 'distant signal'), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(C) FUTURE APPLICABILITY.—

''(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the 'distant signal') on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.'';

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking ''(C) or (D)'' and inserting ''(B) or (C)''; and

(E) in subparagraph (F) (as redesignated), by inserting ''9-digit'' before ''zip code''.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''$250,000 for each 6-month period'' and inserting ''$2,500,000 for each 3-month period''; and

(ii) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(C) by adding at the end the following flush sentences:

''The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.''.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking ''and 509''.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking ''In this clause'' and inserting ''In this clause,''.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking ''March 28, 2010'' and inserting ''December 31, 2014''.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking ''of the Code of Federal Regulations'' each place it appears and inserting '', Code of Federal Regulations''; and

(2) in subsection (d)(6), by striking ''or the Direct'' and inserting '', or the Direct''.

SEC. 503. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking ''***by satellite carriers within local markets***'' and inserting ''***of local television programming by satellite***''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

''122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.''.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

''(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—

A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED STATIONS.—

''(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

''(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

''(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

''(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

''(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.''.

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking ''station a list'' and all that follows through the end and inserting the following: ''station—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).''; and

(2) in paragraph (2), by striking ''network a list'' and all that follows through the end and inserting the following: ''network—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.''.

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting ''FOR CERTAIN SECONDARY TRANSMISSIONS'' after ''REQUIRED''; and

(2) by striking ''subsection (a)'' and inserting ''paragraphs (1), (2), and (3) of subsection (a)''.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2), by striking ''$250,000'' each place it appears and inserting ''$2,500,000''.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking ''section 119 or'' each place it appears and inserting the following: ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to''; and

(B) in subsection (g), by striking ''section 119 or'' and inserting the following: ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or''.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking ''which contracts'' and inserting ''that contracts'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting ''NON-NETWORK STATION;'' after ''NETWORK STATION;''; and

(C) by inserting ''`non-network station','' after ''`network station','';

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

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station'

includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.'';

(5) by inserting after paragraph (4) (as redesignated) the following:

''(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term 'noncommercial educational broadcast station' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

''(6) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''.

SEC. 504. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

*(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: ''**of broadcast programming by cable**''.*

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

''111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.''.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking ''; or'' and inserting ''or section 122;''.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''A cable system whose secondary'' and inserting the following: ''STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary''; and

(ii) by striking ''by regulation—'' and inserting ''by regulation the following:'';

(B) in subparagraph (A)—

(i) by striking ''a statement of account'' and inserting ''A statement of account''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

''(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

''(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

''(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

''(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

''(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

''(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

''(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

''(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

''(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

''(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

''(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are $263,800 or less—

''(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400; and

''(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

''(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

''(i) 0.5 percent of any gross receipts up to $263,800, regardless of the number of distant signal equivalents, if any; and

''(ii) 1 percent of any gross receipts in excess of $263,800, but less than $527,600, regardless of the number of distant signal equivalents, if any.

''(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).'';

(2) in paragraph (2), in the first sentence—

(A) by striking ''The Register of Copyrights'' and inserting the following ''HANDLING OF FEES.—The Register of Copyrights''; and

(B) by inserting ''(including the filing fee specified in paragraph (1)(G))'' after ''shall receive all fees'';

(3) in paragraph (3)—

(A) by striking ''The royalty fees'' and inserting the following: ''DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees'';

(B) in subparagraph (A)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking ''; and'' and inserting a period;

(C) in subparagraph (B)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking ''any such'' and inserting ''Any such'';

(4) in paragraph (4), by striking ''The royalty fees'' and inserting the following: ''PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees''; and

(5) by adding at the end the following new paragraphs:

''(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the '3.75 percent rate' and the 'syndicated exclusivity surcharge', respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

''(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

''(A) establish procedures for the designation of a qualified independent auditor—

''(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

''(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

''(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

''(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

''(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

''(iii) provide an opportunity to remedy any disputed facts or conclusions;

''(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

''(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

''(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.''.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(1) PRIMARY TRANSMISSION.—A 'primary transmission' is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where

or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.'';

(2) in the second undesignated paragraph—

(A) by striking ''A 'secondary transmission' '' and inserting the following:

''(2) SECONDARY TRANSMISSION.—A 'secondary transmission' ''; and

(B) by striking '' 'cable system' '' and inserting ''cable system'';

(3) in the third undesignated paragraph—

(A) by striking ''A 'cable system' '' and inserting the following:

''(3) CABLE SYSTEM.—A 'cable system' ''; and

(B) by striking ''Territory, Trust Territory, or Possession'' and inserting ''territory, trust territory, or possession of the United States'';

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking ''The 'local service area of a primary transmitter', in the case of a television broadcast station, comprises the area in which such station is entitled to insist'' and inserting the following:

''(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The 'local service area of a primary transmitter', in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted'';

(B) by striking ''76.59 of title 47 of the Code of Federal Regulations'' and inserting the following: ''76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations''; and

(C) by striking ''as defined by the rules and regulations of the Federal Communications Commission,'';

(5) by amending the fifth undesignated paragraph to read as follows:

''(5) DISTANT SIGNAL EQUIVALENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a 'distant signal equivalent'—

''(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

''(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

''(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

''(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

''(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

''(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

''(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.'';

(6) by striking the sixth undesignated paragraph and inserting the following:

''(6) NETWORK STATION.—

''(A) TREATMENT OF PRIMARY STREAM.—The term 'network station' shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

''(B) TREATMENT OF MULTICAST STREAMS.—The term 'network station' shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

''(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

''(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.'';

(7) by striking the seventh undesignated paragraph and inserting the following:

''(7) INDEPENDENT STATION.—The term 'independent station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.'';

(8) by striking the eighth undesignated paragraph and inserting the following:

''(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term 'noncommercial educational station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(9) by adding at the end the following:

''(9) PRIMARY STREAM.—A 'primary stream' is—

''(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

''(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

''(10) PRIMARY TRANSMITTER.—A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

''(11) MULTICAST STREAM.—A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

''(12) SIMULCAST.—A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

''(13) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking ''2005'' each place it appears and inserting ''2015''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking ''clause'' each place it appears and inserting ''paragraph'';

(B) in subsection (c)(1), by striking ''clauses'' and inserting ''paragraphs''; and

(C) in subsection (e)(1)(F), by striking ''subclause'' and inserting ''subparagraph''.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking ''nonnetwork'' each place it appears and inserting ''non-network''.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking ''second paragraph of subsection (f)'' and inserting ''subsection (f)(2)''.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking ''and'' at the end;

(B) in paragraph (1)(B), by striking ''and'' at the end;

(C) in paragraph (1)(C), by striking ''and'' at the end;

(D) in paragraph (1)(D), by striking ''and'' at the end; and

(E) in paragraph (2)(A), by striking ''and'' at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking '', and each of its variant forms,''; and

(B) in subsection (f), by striking ''and their variant forms''.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking ''three territories'' and inserting ''five entities''.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent

value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms ''cable system'', ''secondary transmission'', ''multicast stream'', and ''local service area of a primary transmitter'' have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

''(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

''(2) LIMITED TEMPORARY WAIVER.—

''(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

''(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

''(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

''(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(II) shall result in the termination of the waiver issued under subparagraph (A).

''(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

''(I) the degree of control the carrier had over the circumstances that resulted in the failure;

''(II) the quality of the carrier's efforts to remedy the failure; and

''(III) the severity and duration of any service interruption.

''(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

''(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term 'short market' means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

''(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

''(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

''(i) an affidavit that the entity is providing local-into-local service to all DMAs;

''(ii) a request for a waiver of the injunction; and

''(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

''(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

''(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

''(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

''(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

''(A) CONTINUING OBLIGATIONS.—

''(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

''(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

''(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

''(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

''(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

''(I) Proper calculation and payment of royalties under the statutory license under this section.

''(II) Provision of service under this license to eligible subscribers only.

''(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

''(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

''(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

''(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

''(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

''(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

''(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data

released by the United States Census Bureau) at the time and place alleged.

''(5) FAILURE TO PROVIDE SERVICE.—

''(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

''(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

''(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

''(i) the degree of control the entity had over the circumstances that resulted in the failure;

''(ii) the quality of the entity's efforts to remedy the failure and restore service; and

''(iii) the severity and duration of any service interruption.

''(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

''(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

''(A) IN GENERAL.—An entity provides 'local-into-local service to all DMAs' if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

''(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

''(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term 'good quality signal' has the meaning given such term under section 342(e)(2) of Communications Act of 1934.''.

SEC. 506. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

''(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

''(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.''; and

(4) by adding at the end the following new sentence: ''Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.''.

SEC. 507. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111–118 is amended by striking ''March 28, 2010'' and inserting ''December 31, 2014''.

SEC. 508. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 521. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 522. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking ''March 28, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''March 29, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''January 1, 2015''.

SEC. 523. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

''(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

''(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.''.

(b) RULEMAKING REQUIRED.—Within 210 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking ''(3) EFFECTIVE DATE.—No satellite'' and all that follows through ''until January 1, 2002.''; and

(2) by amending subsection (g) to read as follows:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

''(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

''(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).''.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''Such two network stations'' and all that follows through ''more than two network stations.''; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking ''TO ANALOG SIGNALS'';

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking ''ANALOG'';

(II) in clause (i)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''October 1, 2004'' and inserting ''October 1, 2009'';

(III) in the heading for clause (ii), by striking ''ANALOG''; and

(IV) in clause (ii)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''2004'' and inserting ''2009'';

(iii) by amending subparagraph (B) to read as follows:

''(B) RULES FOR OTHER SUBSCRIBERS.—

''(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

''(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

''(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.'';

(iv) in subparagraph (C)—

(I) by striking ''analog'';

(II) in clause (i), by striking ''the Satellite Home Viewer Extension and Reauthorization Act of 2004; and'' and inserting the following: ''the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or''; and

(III) by amending clause (ii) to read as follows:

''(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless

such person subscribes to the signal of the local network station within 60 days after such signal is made available.'';

(v) in subparagraph (D)—

(I) in the heading, by striking ''DIGITAL'';

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

''(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

''(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

''(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

''(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.'';

(V) in clause (ii)—

(aa) by striking ''DIGITAL'' in the heading;

(bb) by striking ''digital'' the first two places such term appears;

(cc) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(dd) by striking '', whether or not such subscriber elects to subscribe to local digital signals'';

(VI) by inserting after clause (ii) the following new clause:

''(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.''; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking ''distant analog signal or'' and all that follows through ''(B), or (D))'' and inserting ''distant signal'';

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

''(A) PREDICTIVE MODEL.—Within 210 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 210 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.'';

(B) by amending paragraph (4)(A) to read as follows:

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.'';

(C) in paragraph (4)(B), by striking ''the signal intensity'' and all that follows through ''United States Code'' and inserting ''such requisite signal intensity standard''; and

(D) in paragraph (4)(E), by striking ''Grade B intensity''.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 525. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 523 and section 524 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ''local market'', ''low power television station'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of such Act.

SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

"SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

''(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

''(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

''(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

''(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

''(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

''(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

''(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

''(2) For each designated market area not listed in paragraph (1):

''(A) Identification of each such designated market area and the location of its local receive facility.

''(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

''(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's pre-launch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether

the Commission shall grant a certification under this section.

''(c) CERTIFICATION ISSUANCE.—

''(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

''(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

''(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

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

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

''(2) GOOD QUALITY SATELLITE SIGNAL.—

''(A) IN GENERAL.—The term ''good quality satellite signal'' means—

''(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

''(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

''(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

''(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

''(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

''(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

''(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.''.

SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

''(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

''(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

''(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

''(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

''(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.''.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE SATELLITE CARRIER.—The term 'eligible satellite carrier' means any satellite carrier that is not a party to a carriage contract that—

''(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

''(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.'';

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

''(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any full-power television broadcast station that—

''(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

''(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.''.

SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms ''program related'' and ''primary video'' under the Communications Act of 1934; or

(2) the meaning of the term ''multicast'' in any regulations issued by the Federal Communications Commission.

SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

*(1) by inserting ''**STATE PUBLIC AFFAIRS,**'' after ''**EDUCATIONAL,**'' in the heading;*

(2) by striking paragraph (1) and inserting the following:

''(1) CHANNEL CAPACITY REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

''(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.'';

(3) in paragraph (5), by striking ''For purposes of the subsection—'' and inserting ''For purposes of this subsection:''; and

(4) by adding at the end of paragraph (5) the following:

''(C) The term 'qualified satellite provider' means any provider of direct broadcast satellite service that—

''(i) provides the retransmission of the State public affairs networks of at least 15 different States;

''(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

''(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

''(D) The term 'State public affairs network' means a non-commercial non-broadcast network or a noncommercial educational television station—

''(i) whose programming consists of information about State government deliberations and public policy events; and

''(ii) that is operated by—

''(I) a State government or subdivision thereof;

''(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

''(III) a cable system.''.

Subtitle C—Reports and Savings Provision

SEC. 531. DEFINITION.

In this subtitle, the term ''appropriate Congressional committees'' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act

of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 535. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 526 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms ''local market'' and ''satellite carrier'' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

(a) EFFECTIVE DATE.—Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) NONINFRINGEMENT OF COPYRIGHT.—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

Subtitle D—Severability

SEC. 541. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended—

(1) in subparagraph (A), by striking ''March 31, 2010'' and inserting ''September 30, 2010''; and

(2) in subparagraph (B), by striking ''April 1, 2010'' and inserting ''October 1, 2010''.

SEC. 602. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH UNUSED CREDITS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply, then notwithstanding any other provision of law, the limitation imposed by subsection (c) for any such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means with respect to any taxable year beginning in 2010, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsections (b) and (c) of section 6401, the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not to any other subpart).

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once effective, may be revoked only with the consent of the Secretary.

''(B) INTERIM ELECTIONS.—Until such time as the Secretary prescribes a manner for making an election under this subsection, a taxpayer is treated as having made a valid election by providing written notification to the Secretary and the Commissioner of Internal Revenue of such election.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, any corporation's allocable share of any new domestic investments by a partnership more than 90 percent of the capital and profits interest in which is owned by such corporation (directly or indirectly) at all times during the taxable year in which an election under this subsection is in effect shall be considered new domestic investments of such corporation for such taxable year.

''(7) NO DOUBLE BENEFIT.—Notwithstanding clause (iii)(II) of section 172(b)(1)(H), any taxpayer which has previously made an election under such section shall be deemed to have revoked such election by the making of its first election under this subsection.

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including to prevent fraud and abuse under this subsection.

''(9) TERMINATION.—This subsection shall not apply to any taxable year that begins after December 31, 2010.''.

(b) QUICK REFUND OF REFUNDABLE CREDIT.—Section 6425 is amended by adding at the end the following new subsection:

''(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT AMOUNT.—The amount of an adjustment under this section as determined under subsection (c)(2) for any taxable year may be increased to the extent of the corporation's AMT credit adjustment amount determined under section 53(g) for such taxable year.''.

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

SEC. 603. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any individual, including any individual who is an active member of the uniformed services, if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

''(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

''(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 604. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

SEC. 605. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 606. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) CONFORMING AMENDMENTS.—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3913, 3919) are each amended by striking''January 1, 2011'' each place it appears and inserting ''January 1, 2012''.

SEC. 607. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) IN GENERAL.—Section 6331(h)(3) is amended by striking ''goods or services'' and inserting ''property, goods, or services''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies approved after the date of the enactment of this Act.

SEC. 608. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

Subsection (n) of section 42, as added by section 121, is amended to read as follows:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

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

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), plus any increase in the State housing credit ceiling for 2010 made by reason of section 1400N(c) (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, plus any increase in the State housing credit ceiling for 2010 made by reason of the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i).

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

SEC. 609. LOW-INCOME HOUSING GRANT ELECTION.

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting '', plus any increase in the State housing credit ceiling for 2009 attributable to any State housing credit ceiling returned in 2009 to the State by reason of section 1400N(c) of such Code (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any increase in the State housing credit ceiling for 2009 attributable to any additional State housing credit ceiling made by reason of the application of such section 702(d)(2) and 704(b)'' after ''such section'' in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by subsection (a), is amended by adding at the end the following flush sentence:

''For purposes of paragraph (1)(B), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) of such Code shall be applied without regard to clause (i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

SEC. 610. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

SEC. 611. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (4) of section 25C(c) is amended by striking ''unless'' and all that follows and inserting ''unless—

''(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Workers, State, and Business Relief Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows,

Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

''(B) in the case of any component placed in service after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 612. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 613. EXTENSION OF SPECIAL ALLOWANCE FOR CERTAIN PROPERTY.

(a) IN GENERAL.—Section 15345(d)(1)(D) of the Food Conservation and Energy Act of 2008 (Public Law 110–246) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Section 15345(d)(1)(F) of such Act is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 15345 of the Food Conservation and Energy Act of 2008.

SEC. 614. APPLICATION OF BAD CHECKS PENALTY TO ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 6657 is amended—

(1) by striking ''If any check or money order in payment of any amount'' and inserting ''If any instrument in payment, by any commercially acceptable means, of any amount'', and

(2) by striking ''such check'' each place it appears and inserting ''such instrument''.

(b) EFFECTIVE DATES.—The amendments made by this section shall apply to instruments tendered after the date of the enactment of this Act.

SEC. 615. GRANTS FOR ENERGY EFFICIENT APPLIANCES IN LIEU OF TAX CREDIT.

In the case of any taxable year which includes the last day of calendar year 2009 or calendar year 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for 2009 and 2010, but once made shall be irrevocable.

SEC. 616. BUDGETARY EFFECTS OF LEGISLATION PASSED BY THE SENATE.

(a) ESTABLISHMENT OF WEB PAGE.—

(1) IN GENERAL.—Not later than 90 days after the enactment of this Act, the Secretary of the Senate shall establish on the official website of the United States Senate (www.senate.gov) a page entitled ''Information on the Budgetary Effects of Legislation Considered by the Senate'' which shall include—

(A) links to appropriate pages on the website of the Congressional Budget Office (www.cbo.gov) that contain cost estimates of legislation passed by the Senate; and

(B) as available, links to pages with any other information produced by the Congressional Budget Office that summarize or further explain the budgetary effects of legislation considered by the Senate.

(2) UPDATES.—The Secretary of the Senate shall update this page every 3 months.

(b) CBO REQUIREMENTS.—Nothing in this section shall be construed as imposing any new requirements on the Congressional Budget Office.

SEC. 617. SENATE SPENDING DISCLOSURE.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SEC. 618. ALLOCATION OF GEOTHERMAL RECEIPTS.

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

SEC. 619. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) MARKET-RELATED CONTRACT EXTENSION OPTION.—Upon a timber purchaser's written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) REPORTING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(d) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(e) NO SURRENDER OF CLAIMS.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

SEC. 620. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(B) by striking ''Not later than'' and inserting the following:

''(1) DEFINITION.—In this subsection, the term 'covered program' means a program for which funds are appropriated under this division—

''(A) in an amount that is—

''(i) more than $2,000,000,000; and

''(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

''(B) that did not exist before the date of enactment of this Act.

''(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

''(A) a description of the goals for the covered program using recovery funds;

''(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

''(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

''(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

''(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

''(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

''(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

''(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

''(i) discusses the progress of the agency in implementing the plan;

''(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

''(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

''(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

''(v) discusses—

''(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

''(II) if the covered program has failed to meet the milestones, the reasons why; and

''(III) any changes in the milestones for the covered program, including the reasons for the change;

''(vi) discusses the performance of the covered program, including—

''(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

''(II) if the covered program has failed to meet the performance measures, the reasons why; and

''(III) any trends in information relating to the performance of the covered program; and

''(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.'';

(2) in subsection (f)—

(A) by striking ''Within 180 days'' and inserting the following:

''(1) IN GENERAL.—Within 180 days''; and

(B) by adding at the end the following:

''(2) PENALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the Attorney General may bring a civil action in an appropriate United States district court against a recipient of recovery funds from an agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

''(B) NOTIFICATION.—

''(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

''(ii) LIMITATION.—A court may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

''(C) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court shall consider—

''(i) the number of times the recipient has failed to provide the information required under subsection (c);

''(ii) the amount of recovery funds provided to the recipient;

''(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

''(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

''(D) APPLICABILITY.—This paragraph shall apply to any report required to be submitted on or after the date of enactment of this paragraph.

''(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

''(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

''(4) PUBLIC LISTING.—

''(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information required under subsection (c) for the calendar quarter.

''(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the Board, the reason for noncompliance.

''(5) REGULATIONS AND REPORTING.—

''(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

''(B) REPORTING.—

''(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include—

''(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

''(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

''(III) any other information determined appropriate by the Director.''; and

(3) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

SEC. 621. GAO STUDY.

Not later than 180 days after the date of enactment of this Act, the Comptroller General shall report to Congress detailing—

(1) the pattern of job loss in the New England and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

SEC. 622. EXTENSION AND MODIFICATION OF SECTION 45 CREDIT FOR REFINED COAL FROM STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)'', and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 623. MODIFICATIONS TO MINE RESCUE TEAM TRAINING CREDIT AND ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

(a) MINE RESCUE TEAM TRAINING CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4) is amended—

(1) by redesignating clauses (vi), (vii), and (viii) as clauses (vii), (viii), and (ix), respectively, and

(2) by inserting after clause (v) the following new clause:

''(vi) the credit determined under section 45N,''.

(b) ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT ALLOWABLE AGAINST AMT.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) SPECIAL RULE FOR ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.—Clause (i) shall not apply to amounts deductible under section 179E.''.

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

SEC. 624. APPLICATION OF CONTINUOUS LEVY TO EMPLOYMENT TAX LIABILITY OF CERTAIN FEDERAL CONTRACTORS.

(a) IN GENERAL.—Section 6330(h) is amended by inserting ''or if the person subject to the levy (or any predecessor thereof) is a Federal contractor that was identified as owing such employment taxes through the Federal Payment Levy Program'' before the period at the end of the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies issued after December 31, 2010.

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—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.

(b) EMERGENCY DESIGNATION.—Sections 201, 211, and 232 of this Act are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, sections 201, 211, and 232 of this Act are designated as an emergency for purposes of pay-as-you-go principles.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Levin moves that the House concur in the Senate amendment to H.R. 4213 with the amendment printed in part A of House Report 111–497, as modified by the amendment printed in part B of House Report 111–497 and the further amendment in section 2 of House Resolution 1403.

The SPEAKER pro tempore. The House amendment to the Senate amendment to the bill H.R. 4213 contains:

an emergency designation for the purposes of pay-as-you-go principles under clause 10(c) of rule XXI; and

an emergency designation pursuant to section 4(g)(1) of the Statutory Pay-As-You-Go Act of 2010.

Accordingly, the Chair must put the question of consideration under clause 10(c)(3) of rule XXI and under section 47(g)(2) of the Statutory Pay-As-You-Go Act of 2010.

The question is, Will the House now consider the motion to concur in the Senate amendment with an amendment?

The question of consideration was decided in the affirmative.

The SPEAKER pro tempore. Pursuant to House Resolution 1403, the amendment printed in part A of House Report 111–497 as modified by the amendment printed in part B of the report and by the amendment printed in section 2 of House Resolution 1403 shall be considered as read.

The text of the House amendment to the Senate amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

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

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs and Closing Tax Loopholes Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in titles I, II, and IV of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

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

TITLE I—INFRASTRUCTURE INCENTIVES

Sec. 101. Extension of Build America Bonds.
Sec. 102. Exempt-facility bonds for sewage and water supply facilities.
Sec. 103. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
Sec. 104. Extension and additional allocations of recovery zone bond authority.
Sec. 105. Allowance of new markets tax credit against alternative minimum tax.
Sec. 106. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.
Sec. 107. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

Sec. 201. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.
Sec. 202. Incentives for biodiesel and renewable diesel.
Sec. 203. Credit for electricity produced at certain open-loop biomass facilities.
Sec. 204. Extension and modification of credit for steel industry fuel.
Sec. 205. Credit for producing fuel from coke or coke gas.
Sec. 206. New energy efficient home credit.
Sec. 207. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
Sec. 208. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
Sec. 209. Suspension of limitation on percentage depletion for oil and gas from marginal wells.
Sec. 210. Direct payment of energy efficient appliances tax credit.
Sec. 211. Modification of standards for windows, doors, and skylights with respect to the credit for nonbusiness energy property.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 222. Additional standard deduction for State and local real property taxes.
Sec. 223. Deduction of State and local sales taxes.
Sec. 224. Contributions of capital gain real property made for conservation purposes.
Sec. 225. Above-the-line deduction for qualified tuition and related expenses.
Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

PART II—LOW-INCOME HOUSING CREDITS

Sec. 231. Election for direct payment of low-income housing credit for 2010.

Subtitle C—Business Tax Relief

Sec. 241. Research credit.
Sec. 242. Indian employment tax credit.
Sec. 243. New markets tax credit.
Sec. 244. Railroad track maintenance credit.
Sec. 245. Mine rescue team training credit.
Sec. 246. Employer wage credit for employees who are active duty members of the uniformed services.
Sec. 247. 5-year depreciation for farming business machinery and equipment.
Sec. 248. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 249. 7-year recovery period for motorsports entertainment complexes.
Sec. 250. Accelerated depreciation for business property on an Indian reservation.
Sec. 251. Enhanced charitable deduction for contributions of food inventory.
Sec. 252. Enhanced charitable deduction for contributions of book inventories to public schools.
Sec. 253. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
Sec. 254. Election to expense mine safety equipment.
Sec. 255. Special expensing rules for certain film and television productions.
Sec. 256. Expensing of environmental remediation costs.
Sec. 257. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 258. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 259. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
Sec. 260. Timber REIT modernization.
Sec. 261. Treatment of certain dividends of regulated investment companies.
Sec. 262. RIC qualified investment entity treatment under FIRPTA.
Sec. 263. Exceptions for active financing income.
Sec. 264. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Sec. 265. Basis adjustment to stock of S corps making charitable contributions of property.
Sec. 266. Empowerment zone tax incentives.
Sec. 267. Tax incentives for investment in the District of Columbia.
Sec. 268. Renewal community tax incentives.
Sec. 269. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
Sec. 270. Payment to American Samoa in lieu of extension of economic development credit.
Sec. 271. Election to temporarily utilize unused AMT credits determined by domestic investment.
Sec. 272. Study of extended tax expenditures.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

Sec. 281. Waiver of certain mortgage revenue bond requirements.
Sec. 282. Losses attributable to federally declared disasters.
Sec. 283. Special depreciation allowance for qualified disaster property.
Sec. 284. Net operating losses attributable to federally declared disasters.
Sec. 285. Expensing of qualified disaster expenses.

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

Sec. 291. Special depreciation allowance for nonresidential and residential real property.
Sec. 292. Tax-exempt bond financing.

SUBPART B—GO ZONE

Sec. 295. Increase in rehabilitation credit.
Sec. 296. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.
Sec. 297. Extension of low-income housing credit rules for buildings in GO zones.

TITLE III—PENSION PROVISIONS

Subtitle A—Pension Funding Relief

PART 1—SINGLE-EMPLOYER PLANS

Sec. 301. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.
Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.
Sec. 303. Suspension of certain funding level limitations.
Sec. 304. Lookback for credit balance rule.
Sec. 305. Information reporting.
Sec. 306. Rollover of amounts received in airline carrier bankruptcy.

PART 2—MULTIEMPLOYER PLANS

Sec. 311. Optional use of 30-year amortization periods.
Sec. 312. Optional longer recovery periods for multiemployer plans in endangered or critical status.
Sec. 313. Modification of certain amortization extensions under prior law.
Sec. 314. Alternative default schedule for plans in endangered or critical status.
Sec. 315. Transition rule for certifications of plan status.

Subtitle B—Fee Disclosure

Sec. 321. Short title of subtitle.
Sec. 322. Amendments to the Employee Retirement Income Security Act of 1974.
Sec. 323. Amendments to the Internal Revenue Code of 1986.
Sec. 324. Regulatory authority and coordination.
Sec. 325. Effective date of subtitle.

TITLE IV—REVENUE OFFSETS

Subtitle A—Foreign Provisions

Sec. 401. Rules to prevent splitting foreign tax credits from the income to which they relate.
Sec. 402. Denial of foreign tax credit with respect to foreign income not subject to United States taxation by reason of covered asset acquisitions.
Sec. 403. Separate application of foreign tax credit limitation, etc., to items resourced under treaties.
Sec. 404. Limitation on the amount of foreign taxes deemed paid with respect to section 956 inclusions.
Sec. 405. Special rule with respect to certain redemptions by foreign subsidiaries.
Sec. 406. Modification of affiliation rules for purposes of rules allocating interest expense.
Sec. 407. Termination of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
Sec. 408. Source rules for income on guarantees.
Sec. 409. Limitation on extension of statute of limitations for failure to notify Secretary of certain foreign transfers.

Subtitle B—Personal Service Income Earned in Pass-thru Entities

Sec. 411. Partnership interests transferred in connection with performance of services.
Sec. 412. Income of partners for performing investment management services treated as ordinary income received for performance of services.
Sec. 413. Employment tax treatment of professional service businesses.

Subtitle C—Corporate Provisions

Sec. 421. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
Sec. 422. Taxation of boot received in reorganizations.

Subtitle D—Other Provisions

Sec. 431. Modifications with respect to Oil Spill Liability Trust Fund.
Sec. 432. Time for payment of corporate estimated taxes.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

Sec. 501. Extension of unemployment insurance provisions.
Sec. 502. Coordination of emergency unemployment compensation with regular compensation.
Sec. 503. Extension of the Emergency Contingency Fund.

Subtitle B—Health Provisions

Sec. 511. Extension of section 508 reclassifications.
Sec. 512. Repeal of delay of RUG-IV.
Sec. 513. Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
Sec. 514. Funding for claims reprocessing.
Sec. 515. Medicaid and CHIP technical corrections.
Sec. 516. Addition of inpatient drug discount program to 340B drug discount program.
Sec. 517. Continued inclusion of orphan drugs in definition of covered outpatient drugs with respect to children's hospitals under the 340B drug discount program.
Sec. 518. Conforming amendment related to waiver of coinsurance for preventive services.
Sec. 519. Establish a CMS–IRS data match to identify fraudulent providers.
Sec. 520. Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries.
Sec. 521. Physician payment update.
Sec. 522. Adjustment to Medicare payment localities.
Sec. 523. Clarification of 3-day payment window.

TITLE VI—OTHER PROVISIONS

Sec. 601. Extension of national flood insurance program.
Sec. 602. Allocation of geothermal receipts.
Sec. 603. Small business loan guarantee enhancement extensions.
Sec. 604. Emergency agricultural disaster assistance.
Sec. 605. Summer employment for youth.
Sec. 606. Housing Trust Fund.
Sec. 607. The Individual Indian Money Account Litigation Settlement Act of 2010.
Sec. 608. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.
Sec. 609. Expansion of eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all chapter 61 disability retirees regardless of disability rating percentage or years of service.
Sec. 610. Extension of use of 2009 poverty guidelines.
Sec. 611. Refunds disregarded in the administration of Federal programs and federally assisted programs.
Sec. 612. State court improvement program.
Sec. 613. Qualifying timber contract options.
Sec. 614. Extension and flexibility for certain allocated surface transportation programs.
Sec. 615. Community College and Career Training Grant Program.
Sec. 616. Extensions of duty suspensions on cotton shirting fabrics and related provisions.
Sec. 617. Modification of Wool Apparel Manufacturers Trust Fund.
Sec. 618. Department of Commerce Study.
Sec. 619. ARRA planning and reporting.

TITLE VII—BUDGETARY PROVISIONS

Sec. 701. Budgetary provisions.

TITLE I—INFRASTRUCTURE INCENTIVES

SEC. 101. EXTENSION OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 54AA(d)(1) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

(b) EXTENSION OF PAYMENTS TO ISSUERS.—

(1) IN GENERAL.—Section 6431 is amended—

(A) by striking ''January 1, 2011'' in subsection (a) and inserting ''January 1, 2013''; and

(B) by striking ''January 1, 2011'' in subsection (f)(1)(B) and inserting ''a particular date''.

(2) CONFORMING AMENDMENTS.—Subsection (g) of section 54AA is amended—

(A) by striking ''January 1, 2011'' and inserting ''January 1, 2013''; and

(B) by striking ''QUALIFIED BONDS ISSUED BEFORE 2011'' in the heading and inserting ''CERTAIN QUALIFIED BONDS''.

(c) REDUCTION IN PERCENTAGE OF PAYMENTS TO ISSUERS.—Subsection (b) of section 6431 is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(2) by striking ''35 percent'' and inserting ''the applicable percentage''; and

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

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

''In the case of a qualified bond issued during calendar year:	*The applicable percentage is:*
2009 or 2010	*35 percent*

''In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2011	32 percent
2012	30 percent.''.

(d) CURRENT REFUNDINGS PERMITTED.—Subsection (g) of section 54AA is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CURRENT REFUNDING BONDS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified bond' includes any bond (or series of bonds) issued to refund a qualified bond if—

''(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

''(B) APPLICABLE PERCENTAGE.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

''(C) DETERMINATION OF AVERAGE MATURITY.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).''.

(e) CLARIFICATION RELATED TO LEVEES AND FLOOD CONTROL PROJECTS.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting ''(including capital expenditures for levees and other flood control projects)'' after ''capital expenditures''.

SEC. 102. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—

(1) IN GENERAL.—Paragraph (3) of section 146(g) is amended by inserting ''(4), (5),'' after ''(2),''.

(2) CONFORMING AMENDMENT.—Paragraphs (2) and (3)(B) of section 146(k) are both amended by striking ''(4), (5), (6),'' and inserting ''(6)''.

(b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (c) of section 7871 is amended by adding at the end the following new paragraph:

''(4) EXCEPTION FOR BONDS FOR WATER AND SEWAGE FACILITIES.—Paragraph (2) shall not apply to an exempt facility bond 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide facilities described in paragraph (4) or (5) of section 142(a).''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 103. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

SEC. 104. EXTENSION AND ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY.

(a) EXTENSION OF RECOVERY ZONE BOND AUTHORITY.—Section 1400U–2(b)(1) and section 1400U–3(b)(1)(B) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section 1400U–1 is amended by adding at the end the following new subsection:

''(c) ALLOCATION OF 2010 RECOVERY ZONE BOND LIMITATIONS BASED ON UNEMPLOYMENT.—

''(1) IN GENERAL.—The Secretary shall allocate the 2010 national recovery zone economic development bond limitation and the 2010 national recovery zone facility bond limitation among the States in the proportion that each such State's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

''(2) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under paragraph (1) for each State to the extent necessary to ensure that no State (prior to any reduction under paragraph (3)) receives less than 0.9 percent of the 2010 national recovery zone economic development bond limitation and 0.9 percent of the 2010 national recovery zone facility bond limitation.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities (as defined in subsection (a)(3)(B)) in such State in the proportion that each such county's or municipality's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all the counties and large municipalities (as so defined) in such State.

''(B) 2010 ALLOCATION REDUCED BY AMOUNT OF PREVIOUS ALLOCATION.—Each State shall reduce (but not below zero)—

''(i) the amount of the 2010 national recovery zone economic development bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone economic development bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof), and

''(ii) the amount of the 2010 national recovery zone facility bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone facility bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof).

''(C) WAIVER OF SUBALLOCATIONS.—A county or municipality may waive any portion of an allocation made under this paragraph. A county or municipality shall be treated as having waived any portion of an allocation made under this paragraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.

''(D) SPECIAL RULE FOR A MUNICIPALITY IN A COUNTY.—In the case of any large municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) 2009 UNEMPLOYMENT NUMBER.—For purposes of this subsection, the term '2009 unemployment number' means, with respect to any State, county or municipality, the number of individuals in such State, county, or municipality who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

''(5) 2010 NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—The 2010 national recovery zone economic development bond limitation is $10,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–2 in the same manner as an allocation of national recovery zone economic development bond limitation.

''(B) RECOVERY ZONE FACILITY BONDS.—The 2010 national recovery zone facility bond limitation is $15,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–3 in the same manner as an allocation of national recovery zone facility bond limitation.''.

(c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009 ALLOCATIONS.—Subparagraph (A) of section 1400U–1(a)(3) is amended by adding at the end the following: ''A county or municipality shall be treated as having waived any portion of an allocation made under this subparagraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.''.

SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Patient Protection and Affordable Care Act, is amended by redesignating clauses (v) through (ix) as clauses (vi) through (x), respectively, and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 45D, but only with respect to credits determined with respect to qualified equity investments (as defined in section 45D(b)) initially made before January 1, 2012,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined with respect to qualified equity investments (as defined in section 45D(b) of the Internal Revenue Code of 1986) initially made after March 15, 2010.

SEC. 106. EXTENSION OF TAX-EXEMPT ELIGIBILITY FOR LOANS GUARANTEED BY FEDERAL HOME LOAN BANKS.

Clause (iv) of section 149(b)(3)(A) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER RULES FOR ALLOCATION OF TAX-EXEMPT INTEREST EXPENSE BY FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Clauses (i), (ii), and (iii) of section 265(b)(3)(G) are each amended by striking ''or 2010'' and inserting '', 2010, or 2011''.

(b) CONFORMING AMENDMENT.—Subparagraph (G) of section 265(b)(3) is amended by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 203. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended—

(1) by striking ''5-year period'' and inserting ''6-year period''; and

(2) by adding at the end the following: ''In the case of the last year of the 6-year period described in the preceding sentence, the credit determined under subsection (a) with respect to electricity produced during such year shall not exceed 80 percent of such credit determined without regard to this sentence.''.

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

SEC. 204. EXTENSION AND MODIFICATION OF CREDIT FOR STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)''; and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 206. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of paragraph (2), and

''(C) December 31, 2009, in any other case.''.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of subsection (d)(2), and

''(C) December 31, 2009, in any other case.''.

(c) PAYMENT AUTHORITY.—

(1) IN GENERAL.—Paragraph (6) of section 6427(e) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting ''or (E)'' after ''subparagraph (D)''.

(d) EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

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

SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) MODIFICATION OF DEFINITION OF INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Clause (i) of section 451(i)(4)(B) is amended to read as follows:

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order—

''(I) is not itself a market participant as determined by the Commission, and also is not controlled by any such market participant, or

''(II) to be independent from market participants or to be an independent transmission company within the meaning of such Commission's rules applicable to independent transmission providers, and''.

(2) RELATED PERSONS.—Paragraph (4) of section 451(i) is amended by adding at the end the following flush sentence:

''For purposes of subparagraph (B)(i)(I), a person shall be treated as controlled by another person if such persons would be treated as a single employer under section 52.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 2009.

(2) MODIFICATIONS.—The amendments made by subsection (b) shall apply to dispositions after the date of the enactment of this Act.

SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLIANCES TAX CREDIT.

In the case of any taxable year which includes the last day of calendar year 2009 or calendar year 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for 2009 and 2010, but once made shall be irrevocable. No amount shall be includible in gross income or alternative minimum taxable income by reason of this section.

SEC. 211. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (4) of section 25C(c) is amended by striking ''unless'' and all that follows and inserting ''unless—

''(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

''(B) in the case of any component placed in service after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 221. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

SEC. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

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

SEC. 223. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 224. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 225. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

(c) TEMPORARY COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS.—In the case of any taxpayer for any taxable year beginning in 2010, no deduction shall be allowed under section 222 of the Internal Revenue Code of 1986 if—

(1) the taxpayer's net Federal income tax reduction which would be attributable to such deduction for such taxable year, is less than

(2) the credit which would be allowed to the taxpayer for such taxable year under section 25A of such Code (determined without regard to sections 25A(e) and 26 of such Code).

SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR DIRECT PAYMENT OF CREDIT.—

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

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

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

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

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36C,''.

Subtitle C—Business Tax Relief

SEC. 241. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 243. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

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

SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 105, is amended—

(1) by redesignating clauses (vii) through (x) as clauses (viii) through (xi), respectively; and

(2) by inserting after clause (vi) the following new clause:

''(vii) the credit determined under section 45N,''.

(c) EFFECTIVE DATE.—

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

(2) ALLOWANCE AGAINST AMT.—The amendments made by subsection (b) shall apply to credits determined for taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 247. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

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

(b) CONFORMING AMENDMENTS.—

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 249. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 250. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 251. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 255. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

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

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years''; and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 260. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking ''means'' and all that follows and inserting ''means December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking ''the first taxable year beginning after the date of the enactment of this subparagraph'' and inserting ''a taxable year beginning on or before the termination date''.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting ''in taxable years beginning'' after ''dispositions''.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting ''in a taxable year beginning'' after ''sale''.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting ''in a taxable year beginning'' after ''In the case of a sale''.

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

SEC. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 263. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 266. EMPOWERMENT ZONE TAX INCENTIVES.

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

(1) by striking ''December 31, 2009'' in subsection (d)(1)(A)(i) and inserting ''December 31, 2010''; and

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

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

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

SEC. 267. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

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

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

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

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 268. RENEWAL COMMUNITY TAX INCENTIVES.

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

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010''; and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014' ''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking ''after 2001 and before 2010'' and inserting ''which begins after 2001 and before the date referred to in subsection (g)''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

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

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

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

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

SEC. 269. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EXTENSION OF ECONOMIC DEVELOPMENT CREDIT.

The Secretary of the Treasury (or his designee) shall pay $18,000,000 to the Government of American Samoa for purposes of economic development. The payment made under the preceding sentence shall be treated for purposes of section 1324 of title 31, United States Code, as a refund of internal revenue collections to which such section applies.

SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH NEW DOMESTIC INVESTMENTS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply for its first taxable year beginning after December 31, 2009, the limitation imposed by subsection (c) for such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit for its first taxable year beginning after December 31, 2009, determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsection (b) of section 6401, the aggregate increase in the credits allowable under this part for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C (and not under any other subpart). For purposes of section 6425, any amount treated as so allowed shall be treated as a payment of estimated income tax for the taxable year.

''(5) ELECTION.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once made, may be revoked only with the consent of the Secretary. Not later than 90 days after the date of the enactment of this subsection, the Secretary shall issue guidance specifying such time and manner.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, a corporation shall take into account its allocable share of any new domestic investments by a partnership for any taxable year if, and only if, more than 90 percent of the capital and profits interests in such partnership are owned by such corporation (directly or indirectly) at all times during such taxable year.

''(7) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—A corporation making an election under this subsection may not make an election under subparagraph (H) of section 172(b)(1).

''(B) SPECIAL RULES WITH RESPECT TO TAXPAYERS PREVIOUSLY ELECTING APPLICABLE NET OPERATING LOSSES.— In the case of a corporation which made an election under subparagraph (H) of section 172(b)(1) and elects the application of this subsection—

''(i) ELECTION OF APPLICABLE NET OPERATING LOSS TREATED AS REVOKED.—The election under such subparagraph (H) shall (notwithstanding clause (iii)(II) of such subparagraph) be treated as having been revoked by the taxpayer.

''(ii) COORDINATION WITH PROVISION FOR EXPEDITED REFUND.—The amount otherwise treated as a payment of estimated income tax under the last sentence of paragraph (4) shall be reduced (but not below zero) by the aggregate increase in unpaid tax liability determined under this chapter by reason of the revocation of the election under clause (i).

''(iii) APPLICATION OF STATUTE OF LIMITATIONS.—With respect to the revocation of an election under clause (i)—

''(I) the statutory period for the assessment of any deficiency attributable to such revocation shall not expire before the end of the 3-year period beginning on the date of the election to have this subsection apply, and

''(II) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(C) EXCEPTION FOR ELIGIBLE SMALL BUSINESSES.—Subparagraphs (A) and (B) shall not apply to an eligible small business as defined in section 172(b)(1)(H)(v)(II).

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including to prevent fraud and abuse under this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting ''53(g),'' after ''53(e),''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''53(g),'' after ''53(e),''.

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

SEC. 272. STUDY OF EXTENDED TAX EXPENDITURES.

(a) FINDINGS.—Congress finds the following:

(1) Currently, the aggregate cost of Federal tax expenditures rivals, or even exceeds, the amount of total Federal discretionary spending.

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.

(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

(b) REQUIREMENT TO REPORT.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this title.

(c) ROLLING SUBMISSION OF REPORTS.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) in order of the tax expenditure incurring the least aggregate cost to the greatest aggregate cost (determined by reference to the cost estimate of this Act by the Joint Committee on Taxation). Thereafter, such reports may be submitted in such order as the Chief of Staff determines appropriate.

(d) CONTENTS OF REPORT.—Such reports shall contain the following:

(1) An explanation of the tax expenditure and any relevant economic, social, or other context under which it was first enacted.

(2) A description of the intended purpose of the tax expenditure.

(3) An analysis of the overall success of the tax expenditure in achieving such purpose, and evidence supporting such analysis.

(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

(5) A description of the direct and indirect beneficiaries of the tax expenditure, including identifying any unintended beneficiaries.

(6) An analysis of whether the tax expenditure is the most cost-effective method for achieving the purpose for which it was intended, and a description of any more cost-effective methods through which such purpose could be accomplished.

(7) A description of any unintended effects of the tax expenditure that are useful in understanding the tax expenditure's overall value.

(8) An analysis of how the tax expenditure could be modified to better achieve its original purpose.

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

(10) A description of any unavailable information the staff of the Joint Committee on Taxation may need to complete a more thorough examination and analysis of the tax expenditure, and what must be done to make such information available.

(e) MINIMUM ANALYSIS BY DEADLINE.—In the event the Chief of Staff of the Joint Committee on Taxation concludes it will not be feasible to complete all reports by the date specified in subsection (a), at a minimum, the reports for each tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) shall be completed by such date.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

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

SEC. 282. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

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

SEC. 283. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

SEC. 284. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 285. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 292. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

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

Subpart B—GO Zone

SEC. 295. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

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

SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

SEC. 297. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

TITLE III—PENSION PROVISIONS

Subtitle A—Pension Funding Relief

PART 1—SINGLE-EMPLOYER PLANS

SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) ERISA AMENDMENTS.—

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

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be determined without regard to this subparagraph.

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

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

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 of the Internal Revenue Code of 1986,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 430(k) of such Code, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c).

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as such Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

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

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

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

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

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

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

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

''(bb) CAP TO APPLY.—If any amount treated as an installment acceleration amount under item (aa) or this item with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to subclause (II)) with respect to the plan year, exceeds the limitation under subclause (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.

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after 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 subparagraph (D)(iii)).

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

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

''(AA) 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

''(BB) $1,000,000, plus

''(bb) the amount of assets 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, during the calendar year 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.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, 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 the Internal Revenue Code of 1986 for the taxable year ending during such calendar year, and the term 'remuneration' shall include earned income of such an individual.

''(IV) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—There shall not be taken into account under subclause (I)(aa) any remuneration consisting of nonqualified deferred compensation, restricted stock (or restricted stock units), 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.

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) 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.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

''(bb) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 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 $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(IV) 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 subclause (I).

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 of the Internal Revenue Code of 1986 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(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 applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

''(bb) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the applicable plan year, the 5-year period beginning with such plan 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 subparagraph (D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this subparagraph 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 clause (i) (determined without regard to this subparagraph).

''(G) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of subparagraphs (D) and (F) in any case where there is a merger or acquisition involving a plan sponsor making the election under subparagraph (D).

''(H) REGULATIONS AND GUIDANCE.—The Secretary of the Treasury may prescribe such regulations and other guidance of general applicability as such Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

''(k) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 303(c)(2)(D) in connection with a single-employer plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A); and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 303(c)(2)(F)(iii)(I))—

''(i) an explanation of section 303(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f).

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant. The Secretary of the Treasury shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(4) EFFECT OF EGREGIOUS FAILURE.—

''(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any election, such election shall be treated as having not been made.

''(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is in the control of the plan sponsor and is—

''(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

''(ii) a failure to provide most of the participants and beneficiaries with most of the information they are entitled to receive under this subsection, or

''(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

''(5) USE OF NEW TECHNOLOGIES.—The Secretary of the Treasury may, in consultation with the Secretary, by regulations or other guidance of general applicability, allow any notice under this subsection to be provided using new technologies.''.

(C) SUBSEQUENT SUPPLEMENTAL NOTICES.—Section 101(f)(2)(C) of such Act (29 U.S.C. 1021(f)(2)(C)) is amended—

(i) by striking ''and'' at the end of clause (i);

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following new clause:

''(ii) any excess employee compensation amounts and any dividends and redemptions amounts determined under section 303(c)(2)(F) for the preceding plan year with respect to the plan, and''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 303(j)(3) of such Act (29 U.S.C. 1083(j)(3)) is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Section 303(c)(1) of such Act (29 U.S.C. 1083(c)(1)) is amended 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''.

(b) IRC AMENDMENTS.—

(1) IN GENERAL.—Section 430(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following subparagraphs:

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be determined without regard to this subparagraph.

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

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

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 303(k) of the Employee Retirement Income Security Act of 1974, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c) of such Act.

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as the Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

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

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

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

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

''(bb) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application

of subparagraph (D) (and in the case of any preceding plan year, after application of this subparagraph).

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

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

''(bb) CAP TO APPLY.—If any amount treated as an installment acceleration amount under item (aa) or this item with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to subclause (II)) with respect to the plan year, exceeds the limitation under subclause (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.

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after 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 subparagraph (D)(iii)).

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

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

''(AA) the aggregate amount includible in income under chapter 1 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

''(BB) $1,000,000, plus

''(bb) the amount of assets 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, during the calendar year 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.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, 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 'remuneration' shall include earned income of such an individual.

''(IV) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—There shall not be taken into account under subclause (I) any remuneration consisting of nonqualified deferred compensation, restricted stock (or restricted stock units), 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.

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) 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.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i)) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

''(bb) 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 $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(IV) 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 subclause (I).

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) PLAN SPONSOR.—The term 'plan sponsor' includes any group of which the plan sponsor is a member and which is treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(II) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

''(bb) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the applicable plan year, the 5-year period beginning with such plan 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 subparagraph (D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this subparagraph 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 clause (i) (determined without regard to this subparagraph).

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

''(H) REGULATIONS AND GUIDANCE.—The Secretary may prescribe such regulations and other guidance of general applicability as the Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 4980F of such Code is amended—

(i) by striking ''subsection (e)'' each place it appears in subsection (a) and paragraphs (1) and (3) of subsection (c) and inserting ''subsections (e) and (f)'';

(ii) by striking ''subsection (e)'' in subsection (c)(2)(A) and inserting ''subsection (e), (f), or both, as the case may be''; and

(iii) by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 430(c)(2)(D) in connection with a plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and

beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A) of the Employee Retirement Income Security Act of 1974; and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 430(c)(2)(F)(iii)(I))—

''(i) an explanation of section 430(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f) of the Employee Retirement Income Security Act of 1974.

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations or other guidance of general applicability prescribed by the Secretary) to allow plan participants and beneficiaries to understand the effect of the election. The Secretary shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.''.

(B) CONFORMING AMENDMENT.—Subsection (g) of section 4980F of such Code is amended by inserting ''or (f)'' after ''subsection (e)''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 430(j)(3) of such Code is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Paragraph (1) of section 430(c) of such Code is amended 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''.

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

SEC. 302. 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 FUNDING RELIEF TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) ALTERNATIVE ELECTIONS.—

''(1) IN GENERAL.—Subject to this section, a plan sponsor of a plan to which section 104, 105, or 106 of this Act applies may either elect the application of subsection (b) with respect to the plan for not more than 2 applicable plan years or elect the application of subsection (c) with respect to the plan for 1 applicable plan year.

''(2) ELIGIBILITY FOR ELECTIONS.—An election may be made by a plan sponsor under paragraph (1) with respect to a plan only if at the time of the election—

''(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(B) there are no accumulated funding deficiencies (as defined in section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the enactment of this Act) or in section 412(a) of the Internal Revenue Code of 1986 (as so in effect)) with respect to the plan,

''(C) there is no lien in favor of the plan under section 302(d) (as so in effect) or under section 412(n) of such Code (as so in effect), and

''(D) a distress termination has not been initiated for the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974.

''(b) ALTERNATIVE ADDITIONAL FUNDING CHARGE.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of the Internal Revenue Code of 1986 (as so in effect)—

''(1) the deficit reduction contribution under paragraph (2) of such section 302(d) and paragraph (2) of such section 412(l) for such plan for any applicable plan year, shall be zero, and

''(2) the additional funding charge under paragraph (1) of such section 302(d) and paragraph (1) of such section 412(l) for such plan for any applicable plan year shall be increased by an amount equal to the installment acceleration amount (as defined in sections 303(c)(2)(F)(iii)(I) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 430(c)(2)(F)(iii)(I) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined by treating the later of such plan year or the first plan year beginning after December 31, 2009, as the restriction period.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of such Act (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of such Code (as so in effect)—

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

''(A) the annual installments payable in each plan year if the increased unfunded new liability for such plan year were amortized in equal installments over the period beginning with such plan year and ending with the last plan year in the period of 15 plan years beginning with the applicable plan year, 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,

''(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, and

''(3) the additional funding charge with respect to the plan for a plan year shall be increased by an amount equal to the installment acceleration amount (as defined in section 303(c)(2)(F)(iii) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010 and section 430(c)(2)(F)(iii) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined without regard to subclause (II) of such sections 303(c)(2)(F)(iii) and 430(c)(2)(F)(iii).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE PLAN YEAR.—

''(A) IN GENERAL.—The term 'applicable plan year' with respect to a plan means, subject to the election of the plan sponsor under subsection (a), a plan year beginning in 2009, 2010, or 2011.

''(B) ELECTION.—

''(i) IN GENERAL.—The election described in subsection (a) shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury.

''(ii) REDUCTION IN YEARS WHICH MAY BE ELECTED.—The number of applicable plan years for which an election may be made under section 303(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) or section 430(c)(2)(D) of the Internal Revenue Code of 1986 (as so amended) shall be reduced by the number of applicable plan years for which an election under this section is made.

''(C) ALLOCATION OF INSTALLMENT ACCELERATION AMOUNT FOR MULTIPLE PLAN ELECTION.—In the case of an election under this section with respect to 2 or more plans by the same plan sponsor, the installment acceleration amount shall be apportioned ratably with respect to such plans in proportion to the deficit reduction contributions of the plans determined without regard to subsection (b)(1).

''(2) PLAN SPONSOR.—The term 'plan sponsor' shall have the meaning provided such term in section 303(c)(2)(F)(vi)(I) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and section 430(c)(2)(F)(vi)(I) of the Internal Revenue Code of 1986 (as so amended).

''(3) 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.

''(4) 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 (as in effect before the amendments made by this subtitle and subtitle B) and section 412(c)(2) of such Code (as so in effect) 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 (as so in effect) and 412(l)(8)(B) of such Code (as so in effect)) of the plan for the second plan year preceding the first applicable plan year of such plan for which an election under this section is made.

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

''(6) ADDITIONAL FUNDING CHARGE INCREASE NOT TO EXCEED RELIEF.—

''(A) ELECTION UNDER SUBSECTION (B).—In the case of an election under subsection (b), an increase resulting from the application of subsection (b)(2) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the deficit reduction contribution under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for

such plan year, determined as if the election had not been made, over

''(ii) the deficit reduction contribution under such sections for such plan (determined without regard to any increase under subsection (b)(2)).

''(B) ELECTION UNDER SUBSECTION (C).—An increase resulting from the application of subsection (c)(3) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the sum of the deficit reduction contributions under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for such plan for such plan year and for all preceding plan years beginning with or after the applicable plan year, determined as if the election had not been made, over

''(ii) the sum of the deficit reduction contributions under such sections for such plan years (determined without regard to any increase under subsection (c)(3)).

''(e) NOTICE.—Not later 30 days after the date of an election under subsection (a) in connection with a plan, the plan administrator shall provide notice pursuant to, and subject to, rules similar to the rules of sections 204(k) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 4980F(f) of the Internal Revenue Code of 1986 (as so amended).''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of such Act 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—

''(1) the plan is maintained by one or more employers employing employees who are accruing benefits based on service for the plan year,

''(2) such employees are employed in at least 20 States,

''(3) each such employee (other than a de minimis number of employees) is employed by an employer described in section 501(c)(3) of such Code and the primary exempt purpose of each such employer is to provide services with respect to children, and

''(4) the plan sponsor elects (at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury) to be so treated.

Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury.''.

(c) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of the amendments made by this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to plan years beginning on or after January 1, 2009.

(2) ELIGIBLE CHARITY PLANS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2009.

SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.

(a) LIMITATIONS ON BENEFIT ACCRUALS.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) is amended—

(1) by striking ''the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009'' and inserting ''any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011'';

(2) by striking ''substituting'' and all that follows through ''for such plan year'' and inserting ''substituting for such percentage the plan's adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,''; and

(3) by striking ''for the preceding plan year is greater'' and inserting ''for such last plan year is greater''.

(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

(1) ERISA AMENDMENT.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: ''For purposes of applying clause (i) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 204(b)(1)(G)).''.

(2) IRC AMENDMENT.—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to annuity payments the annuity starting date for which occurs on or after January 1, 2011.

(B) PERMITTED APPLICATION.—A plan shall not be treated as failing to meet the requirements of sections 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this subsection) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs on or after the date of the enactment of this Act and before January 1, 2011.

(c) APPLICATION OF CREDIT BALANCE WITH RESPECT TO LIMITATIONS ON SHUTDOWN BENEFITS AND UNPREDICTABLE CONTINGENT EVENT BENEFITS.—With respect to plan years beginning on or before December 31, 2011, in applying paragraph (5)(C) of subsection (g) of section 206 of the Employee Retirement Income Security Act of 1974 and subsection (f)(3) of section 436 of the Internal Revenue Code of 1986 in the case of unpredictable contingent events (within the meaning of section 206(g)(1)(C) of such Act and section 436(b)(3) of such Code) occurring on or after January 1, 2010, the references, in clause (i) of such paragraph (5)(C) and subparagraph (A) of such subsection (f)(3), to paragraph (1)(B) of such subsection (g) and subsection (b)(2) of such section 436 shall be disregarded.

SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE.

(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 PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 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 June 30, 2007, and on or before June 30, 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 on or before December 31, 2010, and

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

(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 PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 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 June 30, 2007, and on or before June 30, 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, 2008, and on or before December 31, 2010, and

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

SEC. 305. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4010(b) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1) and inserting the following:

''(1) either of the following requirements are met:

''(A) the funding target attainment percentage (as defined in subsection (d)(2)(B)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent; or

''(B) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed $75,000,000 (disregarding plans with no unfunded vested benefits);''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after 2009.

SEC. 306. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY.

(a) GENERAL RULES.—

(1) ROLLOVER OF AIRLINE PAYMENT AMOUNT.—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a traditional IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a rollover contribution described in section 402(c) of the Internal Revenue Code of 1986. A qualified airline employee making such a transfer may exclude from gross income the amount transferred, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier.

(2) TRANSFER OF AMOUNTS ATTRIBUTABLE TO AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER TO ROTH IRA.—A qualified airline employee who has contributed an airline payment amount to a Roth IRA that is treated as a qualified rollover contribution pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008 may transfer to a traditional IRA, in a trustee-to-trustee transfer, all or any part of the contribution (together with any net income allocable to such contribution), and the transfer to the traditional IRA will be deemed to have been made at the time of the rollover to the Roth IRA, if such transfer is made within 180 days of the date of the enactment of this Act. A qualified airline employee making such a transfer

may exclude from gross income the airline payment amount previously rolled over to the Roth IRA, to the extent an amount attributable to the previous rollover was transferred to a traditional IRA, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier. No amount so transferred to a traditional IRA may be treated as a qualified rollover contribution with respect to a Roth IRA within the 5-taxable year period beginning with the taxable year in which such transfer was made.

(3) EXTENSION OF TIME TO FILE CLAIM FOR REFUND.—A qualified airline employee who excludes an amount from gross income in a prior taxable year under paragraph (1) or (2) may reflect such exclusion in a claim for refund filed within the period of limitation under section 6511(a) (or, if later, April 15, 2011).

(b) TREATMENT OF AIRLINE PAYMENT AMOUNTS AND TRANSFERS FOR EMPLOYMENT TAXES.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, an airline payment amount shall not fail to be treated as a payment of wages by the commercial passenger airline carrier to the qualified airline employee in the taxable year of payment because such amount is excluded from the qualified airline employee's gross income under subsection (a).

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AIRLINE PAYMENT AMOUNT.—

(A) IN GENERAL.—The term ''airline payment amount'' means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007; and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE.—The term ''qualified airline employee'' means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code; and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) TRADITIONAL IRA.—The term ''traditional IRA'' means an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) which is not a Roth IRA.

(4) ROTH IRA.—The term ''Roth IRA'' has the meaning given such term by section 408A(b) of such Code.

(d) SURVIVING SPOUSE.—If a qualified airline employee died after receiving an airline payment amount, or if an airline payment amount was paid to the surviving spouse of a qualified airline employee in respect of the qualified airline employee, the surviving spouse of the qualified airline employee may take all actions permitted under section 125 of the Worker, Retiree and Employer Recovery Act of 2008, or under this section, to the same extent that the qualified airline employee could have done had the qualified airline employee survived.

(e) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

PART 2—MULTIEMPLOYER PLANS

SEC. 311. OPTIONAL USE OF 30-YEAR AMORTIZATION PERIODS.

(a) ELECTIVE SPECIAL RELIEF RULES.—

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

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

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

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses or gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

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

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

''(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.

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

''Plan year after the plan year in which the net investment loss was incurred	*Allocable portion of net investment loss*
1st	*½*
2nd	*0*
3rd	*⅙*
4th	*⅙*
5th	*⅙*

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.— For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 305(i)(2), except that the value of the plan's assets referred to in section 305(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 305, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 305(c) or under section 432(c) of the Internal Revenue Code of 1986 or rehabilitation plans adopted under section 305(e) or under section 432(e) of such Code, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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.

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary of the Treasury may prescribe.

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

''(i) give notice of such 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 Pension Benefit Guaranty Corporation may prescribe.''.

(2) IRC AMENDMENT.—Section 431(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

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

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

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses and gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

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

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

''(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.

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

''Plan year after the plan year in which the net investment loss was incurred	Allocable portion of net investment loss
1st	½
2nd	0
3rd	⅙
4th	⅙
5th	⅙

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.— For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 432(i)(2), except that the value of the plan's assets referred to in section 432(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 432, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 432(c) or under section 305(c) of the Employee Retirement Income Security Act of 1974 or rehabilitation plans adopted under section 432(e) or under section 305(e) of such Act, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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 or to comply with other applicable law.

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary may prescribe.

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

''(i) give notice of such 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 Pension Benefit Guaranty Corporation may prescribe.''.

(b) ASSET SMOOTHING FOR MULTIEMPLOYER PLANS.—

(1) ERISA AMENDMENT.—Section 304(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(c)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary of the Treasury shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(2) IRC AMENDMENT.—Section 431(c)(2) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the first day of the first plan year beginning after June 30, 2008, except that any election a plan sponsor makes pursuant to this section or the amendments made thereby that affects the plan's funding standard account for any plan year beginning before October 1, 2009, 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 that plan year.

(2) DEEMED APPROVAL FOR CERTAIN FUNDING METHOD CHANGES.—In the case of a multiemployer plan with respect to which an election has been made under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 (as amended by this section) or section 431(b)(8) of the Internal Revenue Code of 1986 (as so amended)—

(A) any change in the plan's funding method for a plan year beginning on or after July 1, 2008, and on or before December 31, 2010, from a method that does not establish a base for experience gains and losses to one that does establish such a base shall be treated as approved by the Secretary of the Treasury; and

(B) any resulting funding method change base shall be treated for purposes of amortization as a net experience loss or gain.

SEC. 312. OPTIONAL LONGER RECOVERY PERIODS FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) ERISA AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 305(c)(4) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary of the Treasury may prescribe.''.

(2) REHABILITATION PERIOD.—Section 305(e)(4) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

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

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary of the Treasury may prescribe.''.

(b) IRC AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 432(c)(4) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(2) REHABILITATION PERIOD.—Section 432(e)(4) of such Code is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

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

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funding improvement periods and rehabilitation periods in connection with funding improvement plans and rehabilitation plans adopted or updated on or after the date of the enactment of this Act.

SEC. 313. MODIFICATION OF CERTAIN AMORTIZATION EXTENSIONS UNDER PRIOR LAW.

(a) IN GENERAL.—In the case of an amortization extension that was granted to a multiemployer plan under the terms of section 304 of the Employee Retirement Income Security Act of 1974 (as in effect immediately prior to enactment of the Pension Protection Act of 2006) or section 412(e) of the Internal Revenue Code (as so in effect), the determination of whether any financial condition on the amortization extension is satisfied shall be made by assuming that for any plan year that contains some or all of the period beginning June 30, 2008, and ending October 31, 2008, the actual rate of return on the plan assets was equal to the interest rate used for purposes of charging or crediting the funding standard account in such plan year, unless the plan sponsor elects otherwise in such form and manner as shall be prescribed by the Secretary of Treasury.

(b) REVOCATION OF AMORTIZATION EXTENSIONS.—The plan sponsor of a multiemployer plan may, in such form and manner and after such notice as may be prescribed by the Secretary, revoke any amortization extension described in subsection (a), effective for plan years following the date of the revocation.

SEC. 314. ALTERNATIVE DEFAULT SCHEDULE FOR PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) ERISA AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 305(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(c)(7)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 305(e)(3) of such Act (29 U.S.C. 1085(e)(3)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(b) INTERNAL REVENUE CODE AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 432(c)(7) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 432(e)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to designations of default schedules by plan sponsors on or after the date of the enactment of this Act.

(d) CROSS-REFERENCE.—For sunset of the amendments made by this section, see section 221(c) of the Pension Protection Act of 2006.

SEC. 315. TRANSITION RULE FOR CERTIFICATIONS OF PLAN STATUS.

(a) IN GENERAL.—A plan actuary shall not be treated as failing to meet the requirements of section 305(b)(3)(A) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3)(A) of the Internal Revenue Code of 1986 in connection with a certification required under such sections the deadline for which is after the date of the enactment of this Act if the plan actuary makes such certification at any time earlier than 75 days after the date of the enactment of this Act.

(b) REVISION OF PRIOR CERTIFICATION.—

(1) IN GENERAL.—If—

(A) a plan sponsor makes an election under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 and section 431(b)(8) of the Internal Revenue Code of 1986, or under section 304(c)(2)(B) of such Act and section 432(c)(2)(B) such Code, with respect to a plan for a plan year beginning on or after October 1, 2009; and

(B) the plan actuary's certification of the plan status for such plan year (hereinafter in this subsection referred to as ''original certification'') did not take into account any election so made,

then the plan sponsor may direct the plan actuary to make a new certification with respect to the plan for the plan year which takes into account such election (hereinafter in this subsection referred to as ''new certification'') if the plan's status under section 305 of such Act and section 432 of such Code would change as a result of such election. Any such new certification shall be treated as the most recent certification referred to in section 304(b)(3)(B)(iii) of such Act and section 431(b)(8)(B)(iii) of such Code.

(2) DUE DATE FOR NEW CERTIFICATION.—Any such new certification shall be made pursuant to section 305(b)(3) of such Act and section 432(b)(3) of such Code; except that any such new certification shall be made not later than 75 days after the date of the enactment of this Act.

(3) NOTICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any such new certification shall be treated as the original certification for purposes of section 305(b)(3)(D) of such Act and section 432(b)(3)(D) of such Code.

(B) NOTICE ALREADY PROVIDED.—In any case in which notice has been provided under such sections with respect to the original certification, not later than 30 days after the new certification is made, the plan sponsor shall provide notice of any change in status under rules similar to the rules such sections.

(4) EFFECT OF CHANGE IN STATUS.—If a plan ceases to be in critical status pursuant to the new certification, then the plan shall, not later than 30 days after the due date described in paragraph (2), cease any restriction of benefit payments, and imposition of contribution surcharges, under section 305 of such Act and section 432 of such Code by reason of the original certification.

Subtitle B—Fee Disclosure

SEC. 321. SHORT TITLE OF SUBTITLE.

This subtitle may be cited as the ''Defined Contribution Fee Disclosure Act of 2010''.

SEC. 322. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) REQUIREMENTS RELATING TO SERVICE PROVIDERS AND PLAN ADMINISTRATORS OF INDIVIDUAL ACCOUNT PLANS.—

(1) IN GENERAL.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating section 111 (29 U.S.C. 1031) as section 113; and

(B) by inserting after section 110 (29 U.S.C. 1030) the following new sections:

''SEC. 111. REQUIREMENT TO PROVIDE NOTICE OF PLAN FEE INFORMATION TO PLAN ADMINISTRATORS.

''(a) INITIAL STATEMENT OF SERVICES PROVIDED AND REVENUES RECEIVED.—

''(1) IN GENERAL.—In any case in which a service provider enters into a contract or arrangement to provide services to an individual account plan, the service provider shall, before entering into such contract or arrangement, provide to the plan administrator a single written statement which includes, with respect to the first plan year covered under such contract or arrangement, the following information:

''(A) A detailed description of the services which will be provided to the plan by the service provider, the amount of total expected annual revenue with respect to such services, the manner in which such revenue will be collected, and the extent to which such revenue varies between specific investment options.

''(B)(i) In the case of a service provider who is providing recordkeeping services with respect to any investment option, such information as is necessary for the plan administrator to satisfy the requirements of subparagraphs (B)(ii)(IV) and (C) of section 105(a)(2) and paragraphs (1) and (3) of section 112(a) with respect to such option, including specifying the method used by the service provider in disclosing or estimating expenses under subparagraphs (C)(iv) and (E) of section 105(a)(2).

''(ii) To the extent provided in regulations issued by the Secretary, clause (i) shall not apply in the case of a service provider described in such clause if the service provider receives a written notification from the plan administrator that the information described in such clause in connection with the investment option is provided by another service provider pursuant to a contract or arrangement to provide services to the plan.

''(C) A statement indicating—

''(i) the identity of any investment options offered under the plan with respect to which the service provider provides substantial investment, trustee, custodial, or administrative services, and

''(ii) in the case of any investment option, whether the service provider expects to receive any component of total expected annual revenue described in paragraph (2)(A)(ii)(II) with respect to such option and the amount of any such component.

''(D) The portion of total expected annual revenue which is properly allocable to each of the following:

''(i) Administration and recordkeeping.

''(ii) Investment management.

''(iii) Other services or amounts not described in clause (i) or (ii).

''(2) DEFINITION OF TOTAL EXPECTED ANNUAL REVENUE.—For purposes of this section—

''(A) IN GENERAL.—The term 'total expected annual revenue' means, with respect to any plan year—

''(i) any amount expected to be received during such plan year from the plan (including amounts paid from participant accounts), any participant or beneficiary, or any plan sponsor in connection with the contract or arrangement referred to in paragraph (1), and

''(ii) any amount not taken into account under clause (i) which is expected to be received during such plan year by the service provider in connection with—

''(I) plan administration, recordkeeping, consulting, management, or investment or other service activities undertaken by the service provider with respect to the plan, or

''(II) plan administration, recordkeeping, consulting, management, or investment or other service activities undertaken by any other person with respect to the plan.

''(B) EXPRESSED AS DOLLAR AMOUNT OR PERCENTAGE OF ASSETS.—Total expected annual revenue and any amount indicated under paragraph (1)(C)(ii) may be expressed as a dollar amount or as a percentage of assets (or a combination thereof), as appropriate. To the extent that total expected annual revenue is expressed as a percentage of assets, such percentage shall be properly allocated among clauses (i), (ii), and (iii) of paragraph (1)(D).

''(C) PROVISION OF FEE SCHEDULE FOR CERTAIN PARTICIPANT INITIATED TRANSACTIONS.—In the case of amounts expected to be received from participants or beneficiaries under the plan (or from an account of a participant or beneficiary) as a fee or charge in connection with a transaction initiated by the participant (other than loads, commissions, brokerage fees, and other investment related transactions)—

''(i) such amounts shall not be taken into account in determining total expected annual revenue, and

''(ii) the service provider shall provide to the plan administrator, as part of the statement referred to in paragraph (1), a fee schedule which describes each such fee or charge, the amount thereof, and the manner in which such amount is collected.

''(D) ESTIMATIONS.—In determining under this subsection any amount which is expected to be received by the service provider, the service provider shall provide a reasonable estimate of such amount and shall indicate in the statement referred to in paragraph (1) whether such amount disclosed is an estimate. Any such estimate shall be based on reasonable assumptions specified in such statement.

''(3) ALLOCATION RULES.—The Secretary shall provide rules for defining total expected annual revenue and for the appropriate and consistent allocation of total expected annual revenue among clauses (i), (ii), and (iii) of paragraph (1)(D), except that the entire amount of such revenue shall be allocated among such clauses and no amount may be taken into account under more than one clause.

''(4) DISCLOSURE OF DIFFERENT PRICING OF INVESTMENT OPTIONS.—In the case of investment options with more than one share class or price level, the Secretary shall prescribe regulations for the disclosure of the different share classes or price levels available as part of the statement in paragraph (1). Such regulations shall provide guidance with respect to the disclosure of the basis for qualifying for such share classes or price levels, which may include amounts invested, number of participants, or other factors.

''(5) DISCLOSURE OF INVESTMENT TRANSACTION COSTS.—To the extent provided in regulations issued by the Secretary, a service provider shall separately disclose the transaction costs (including sales commissions) for each investment option for the preceding year or the plan's allocable share of such costs for the preceding year.

''(b) ANNUAL STATEMENTS.—With respect to each plan year after the plan year covered by the statement described in subsection (a), the service provider shall provide the plan administrator a single written statement which includes the information described in subsection (a) with respect to such subsequent plan year.

''(c) MATERIAL CHANGE STATEMENTS.—In the case of any event or other change during a plan year which causes the information included in any statement described in subsection (a) or (b) with respect to such plan year to become materially incorrect, the service provider shall provide the plan administrator a written statement providing the corrected information not later than 30 days after the service provider knows, or exercising reasonable diligence would have known, of such event or other change.

''(d) TIME AND MANNER OF PROVIDING STATEMENT AND OTHER MATERIALS.—The statement referred to in subsections (a)(1) and (b) shall be made at such time and in such manner as the Secretary may provide. Other materials required to be provided under this section shall be provided in such manner as the Secretary may provide. All information included in such statements and other materials shall be presented in a manner which is easily understood by the typical plan administrator.

''(e) EXCEPTION FOR SMALL SERVICE PROVIDERS.—The requirements of this section shall not apply with respect to any contract or arrangement for services provided with respect to an individual account plan for any plan year if—

''(1) the total annual revenue expected by the service provider to be received with respect to the plan for such plan year is less than $5,000, and

''(2) the service provider provides a written statement to the plan administrator that the total annual revenue expected by the service provider to be received with respect to the plan is less than $5,000.

Service providers who expect to receive de minimis annual revenue from the plan need not provide the written statement described in paragraph (2). The Secretary may by regulation or other guidance adjust the dollar amount specified in this subsection.

''(f) DEFINITION OF SERVICE PROVIDER.—For purposes of this section—

''(1) IN GENERAL.—The term 'service provider' includes any person providing administration, recordkeeping, consulting, investment management services, or investment advice to an individual account plan under a contract or arrangement.

''(2) CONTROLLED GROUPS TREATED AS ONE SERVICE PROVIDER.—All persons which would be treated as a single employer under subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 if section 1563(a)(1) of such Code were applied—

''(A) except as provided by subparagraph (B), by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears therein, or

''(B) for purposes of subsection (a)(1)(C)(i), by substituting 'at least 20 percent' for 'at least 80 percent' each place it appears therein,

shall be treated as one person for purposes of this section.

"SEC. 112. REQUIREMENT TO PROVIDE NOTICE TO PARTICIPANTS OF PLAN FEE INFORMATION.

''(a) DISCLOSURES TO PARTICIPANTS AND BENEFICIARIES.—

''(1) ADVANCE NOTICE OF AVAILABLE INVESTMENT OPTIONS.—

''(A) IN GENERAL.—The plan administrator of an applicable individual account plan shall provide to the participant or beneficiary notice of the investment options available under the plan before—

''(i) the earliest date provided for under the plan for the participant's initial investment of any contribution made on behalf of such participant, and

''(ii) the effective date of any change in the list of investment options available under the plan, unless such advance notice is impracticable, and in such case, as soon as is practicable.

''(B) INFORMATION INCLUDED IN NOTICE.—The notice required under subparagraph (A) shall—

''(i) set forth, with respect to each available investment option—

''(I) the name of the option,

''(II) a general description of the option's investment objectives and principal investment strategies, principal risk and return characteristics, and the name of the option's investment manager,

''(III) whether the investment option is designed to be a comprehensive, stand-alone investment for retirement that provides varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures,

''(IV) the extent to which the investment option is actively managed or passively managed in relation to an index and the difference between active management and passive management,

''(V) where, and the manner in which, additional plan-specific, option-specific, and generally available investment information may be obtained, and

''(VI) a statement explaining that investment options should not be evaluated solely on the basis of the charges for each option but should also be based on consideration of other key factors, including the risk level of the option, the investment objectives of the option, historical returns of the option, and the participant's personal investment objectives,

''(ii) include a statement of the right under paragraph (2) of participants and beneficiaries to request, and a description of how a participant or beneficiary may request, a copy of the statements received by the plan administrator under section 111 with respect to the plan, and

''(iii) include the plan fee comparison chart described in subparagraph (C).

''(C) PLAN FEE COMPARISON CHART.—

''(i) IN GENERAL.—

''(I) IN GENERAL.—The notice provided under this paragraph shall include a plan fee comparison chart consisting of a comparison of the service and investment charges that will or could be assessed against the account of the participant or beneficiary with respect to the plan year.

''(II) EXPRESSED AS DOLLAR AMOUNT OR FORMULA.—For purposes of this subparagraph, such charges shall be provided in the form of a dollar amount or as a formula (such as a percentage of assets), as appropriate.

''(ii) CATEGORIZATION OF CHARGES.—The plan fee comparison chart shall provide information in relation to the following categories of charges that will or could be assessed against the account of the participant or beneficiary:

''(I) ASSET-BASED CHARGES SPECIFIC TO INVESTMENT.—Charges that vary depending on the investment options selected by the participant or beneficiary, including the annual operating expenses of the investment option and investment-specific asset-based charges (such as loads, commissions, brokerage fees, exchange fees, redemption fees, and surrender charges). Except as provided by the Secretary in regulations under this section, the information relating to such charges shall include a statement noting any charges for 1 or more investment options which pay for services other than investment management.

''(II) RECURRING ASSET-BASED CHARGES NOT SPECIFIC TO INVESTMENT.—Charges that are assessed as a percentage of the total assets in the account of the participant or beneficiary, regardless of the investment option selected.

''(III) ADMINISTRATIVE AND TRANSACTION-BASED CHARGES.—Administration and transaction-based charges, including fees charged to participants to cover plan administration, compliance, and recordkeeping costs, plan loan origination fees, possible redemption fees, and possible surrender charges, that are not assessed as a percentage of the total assets in the account and are either automatically deducted each year or result from certain transactions engaged in by the participant or beneficiary.

''(IV) OTHER CHARGES.—Any other charges which may be deducted from participants' or beneficiaries' accounts and which are not described in subclauses (I), (II), and (III).

''(iii) FEES AND HISTORICAL RETURNS.—The plan fee comparison chart shall include—

''(I) the historical returns, net of fees and expenses, for the previous year, 5 years, and 10 years (or for the period since inception, if shorter) with respect to such investment option, and

''(II) the historical returns of an appropriate benchmark, index, or other point of comparison for each such period.

''(D) MODEL NOTICES.—The Secretary shall prescribe one or more model notices that may be used for purposes of satisfying the requirements of this paragraph, including model plan fee comparison charts.

''(E) ESTIMATIONS.—For purposes of providing the notice required under this paragraph, the plan administrator may provide a reasonable and representative estimate for any charges or percentages disclosed under subparagraph (B) or (C) and shall indicate whether the amount of any such charges or percentages disclosed is an estimate.

''(2) DISCLOSURE OF SERVICE PROVIDER STATEMENTS.—The plan administrator shall provide to any participant or beneficiary a copy of any statement received pursuant to section 111 within 30 days after receipt of a request for such a statement.

''(3) NOTICE OF MATERIAL CHANGES.—In the case of any event or other change which causes the information included in any notice described in paragraph (1) to become materially incorrect, the plan administrator shall provide participants and beneficiaries a written statement providing the corrected information not later than 30 days after the plan administrator knows, or exercising reasonable diligence would have known, of such event or other change.

''(4) TIME AND MANNER OF PROVIDING NOTICES AND DISCLOSURES.—

''(A) IN GENERAL.—The notices described in paragraph (1) shall be provided at such times and in such manner as the Secretary may provide. Other notices and materials required to be provided under this subsection shall be provided in such manner as the Secretary may provide.

''(B) MANNER OF PRESENTATION.—

''(i) IN GENERAL.—All information included in such notices or explanations shall be presented in a manner which is easily understood by the typical participant.

''(ii) GENERIC EXAMPLE OF OPERATING EXPENSES OF INVESTMENT OPTIONS.—The information described in paragraph (1)(C)(ii)(I) shall include a generic example describing the charges that would apply during an annual period with respect to a $10,000 investment in the investment option.

''(b) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this section, the term 'applicable individual account plan' means the portion of any individual account plan which permits a participant or beneficiary to exercise control over assets in his or her account.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which—

''(1) provide a later deadline for providing the notice of investment menu changes described in subsection (a)(3) in appropriate circumstances, and

''(2) provide guidelines, and a safe harbor, for the selection of an appropriate benchmark, index, or other point of comparison for an investment option under subsection (a)(1)(C)(iii)(II).''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

''Sec. 111. Requirement to provide notice of plan fee information to plan administrators.

''Sec. 112. Requirement to provide notice to participants of plan fee information.

''Sec. 113. Repeal and effective date.''.

(b) QUARTERLY BENEFIT STATEMENTS.—Section 105 of such Act (29 U.S.C. 1025) is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (G);

(B) in subparagraph (B)(ii)—

(i) in subclause (II), by striking ''diversified, and'' and inserting ''diversified,'';

(ii) in subclause (III) by striking the period and inserting '', and''; and

(iii) by adding after subclause (III) the following new subclause:

''(IV) with respect to the portion of a participant's account for which the participant has the right to direct the investment of assets, the information described in subparagraph (C).''; and

(C) by inserting after subparagraph (B) the following new subparagraphs:

''(C) QUARTERLY BENEFIT STATEMENTS.—The plan administrator shall provide to each participant and beneficiary, at least once each calendar quarter, an explanation describing the investment options in which the participant's or beneficiary's account is invested as of the last day of the preceding quarter. Such explanation shall provide, to the extent applicable, the following for the preceding quarter:

''(i) As of the last day of the quarter, a statement of the different asset classes that the participant's or beneficiary's account is invested in and the percentage of the account allocated to each asset class.

''(ii) A statement of the starting and ending balance of the participant's or beneficiary's account for such quarter.

''(iii) A statement of the total contributions made to the participant's or beneficiary's account during the quarter and a separate statement of—

''(I) the amount of such contributions, and the total amount of any restorative payments, which were made by the employer during the quarter, and

''(II) the amount of such contributions which were made by the employee.

''(iv) A statement of the total fees and expenses which were directly deducted from the participant's or beneficiary's account during the quarter and an itemization of such fees and expenses.

''(v) A statement of the net returns for the year to date, expressed as a percentage, and a statement as to whether the net returns include amounts described in clause (iv).

''(vi) With respect to each investment option in which the participant or beneficiary was invested as of the last day of the quarter, the following:

''(I) A statement of the percentage of the participant's or beneficiary's account that is invested in such option as of the last day of such quarter.

''(II) A statement of the starting and ending balance of the participant's or beneficiary's account that is invested in such option for such quarter.

''(III) A statement of the annual operating expenses of the investment option.

''(IV) A statement of whether the disclosure described in clause (iv) includes the annual operating expenses of the investment options of the participant or beneficiary.

''(vii) The statement described in section 112(a)(1)(B)(i)(VI).

''(viii) A statement regarding how a participant or beneficiary may access the information required to be disclosed under section 112(a)(1).

''(D) MODEL EXPLANATIONS.—The Secretary shall prescribe one or more model explanations that may be used for purposes of satisfying the requirements of subparagraph (C).

''(E) DETERMINATION OF EXPENSES.—For purposes of subparagraph (C)(vi)(III)—

''(i) Expenses may be expressed as a dollar amount or as a percentage of assets (or a combination thereof).

''(ii) The plan administrator may provide disclosure of the expenses for the quarter or may provide a reasonable and representative estimate of such expenses and shall indicate any such estimate as being an estimate. Any such estimate shall be based on reasonable assumptions stated together with such estimate.

''(iii) To the extent that estimated expenses are expressed as a percentage of assets, the disclosure shall also include one of the following, stated in dollar amounts:

''(I) an estimate of the expenses for the quarter based on the amount invested in the option; or

''(II) an example describing the expenses that would apply during the quarter with respect to a hypothetical $10,000 investment in the option.

''(F) ANNUAL COMPLIANCE FOR SMALL PLANS.—A plan that has fewer than 100 participants and beneficiaries as of the first day of the plan year may provide the explanation described in subparagraph (C) on an annual rather than a quarterly basis.''.

(c) ASSISTANCE FROM THE DEPARTMENT OF LABOR.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsections:

''(d) ASSISTANCE TO SMALL EMPLOYERS.—The Secretary shall make available to employers with 100 or fewer employees—

''(1) educational and compliance materials designed to assist such employers in selecting and monitoring service providers for individual account plans which permit a participant or beneficiary to exercise control over the assets in the account of the participant or beneficiary, investment options under such plans, and charges relating to such options, and

''(2) services designed to assist such employers in finding and understanding affordable investment options for such plans and in comparing the investment performance of, and charges for, such options on an ongoing basis against appropriate benchmarks or other appropriate measures.

''(e) ASSISTANCE TO PLAN SPONSORS AND PLAN PARTICIPANTS AND BENEFICIARIES.—The Secretary shall provide plan administrators and plan sponsors of individual account plans and participants and beneficiaries under such plans assistance with any questions or problems regarding compliance with the requirements of subparagraphs (B)(ii)(IV) and (C) of subsection (a)(2) and section 112.''.

(d) ENFORCEMENT.—

(1) PENALTIES.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(A) in subsection (a)(6), by striking ''under paragraph (2)'' and all that follows through ''subsection (c)'' and inserting ''under paragraph (2), (4), (5), (6), (7), (8), (9), (10), (11), or (12) of subsection (c)''; and

(B) in subsection (c), by redesignating the second paragraph (10) as paragraph (13), and by inserting after the first paragraph (10) the following new paragraphs:

''(11)(A) In the case of any failure by a service provider (as defined in section 111(f)(1)) to provide a statement in violation of section 111, the service provider may be assessed by the Secretary a civil penalty of up to $1,000 for each day in the noncompliance period.

''(B) For purposes of subparagraph (A), the noncompliance period with respect to the failure to provide any statement is the period beginning on the date that such statement was required to be provided and ending on the date that such statement is provided or the failure is otherwise corrected.

''(C)(i) The total amount of a penalty assessed under this paragraph on any service provider with respect to any individual account plan for any plan year shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the assets of the plan, determined as of the first day of such plan year, or

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

''(ii) No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) the service provider subject to liability for the penalty under subparagraph (A) exercised reasonable diligence to meet the requirement with respect to which the failure relates, and

''(II) such service provider provides the information required under section 111 during the 30-day period beginning on the date such person knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty under subparagraph (A) to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the failure involved.

''(D) The penalty imposed under this paragraph with respect to any failure shall be reduced by the amount of any tax imposed on such person with respect to such failure under section 4980J of the Internal Revenue Code of 1986.

''(12)(A) Any plan administrator with respect to a plan who fails or refuses to provide a notice, explanation, or statement to participants and beneficiaries in accordance with subparagraphs (B)(ii)(IV) and (C) of section 105(a)(2) and section 112 may be assessed by the Secretary a civil penalty of up to $110 for each day in the noncompliance period.

''(B) For purposes of subparagraph (A), the noncompliance period with respect to the failure to provide any notice, explanation, or statement referred to in subparagraph (B)(ii)(IV) or (C) of section 105(a)(2) or section 112 with respect to any participant or beneficiary is the period beginning on the date that such notice, explanation, or statement was required to be provided and ending on the date that such notice, explanation, or statement is provided or the failure is otherwise corrected.

''(C)(i) The total amount of penalty assessed under this paragraph with respect to any plan for any plan year shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the assets of the plan, determined as of the first day of such plan year, or

''(II) $500,000.

''(ii) No penalty shall be imposed under subparagraph (A) on any failure to meet the requirements of subparagraphs (B)(ii)(IV) and (C) of section 105(a)(2) and section 112 if—

''(I) any person subject to liability for the penalty under subparagraph (A) exercised reasonable diligence to meet such requirements, and

''(II) such person provides the notice, explanation, or statement to which the failure relates during the 30-day period beginning on the date such person knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary shall waive part or all of the penalty under subparagraph (A) to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the failure involved.

''(iv) The penalty imposed under this paragraph with respect to any failure shall be reduced by the amount of any tax imposed on such person with respect to such failure under section 4980K of the Internal Revenue Code of 1986.''.

(2) ENFORCEMENT COORDINATION AND REVIEW BY THE DEPARTMENT OF LABOR.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n) ENFORCEMENT COORDINATION OF CERTAIN DISCLOSURE REQUIREMENTS RELATING TO INDIVIDUAL ACCOUNT PLANS AND REVIEW BY THE DEPARTMENT OF LABOR.—

''(1) NOTIFICATION AND ACTION RELATING TO SERVICE PROVIDERS.—The Secretary shall notify the applicable regulatory authority in any case in which the Secretary determines that a service provider is engaged in a pattern or practice that precludes compliance by plan administrators with subparagraphs (B)(ii)(IV) and (C) of section 105(a)(2) and section 112. The Secretary shall, in consultation with the applicable authority, take such timely enforcement action under this title as is necessary to assure that such pattern or practice ceases and desists and assess any appropriate penalties.

''(2) ANNUAL AUDIT OF REPRESENTATIVE SAMPLING OF INDIVIDUAL ACCOUNT PLANS.—The Secretary shall annually audit a representative sampling of individual account plans covered by this title to determine compliance with the requirements of subparagraphs (B)(ii)(IV) and (C) of section 105(a)(2), section 111, and section 112. The Secretary shall annually report the results of such audit and any related recommendations of the Secretary to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.''.

(e) REVIEW AND REPORT TO THE CONGRESS BY SECRETARY OF LABOR RELATING TO REPORTING AND DISCLOSURE REQUIREMENTS.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall review the reporting and disclosure requirements of part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and related provisions of the Pension Protection Act of 2006.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall make such recommendations as the Secretary of Labor considers appropriate to the appropriate committees of the Congress to consolidate, simplify, standardize, and improve the applicable reporting and disclosure requirements so as to simplify reporting for employee pension benefit plans and ensure that needed understandable information is provided to participants and beneficiaries of such plans.

SEC. 323. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc. plans) is amended by adding at the end the following new sections:

''SEC. 4980J. FAILURE TO PROVIDE NOTICE OF PLAN FEE INFORMATION TO PLAN ADMINISTRATORS.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on each failure of a service provider to meet the requirements of paragraph (2) with respect to any applicable defined contribution plan.

''(2) FAILURES DESCRIBED.—The failures described in this paragraph are—

''(A) any failure to provide an initial statement described in subsection (d),

''(B) any failure to provide an annual statement described in subsection (e), and

''(C) any failure to provide a material change statement described in subsection (f).

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure shall be $1,000 for each day in the noncompliance period.

''(2) NONCOMPLIANCE PERIOD.—For purposes of paragraph (1), the noncompliance period with respect to the failure to provide any statement is the period beginning on the date that such statement was required to be provided and ending on the date that such statement is provided or the failure is otherwise corrected.

''(c) LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—The total amount of tax imposed by this section on any service provider with respect to any applicable defined contribution plan for any plan year shall not exceed an amount equal to the lesser of—

''(A) 10 percent of the assets of the plan, determined as of the first day of such plan year, or

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

''(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) the service provider subject to liability for the tax under subsection (a) exercised reasonable diligence to meet the requirement with respect to which the failure relates, and

''(B) such service provider provides the information required under subsection (a) during the 30-day period beginning on the date such person knew, or exercising reasonable diligence would have known, that such failure existed.

''(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(d) INITIAL STATEMENT OF SERVICES PROVIDED AND REVENUES RECEIVED.—

''(1) IN GENERAL.—Before entering into any contract or arrangement to provide services to an applicable defined contribution plan, the service provider shall provide to the plan administrator a single written statement which includes, with respect to the first plan year covered under such contract or arrangement, the following:

''(A) A detailed description of the services which will be provided to the plan by the service provider, the amount of total expected annual revenue with respect to such services, the manner in which such revenue will be collected, and the extent to which such revenue varies between specific investment options.

''(B)(i) In the case of a service provider who is providing recordkeeping services with respect to any investment option, such information as is necessary for the plan administrator to satisfy the requirements of paragraphs (1), (2) and (4) of section 4980K(e) with respect to such option, including specifying the method used by the service provider in disclosing or estimating expenses under subparagraphs (A)(iv) and (C) of such paragraph (2).

''(ii) To the extent provided in regulations issued by the Secretary of Labor, clause (i) shall not apply in the case of a service provider described in such clause if the service provider receives a written notification from the plan administrator that the information described in such clause in connection with the investment option is provided by another service provider pursuant to a contract or arrangement to provide services to the plan.

''(C) A statement indicating—

''(i) the identity of any investment options offered under the plan with respect to which the service provider provides substantial investment, trustee, custodial, or administrative services, and

''(ii) in the case of any investment option, whether the service provider expects to receive any component of total expected annual revenue described in paragraph (2)(A)(ii)(II) with respect to such option and the amount of any such component.

''(D) The portion of total expected annual revenue which is properly allocable to each of the following:

''(i) Administration and recordkeeping.

''(ii) Investment management.

''(iii) Other services or amounts not described in clause (i) or (ii).

''(2) DEFINITION OF TOTAL EXPECTED ANNUAL REVENUE.—For purposes of this section—

''(A) IN GENERAL.—The term 'total expected annual revenue' means, with respect to any plan year—

''(i) any amount expected to be received during such plan year from the plan (including amounts paid from participant accounts), any participant or beneficiary, or any plan sponsor in connection with the contract or arrangement referred to in paragraph (1), and

''(ii) any amount not taken into account under clause (i) which is expected to be received during such plan year by the service provider in connection with—

''(I) plan administration, recordkeeping, consulting, management, or investment or other service activities undertaken by the service provider with respect to the plan, or

''(II) plan administration, recordkeeping, consulting, management, or investment or other service activities undertaken by any other person with respect to the plan.

''(B) EXPRESSED AS DOLLAR AMOUNT OR PERCENTAGE OF ASSETS.—Total expected annual revenue and any amount indicated under paragraph (1)(C)(ii) may be expressed as a dollar amount or as a percentage of assets (or a combination thereof), as appropriate. To the extent that total expected annual revenue is expressed as a percentage of assets, such percentage shall be properly allocated among clauses (i), (ii), and (iii) of paragraph (1)(D).

''(C) PROVISION OF FEE SCHEDULE FOR CERTAIN PARTICIPANT INITIATED TRANSACTIONS.—In the case of amounts expected to be received from participants or beneficiaries under the plan (or from the account of a participant or beneficiary) as a fee or charge in connection with a transaction initiated by the participant (other than loads, commissions, brokerage fees, and other investment related transactions)—

''(i) such amounts shall not be taken into account in determining total expected annual revenue, and

''(ii) the service provider shall provide to the plan administrator, as part of the statement referred to in paragraph (1), a fee schedule which describes each such fee or charge, the amount thereof, and the manner in which such amount is collected.

''(D) ESTIMATIONS.—In determining under this subsection any amount which is expected to be received by the service provider, the service provider shall provide a reasonable estimate of such amount and shall indicate in the statement referred to in paragraph (1) whether such amount disclosed is an estimate. Any such estimate shall be based on reasonable assumptions specified in such statement.

''(3) ALLOCATION RULES.—The Secretary of Labor shall provide rules for defining total expected annual revenue and for the appropriate and consistent allocation of total expected annual revenue among clauses (i), (ii), and (iii) of paragraph (1)(D), except that the entire amount of such revenue shall be allocated among such clauses and no amount may be taken into account under more than one clause.

''(4) DISCLOSURE OF DIFFERENT PRICING OF INVESTMENT OPTIONS.—In the case of investment options with more than one share class or price level, the Secretary of Labor shall prescribe regulations for the disclosure of the different share classes or price levels available as part of the statement in paragraph (1). Such regulations shall provide guidance with respect to the disclosure of the basis for qualifying for such share classes or price levels, which may include amounts invested, number of participants, or other factors.

''(5) DISCLOSURE OF INVESTMENT TRANSACTION COSTS.—To the extent provided in regulations issued by the Secretary of Labor, a service provider shall separately disclose the transaction costs (including sales commissions) for each investment option for the preceding year or the plan's allocable share of such costs for the preceding year.

''(e) ANNUAL STATEMENTS.—With respect to each plan year after the plan year covered by the statement described in subsection (d), the service provider shall provide the plan administrator a single written statement which includes the information described in subsection (d) with respect to such subsequent plan year.

''(f) MATERIAL CHANGE STATEMENTS.—In the case of any event or other change during a plan year which causes the information included in any statement described in subsection (d) or (e) with respect to such plan year to become materially incorrect, the service provider shall provide the plan administrator a written statement providing the corrected information not later than 30 days after the service provider knows, or exercising reasonable diligence would have known, of such event or other change.

''(g) TIME AND MANNER OF PROVIDING STATEMENT AND OTHER MATERIALS.—The statement referred to in subsections (d)(1) and (e) shall be made at such time and in such manner as the Secretary of Labor may provide. Other materials required to be provided under this section shall be provided in such manner as such Secretary may provide. All information included in such statements and other materials shall be presented in a manner which is easily understood by the typical plan administrator.

''(h) EXCEPTION FOR SMALL SERVICE PROVIDERS.—The requirements of this section shall not apply with respect to any contract or arrangement for services provided with respect to an individual account plan for any plan year if—

''(1) the total annual revenue expected by the service provider to be received with respect to the plan for such plan year is less than $5,000, and

''(2) the service provider provides a written statement to the plan administrator that the total annual revenue expected by the service provider to be received with respect to the plan is less than $5,000.

Service providers who expect to receive de minimis annual revenue from the plan need not provide the written statement described in paragraph (2). The Secretary of Labor may by regulation or other guidance adjust the dollar amount specified in this subsection.

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

''(1) SERVICE PROVIDER.—

''(A) IN GENERAL.—The term 'service provider' includes any person providing administration, recordkeeping, consulting, investment management services, or investment advice to an applicable defined contribution plan under a contract or arrangement.

''(B) CONTROLLED GROUPS TREATED AS ONE SERVICE PROVIDER.—All persons which would be treated as a single employer under subsection (b) or (c) of section 414 if section 1563(a)(1) were applied—

''(i) except as provided by subparagraph (B), by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears therein, or

''(ii) for purposes of subsection (d)(1)(C)(i), by substituting 'at least 20 percent' for 'at least 80 percent' each place it appears therein,

shall be treated as one person for purposes of this section.

''(2) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term 'applicable defined contribution plan' means any defined contribution plan

described in clauses (iii) through (vi) of section 402(c)(8)(B).

''(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

"SEC. 4980K. FAILURE TO PROVIDE NOTICE TO PARTICIPANTS OF PLAN FEE INFORMATION.

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed a tax on each failure of a plan administrator of an applicable defined contribution plan to meet the requirements of paragraph (2) with respect to any participant or beneficiary.

''(2) FAILURES DESCRIBED.—The failures described in this paragraph are—

''(A) any failure to provide an advance notice of available investment options described in subsection (e)(1),

''(B) any failure to provide an account explanation described in subsection (e)(2),

''(C) any failure to provide a service provider statement referred to in subsection (e)(3), and

''(D) any failure to provide a notice of material change described in subsection (e)(4).

''(b) AMOUNT OF TAX.—

''(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be $100 for each day in the noncompliance period.

''(2) NONCOMPLIANCE PERIOD.—For purposes of paragraph (1), the noncompliance period with respect to the failure to provide any notice, explanation, or statement referred to in subsection (a)(2) with respect to any participant or beneficiary is the period beginning on the date that such notice, explanation, or statement was required to be provided and ending on the date that such notice, explanation, or statement is provided or the failure is otherwise corrected.

''(c) LIMITATIONS ON AMOUNT OF TAX.—

''(1) AGGREGATE LIMITATION.—The total amount of tax imposed by this section with respect to any plan for any plan year shall not exceed an amount equal to the lesser of—

''(A) 10 percent of the assets of the plan, determined as of the first day of such plan year, or

''(B) $500,000.

''(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

''(A) any person subject to liability for the tax under subsection (a) exercised reasonable diligence to meet the requirements of subsection (e), and

''(B) such person provides the notice, explanation, or statement to which the failure relates during the 30-day period beginning on the date such person knew, or exercising reasonable diligence would have known, that such failure existed.

''(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary shall waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

''(d) LIABILITY FOR TAX.—The plan administrator shall be liable for the tax imposed by subsection (a).

''(e) DISCLOSURES TO PARTICIPANTS AND BENEFICIARIES.—

''(1) ADVANCE NOTICE OF AVAILABLE INVESTMENT OPTIONS.—

''(A) IN GENERAL.—The plan administrator of an applicable defined contribution plan shall provide to the participant or beneficiary notice of the investment options available under the plan before—

''(i) the earliest date provided for under the plan for the participant's initial investment of any contribution made on behalf of such participant, and

''(ii) the effective date of any change in the list of investment options available under the plan, unless such advance notice is impracticable, and in such case, as soon as is practicable.

''(B) INFORMATION INCLUDED IN NOTICE.—The notice required under subparagraph (A) shall—

''(i) set forth, with respect to each available investment option—

''(I) the name of the option,

''(II) a general description of the option's investment objectives and principal investment strategies, principal risk and return characteristics, and the name of the option's investment manager,

''(III) whether the investment option is designed to be a comprehensive, stand-alone investment for retirement that provides varying degrees of long-term appreciation and capital preservation through a mix of equity and fixed income exposures,

''(IV) the extent to which the investment option is actively managed or passively managed in relation to an index and the difference between active management and passive management,

''(V) where, and the manner in which, additional plan-specific, option-specific, and generally available investment information may be obtained, and

''(VI) a statement explaining that investment options should not be evaluated solely on the basis of the charges for each option but should also be based on consideration of other key factors, including the risk level of the option, the investment objectives of the option, historical returns of the option, and the participant's personal investment objectives,

''(ii) include a statement of the right under paragraph (3) of participants and beneficiaries to request, and a description of how participant or beneficiary may request, a copy of the statements received by the plan administrator under section 4980J with respect to the plan, and

''(iii) include the plan fee comparison chart described in subparagraph (C).

''(C) PLAN FEE COMPARISON CHART.—

''(i) IN GENERAL.—

''(I) IN GENERAL.—The notice provided under this paragraph shall include a plan fee comparison chart consisting of a comparison of the service and investment charges that will or could be assessed against the account of the participant or beneficiary with respect to the plan year.

''(II) EXPRESSED AS DOLLAR AMOUNT OR FORMULA.—For purposes of this subparagraph, such charges shall be provided in the form of a dollar amount or as a formula (such as a percentage of assets), as appropriate.

''(ii) CATEGORIZATION OF CHARGES.—The plan fee comparison chart shall provide information in relation to the following categories of charges that will or could be assessed against the account of the participant or beneficiary:

''(I) ASSET-BASED CHARGES SPECIFIC TO INVESTMENT.—Charges that vary depending on the investment options selected by the participant or beneficiary, including the annual operating expenses of the investment option and investment-specific asset-based charges (such as loads, commissions, brokerage fees, exchange fees, redemption fees, and surrender charges). Except as provided by the Secretary of Labor in regulations under this section, the information relating to such charges shall include a statement noting any charges for 1 or more investment options which pay for services other than investment management.

''(II) RECURRING ASSET-BASED CHARGES NOT SPECIFIC TO INVESTMENT.—Charges that are assessed as a percentage of the total assets in the account of the participant or beneficiary, regardless of the investment option selected.

''(III) ADMINISTRATIVE AND TRANSACTION-BASED CHARGES.—Administration and transaction-based charges, including fees charged to participants to cover plan administration, compliance, and recordkeeping costs, plan loan origination fees, possible redemption fees, and possible surrender charges, that are not assessed as a percentage of the total assets in the account and are either automatically deducted each year or result from certain transactions engaged in by the participant or beneficiary.

''(IV) OTHER CHARGES.—Any other charges which may be deducted from participants' or beneficiaries' accounts and which are not described in subclauses (I), (II), and (III).

''(iii) FEES AND HISTORICAL RETURNS.—The plan fee comparison chart shall include—

''(I) the historical returns, net of fees and expenses, for the previous year, 5 years, and 10 years (or for the period since inception, if shorter) with respect to such investment option, and

''(II) the historical returns of an appropriate benchmark, index, or other point of comparison for each such period.

''(D) MODEL NOTICES.—The Secretary of Labor shall prescribe one or more model notices that may be used for purposes of satisfying the requirements of this paragraph, including model plan fee comparison charts.

''(E) ESTIMATIONS.—For purposes of providing the notice required under this paragraph, the plan administrator may provide a reasonable and representative estimate for any charges or percentages disclosed under subparagraph (B) or (C) and shall indicate whether the amount of any such charges or percentages disclosed is an estimate.

''(2) QUARTERLY BENEFIT STATEMENT.—

''(A) REQUIREMENTS.—The plan administrator shall provide to each participant and beneficiary, at least once each calendar quarter, an explanation describing the investment options in which the participant's or beneficiary's account is invested as of the last day of the preceding quarter. Such explanation shall provide, to the extent applicable, the following for the preceding quarter:

''(i) As of the last day of the quarter, a statement of the different asset classes that the participant's or beneficiary's account is invested in and the percentage of the account allocated to each asset class.

''(ii) A statement of the starting and ending balance of the participant's or beneficiary's account for such quarter.

''(iii) A statement of the total contributions made to the participant's or beneficiary's account during the quarter and a separate statement of—

''(I) the amount of such contributions, and the total amount of any restorative payments, which were made by the employer during the quarter, and

''(II) the amount of such contributions which were made by the employee.

''(iv) A statement of the total fees and expenses which were directly deducted from the participant's or beneficiary's account during the quarter and an itemization of such fees and expenses.

''(v) A statement of the net returns for the year to date, expressed as a percentage, and a statement as to whether the net returns include amounts described in clause (iv).

''(vi) With respect to each investment option in which the participant or beneficiary was invested as of the last day of the quarter, the following:

''(I) A statement of the percentage of the participant's or beneficiary's account that is invested in such option as of the last day of such quarter.

''(II) A statement of the starting and ending balance of the participant's or beneficiary's account that is invested in such option for such quarter.

''(III) A statement of the annual operating expenses of the investment option.

''(IV) A statement of whether the disclosure described in clause (iv) includes the annual operating expenses of the investment options of the participant or beneficiary.

''(vii) The statement described in paragraph (1)(B)(i)(VI).

''(viii) A statement regarding how a participant or beneficiary may access the information required to be disclosed under paragraph (1).

''(B) MODEL EXPLANATIONS.—The Secretary of Labor shall prescribe one or more model explanations that may be used for purposes of satisfying the requirements of this paragraph.

''(C) DETERMINATION OF EXPENSES.—For purposes of subparagraph (A)(vi)(III)—

''(i) Expenses may be expressed as a dollar amount or as a percentage of assets (or a combination thereof).

''(ii) The plan administrator may provide disclosure of the expenses for the quarter or may provide a reasonable and representative estimate of such expenses and shall indicate any such estimate as being an estimate. Any such estimate shall be based on reasonable assumptions stated together with such estimate.

''(iii) To the extent that estimated expenses are expressed as a percentage of assets, the disclosure shall also include one of the following, stated in dollar amounts:

''(I) an estimate of the expenses for the quarter based on the amount invested in the option; or

''(II) an example describing the expenses that would apply during the quarter with respect to a hypothetical $10,000 investment in the option.

''(3) DISCLOSURE OF SERVICE PROVIDER STATEMENTS.—The plan administrator shall provide to any participant or beneficiary a copy of any statement received pursuant to section 4980J within 30 days after receipt of a request for such a statement.

''(4) NOTICE OF MATERIAL CHANGES.—In the case of any event or other change which causes the information included in any notice described in paragraph (1) to become materially incorrect, the plan administrator shall provide participants and beneficiaries a written statement providing the corrected information not later than 30 days after the plan administrator knows, or exercising reasonable diligence would have known, of such event or other change.

''(5) TIME AND MANNER OF PROVIDING NOTICES AND DISCLOSURES.—

''(A) IN GENERAL.—The notices described in paragraph (1) shall be provided at such times and in such manner as the Secretary of Labor may provide. Other notices and materials required to be provided under this subsection shall be provided in such manner as such Secretary may provide.

''(B) MANNER OF PRESENTATION.—

''(i) IN GENERAL.—All information included in such notices or explanations shall be presented in a manner which is easily understood by the typical participant.

''(ii) GENERIC EXAMPLE OF OPERATING EXPENSES OF INVESTMENT OPTIONS.—The information described in paragraphs (1)(C)(ii)(I) shall include a generic example describing the charges that would apply during an annual period with respect to a $10,000 investment in the investment option.

''(C) ANNUAL COMPLIANCE FOR SMALL PLANS.—A plan that has fewer than 100 participants and beneficiaries as of the first day of the plan year may provide the explanation described in paragraph (2) on an annual rather than a quarterly basis.

''(f) DEFINITIONS.—

''(1) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term 'applicable defined contribution plan' means the portion of any defined contribution plan which—

''(A) permits a participant or beneficiary to exercise control over assets in his or her account, and

''(B) is described in clauses (iii) through (vi) of section 402(c)(8)(B).

''(2) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

''(g) REGULATIONS.—The Secretary of Labor shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which—

''(1) provide a later deadline for providing the notice of investment menu changes described in subsection (e)(4) in appropriate circumstances, and

''(2) provide guidelines, and a safe harbor, for the selection of an appropriate benchmark, index, or other point of comparison for an investment option under subsection (e)(1)(C)(iii)(II).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new items:

''Sec. 4980J. Failure to provide notice of plan fee information to plan administrators.

''Sec. 4980K. Failure to provide notice to participants of plan fee information.''.

SEC. 324. REGULATORY AUTHORITY AND COORDINATION.

(a) REGULATORY AUTHORITY.—The Secretary of Labor shall prescribe regulations or other guidance to the extent the Secretary determines necessary or appropriate to carry out the purposes of sections 105, 111, and 112 of the Employee Retirement Income Security Act of 1974 and sections 4980J and 4980K of the Internal Revenue Code of 1986, including regulations or other guidance which—

(1) provide safe harbor and simplified methods for making the allocations described in subsection (a)(1)(D) of such section 111 and subsection (d)(1)(D) of such section 4980J; and

(2) provide special rules for the application of such sections to—

(A) investments with a guaranteed rate of return;

(B) investments with an insurance component; and

(C) employer sponsored retirement plans funded through an individual retirement account.

(3) address notices with respect to investments provided through participant directed brokerage trading;

(4) address the disclosure of information that is not proprietary to the service provider; and

(5) provide rules to allow service providers to consolidate information to satisfy the requirements of such sections with respect to all such service providers.

(b) CERTAIN ELECTRONIC DISCLOSURES PERMITTED.—Any disclosure required under section 112 of the Employee Retirement Income Security Act of 1974 or section 4980K of the Internal Revenue Code of 1986 may be provided through an electronic medium under such rules as shall be prescribed under such section by the Secretary of Labor not later than 1 year after the date of the enactment of this Act. Such rules shall be similar to those applicable under the Internal Revenue Code of 1986 with respect to notices to participants in pension plans. Such Secretary shall regularly modify such rules as appropriate to take into account new developments, including new forms of electronic media, and to fairly take into consideration the interests of plan sponsors, service providers, and participants. The rules prescribed by such Secretary pursuant to this subsection shall provide for a method for the typical participant or beneficiary to obtain without undue burden any such disclosure in writing on paper in lieu of receipt through an electronic medium.

SEC. 325. EFFECTIVE DATE OF SUBTITLE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to plan years beginning after December 31, 2011.

(b) APPLICATION OF SERVICE PROVIDER DISCLOSURES TO EXISTING CONTRACTS AND ARRANGEMENTS.—For purposes of section 111 of the Employee Retirement Income Security Act of 1974 and section 4980J of the Internal Revenue Code of 1986, any contract or arrangement to provide services to a plan which is in effect on January 1, 2012, shall be treated as a new contract or arrangement entered into on such date.

(c) SPECIAL RULE FOR COMPLIANCE WITH SUBTITLE.—Until 12 months after final regulations are issued by the Secretary of Labor pursuant to the amendments made by this subtitle, a service provider or plan administrator shall be treated as having complied with such amendments if such service provider or plan administrator complies with a reasonable good faith interpretation of such amendments.

TITLE IV—REVENUE OFFSETS

Subtitle A—Foreign Provisions

SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS FROM THE INCOME TO WHICH THEY RELATE.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

''SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RELATED INCOME TAKEN INTO ACCOUNT.

''(a) IN GENERAL.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

''(b) SPECIAL RULES WITH RESPECT TO SECTION 902 CORPORATIONS.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

''(1) for purposes of section 902 or 960, or

''(2) for purposes of determining earnings and profits under section 964(a),

before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

''(c) SPECIAL RULES.—For purposes of this section—

''(1) APPLICATION TO PARTNERSHIPS, ETC.—In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

''(2) TREATMENT OF FOREIGN TAXES AFTER SUSPENSION.—In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

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

''(1) FOREIGN TAX CREDIT SPLITTING EVENT.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

''(2) FOREIGN INCOME TAX.—The term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(3) RELATED INCOME.—The term 'related income' means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

''(4) COVERED PERSON.—The term 'covered person' means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the 'payor')—

''(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

''(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

''(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

''(D) any other person specified by the Secretary for purposes of this paragraph.

''(5) SECTION 902 CORPORATION.—The term 'section 902 corporation' means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

''(e) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

''(1) appropriate exceptions from the provisions of this section, and

''(2) for the proper application of this section with respect to hybrid instruments.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 909. Suspension of taxes and credits until related income taken into account.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued after May 20, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

SEC. 402. DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.—

''(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

''(A) shall not be taken into account in determining the credit allowed under subsection (a), and

''(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

''(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term 'covered asset acquisition' means—

''(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

''(B) any transaction which—

''(i) is treated as an acquisition of assets for purposes of this chapter, and

''(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,

''(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and

''(D) to the extent provided by the Secretary, any other similar transaction.

''(3) DISQUALIFIED PORTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'disqualified portion' means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—

''(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by

''(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).

''(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

''(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

''(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

''(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

''(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.

''(C) BASIS DIFFERENCE.—

''(i) IN GENERAL.—The term 'basis difference' means, with respect to any relevant foreign asset, the excess of—

''(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

''(II) the adjusted basis of such asset immediately before the covered asset acquisition.

''(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

''(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).

''(4) RELEVANT FOREIGN ASSETS.—For purposes of this section, the term 'relevant foreign asset' means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

''(5) FOREIGN INCOME TAX.—For purposes of this section, the term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(6) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

''(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after—

(A) May 20, 2010, if the transferor and the transferee are related; and

(B) the date of the enactment of this Act in any other case.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES.

(a) IN GENERAL.—Subsection (d) of section 904 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

''(A) IN GENERAL.—If—

''(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

''(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

''(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each such item.

''(B) COORDINATION WITH OTHER PROVISIONS.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

''(C) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED PAID WITH RESPECT TO SECTION 956 INCLUSIONS.

(a) IN GENERAL.—Section 960 is amended by adding at the end the following new subsection:

''(c) LIMITATION WITH RESPECT TO SECTION 956 INCLUSIONS.—

''(1) IN GENERAL.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

''(2) AUTHORITY TO PREVENT ABUSE.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use of the foreign corporation's foreign income taxes not deemed paid by reason of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions of United States property (as defined in section 956(c) of the Internal Revenue Code of 1986) after May 20, 2010.

SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (5) of section 304(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE IN CASE OF FOREIGN ACQUIRING CORPORATION.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A) shall not apply) if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would not—

''(i) be subject to tax under this chapter for the taxable year in which the dividends arise, or

''(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after May 20, 2010.

SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE.

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

''(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

''(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) is amended to read as follows:

''(B) The active foreign business percentage of—

''(i) any dividend paid by an existing 80/20 company, and

''(ii) any interest paid by an existing 80/20 company.''.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

''(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

''(1) EXISTING 80/20 COMPANY.—

''(A) IN GENERAL.—The term 'existing 80/20 company' means any corporation if—

''(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the enactment of this subsection) for such corporation's last taxable year beginning before January 1, 2011,

''(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

''(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.

''(B) FOREIGN BUSINESS REQUIREMENTS.—

''(i) IN GENERAL.—A corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

''(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term 'active foreign business income' means gross income which—

''(I) is derived from sources outside the United States (as determined under this subchapter), and

''(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

''(iii) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3-year period ending with the close of the taxable year of the corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

''(2) ACTIVE FOREIGN BUSINESS PERCENTAGE.—The term 'active foreign business percentage' means, with respect to any existing 80/20 company, the percentage which—

''(A) the active foreign business income of such company for the testing period, is of

''(B) the gross income of such company for the testing period from all sources.

''(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraph (A)(i) thereof) and paragraph (2)—

''(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation's subsidiaries shall be treated as one corporation.

''(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term 'subsidiary' means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears and without regard to section 1504(b)(3)).

''(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 861 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Paragraph (9) of section 904(h) is amended to read as follows:

''(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this subsection as a United States-owned foreign corporation.''.

(3) Subsection (c) of section 2104 is amended in the last sentence by striking ''or to a debt obligation of a domestic corporation'' and all that follows and inserting a period.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.

(B) EXCEPTION FOR RELATED PARTY DEBT.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) SIGNIFICANT MODIFICATIONS TREATED AS NEW ISSUES.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

SEC. 408. SOURCE RULES FOR INCOME ON GUARANTEES.

(a) AMOUNTS SOURCED WITHIN THE UNITED STATES.—Subsection (a) of section 861 is amended by adding at the end the following new paragraph:

''(9) GUARANTEES.—Amounts—

''(A) received from noncorporate residents or domestic corporations with respect to guarantees, and

''(B) paid by any foreign person with respect to guarantees if such amount is connected with income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(b) AMOUNTS SOURCED WITHOUT THE UNITED STATES.—Subsection (a) of section 862 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding at the end the following new paragraph:

''(9) amounts received with respect to guarantees other than those derived from sources within the United States as provided in section 861(a)(9).''.

(c) CONFORMING AMENDMENT.—Clause (ii) of section 864(c)(4)(B) is amended by striking ''dividends or interest'' and inserting ''dividends, interest, or amounts with respect to guarantees''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued after the date of the enactment of this Act.

SEC. 409. LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) is amended—

(1) by striking ''In the case of any information'' and inserting the following:

''(A) IN GENERAL.—In the case of any information''; and

(2) by adding at the end the following:

''(B) APPLICATION TO FAILURES DUE TO REASONABLE CAUSE.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

Subtitle B—Personal Service Income Earned in Pass-thru Entities

SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) MODIFICATION TO ELECTION TO INCLUDE PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF TRANSFER.—Subsection (c) of section 83 is amended by redesignating paragraph (4) as

paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

''(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

''(B) the person receiving such interest shall be treated as having made the election under subsection (b)(1) unless such person makes an election under this paragraph to have such subsection not apply.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 83(b) is amended by inserting ''or subsection (c)(4)(B)'' after ''paragraph (1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after the date of the enactment of this Act.

SEC. 412. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

''SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

''(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

''(2) TREATMENT OF LOSSES.—

''(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

''(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

''(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

''(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

''(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

''(D) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

''(3) NET INCOME AND LOSS.—For purposes of this section—

''(A) NET INCOME.—The term 'net income' means, with respect to any investment services partnership interest for any partnership taxable year, the excess (if any) of—

''(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

''(ii) all items of deduction and loss so taken into account.

''(B) NET LOSS.—The term 'net loss' means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

''(4) SPECIAL RULE FOR DIVIDENDS.—Any dividend taken into account in determining net income or net loss for purposes of paragraph (1) shall not be treated as qualified dividend income for purposes of section 1(h).

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be—

''(A) treated as ordinary income, and

''(B) recognized notwithstanding any other provision of this subtitle.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate net income with respect to such interest for all partnership taxable years to which this section applies, over

''(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years to which this section applies.

''(3) EXCEPTION FOR THE DISPOSITION OF AN INTEREST IN A PUBLICLY TRADED PARTNERSHIP BY AN INDIVIDUAL.—Paragraphs (1) and (2) shall not apply in the case of the disposition by an individual of an investment services partnership interest which is an interest in a publicly traded partnership (as defined in section 7704) if neither such individual nor any member of such individual's family (within the meaning of section 318(a)(1)) has (at any time) provided any of the services described in subsection (c)(1) with respect to assets held (directly or indirectly) by such publicly traded partnership.

''(4) ELECTION WITH RESPECT TO CERTAIN EXCHANGES.—Paragraph (1)(B) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

''(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and

''(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

''(5) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

''(6) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

''(A) the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner's distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

''(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

''(C) the basis of such property in the hands of such partner shall be such fair market value. Subsection (b) of section 734 shall be applied without regard to the preceding sentence. In the case of a taxpayer which satisfies requirements similar to the requirements of subparagraphs (A) and (B) of paragraph (4), this paragraph and paragraph (1)(B) shall not apply to the distribution of a partnership interest if such distribution is in connection with a contribution (or deemed contribution) of any property of the partnership to which section 721 applies pursuant to a transaction described in paragraph (1)(B) or (2) of section 708(b).

''(7) APPLICATION OF SECTION 751.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in a partnership which is held (directly or indirectly) by any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

''(2) SPECIFIED ASSET.—The term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

''(3) EXCEPTION FOR FAMILY FARMS.—The term 'specified asset' shall not include any farm used for farming purposes if such farm is held by a partnership all of the interests in which are held (directly or indirectly) by members of the same family. Terms used in the preceding sentence which are also used in section 2032A shall have the same meaning as when used in such section.

''(4) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b).

''(d) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(1) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

''(A) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in subsection (c)(1) and who are not related to the partner holding the qualified capital interest, and

''(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

''(2) AUTHORITY TO PROVIDE EXCEPTIONS TO ALLOCATION REQUIREMENTS.—To the extent provided by the Secretary in regulations or other guidance—

''(A) ALLOCATIONS TO PORTION OF QUALIFIED CAPITAL INTEREST.—Paragraph (1) may be applied separately with respect to a portion of a qualified capital interest.

''(B) NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—In any case in which the requirements of paragraph (1)(B) are not

satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

''(C) ALLOCATIONS TO SERVICE PROVIDERS' QUALIFIED CAPITAL INTERESTS WHICH ARE LESS THAN OTHER ALLOCATIONS.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.

''(3) SPECIAL RULE FOR CHANGES IN SERVICES.—In the case of an interest in a partnership which is not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership, would (without regard to the reasonable expectation exception of subsection (c)(1)) have become such an interest—

''(A) notwithstanding subsection (c)(1), such interest shall be treated as an investment services partnership interest as of the time of such change, and

''(B) for purposes of this subsection, the qualified capital interest of the holder of such partnership interest immediately after such change shall not be less than the fair market value of such interest (determined immediately before such change).

''(4) SPECIAL RULE FOR TIERED PARTNERSHIPS.—Except as otherwise provided by the Secretary, in the case of tiered partnerships, all items which are allocated in a manner which meets the requirements of paragraph (1) to qualified capital interests in a lower-tier partnership shall retain such character to the extent allocated on the basis of qualified capital interests in any upper-tier partnership.

''(5) EXCEPTION FOR NO-SELF-CHARGED CARRY AND MANAGEMENT FEE PROVISIONS.—Except as otherwise provided by the Secretary, an interest shall not fail to be treated as satisfying the requirement of paragraph (1)(A) merely because the allocations made by the partnership to such interest do not reflect the cost of services described in subsection (c)(1) which are provided (directly or indirectly) to the partnership by the holder of such interest (or a related person).

''(6) SPECIAL RULE FOR DISPOSITIONS.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

''(A) the distributive share of gain or loss that would have been allocated to the qualified capital interest (consistent with the requirements of paragraph (1)) if the partnership had sold all of its assets at fair market value immediately before the disposition, bears to

''(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

''(7) QUALIFIED CAPITAL INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified capital interest' means so much of a partner's interest in the capital of the partnership as is attributable to—

''(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)),

''(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

''(iii) the excess (if any) of—

''(I) any items of income and gain taken into account under section 702 with respect to such interest, over

''(II) any items of deduction and loss so taken into account.

''(B) ADJUSTMENT TO QUALIFIED CAPITAL INTEREST.—

''(i) DISTRIBUTIONS AND LOSSES.—The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest and by the excess (if any) of the amount described in subparagraph (A)(iii)(II) over the amount described in subparagraph (A)(iii)(I).

''(ii) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY.—In the case of any contribution of property described in subparagraph (A)(i) with respect to which the fair market value of such property is not equal to the adjusted basis of such property immediately before such contribution, proper adjustments shall be made to the qualified capital interest to take into account such difference consistent with such regulations or other guidance as the Secretary may provide.

''(8) TREATMENT OF CERTAIN LOANS.—

''(A) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS QUALIFIED CAPITAL INTEREST OF SERVICE PROVIDING PARTNERS.—For purposes of this subsection, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership).

''(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(1) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

''(e) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any entity,

''(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed, any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(4) and (d) shall apply for purposes of this subsection.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—

''(i) IN GENERAL.—The term 'disqualified interest' means, with respect to any entity—

''(I) any interest in such entity other than indebtedness,

''(II) convertible or contingent debt of such entity,

''(III) any option or other right to acquire property described in subclause (I) or (II), and

''(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) a partnership interest,

''(II) except as provided by the Secretary, any interest in a taxable corporation, and

''(III) except as provided by the Secretary, stock in an S corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation substantially all of the income of which is—

''(I) effectively connected with the conduct of a trade or business in the United States, or

''(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(1).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

''(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

''(2) prevent the avoidance of the purposes of this section, and

''(3) coordinate this section with the other provisions of this title.

''(g) SPECIAL RULES FOR INDIVIDUALS.—In the case of an individual—

''(1) IN GENERAL.—Subsection (a)(1) shall apply only to the applicable percentage of the net income or net loss referred to in such subsection.

''(2) DISPOSITIONS, ETC.—The amount which (but for this paragraph) would be treated as ordinary income by reason of subsection (b) or (e) shall be the applicable percentage of such amount.

''(3) PRO RATA ALLOCATION TO ITEMS.—For purposes of applying subsections (a) and (e) the aggregate amount treated as ordinary income for any such taxable year shall be allocated ratably among the items of income, gain, loss, and deduction taken into account in determining such amount.

''(4) SPECIAL RULE FOR RECOGNITION OF GAIN.—Gain which (but for this section) would not be recognized shall be recognized by reason of subsection (b) only to the extent that such gain is treated as ordinary income after application of paragraph (2).

''(5) COORDINATION WITH LIMITATION ON LOSSES.—For purposes of applying paragraph (2) of subsection (a) with respect to any net loss for any taxable year—

''(A) such paragraph shall only apply with respect to the applicable percentage of such net loss for such taxable year,

''(B) in the case of a prior partnership taxable year referred to in clause (i) or (ii) of subparagraph (A) of such paragraph, only the applicable percentage (as in effect for such prior taxable year) of net income or net loss for such prior partnership taxable year shall be taken into account, and

''(C) any net loss carried forward to the succeeding partnership taxable year under subparagraph (B) of such paragraph shall—

''(i) be taken into account in such succeeding year without reduction under this subsection, and

''(ii) in lieu of being taken into account as an item of loss in such succeeding year, shall be taken into account—

''(I) as an increase in net loss or as a reduction in net income (including below zero), as the case may be, and

''(II) after any reduction in the amount of such net loss or net income under this subsection.

A rule similar to the rule of the preceding sentence shall apply for purposes of subsection (b)(2)(A).

''(6) COORDINATION WITH TREATMENT OF DIVIDENDS.—Subsection (a)(4) shall only apply to the applicable percentage of dividends described therein.

''(7) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means 75 percent (50 percent in the case of any taxable year beginning before January 1, 2013).

''(h) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) TREATMENT FOR PURPOSES OF SECTION 7704.—Subsection (d) of section 7704 is amended

by adding at the end the following new paragraph:

''(6) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT QUALIFIED.—

''(A) IN GENERAL.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership). The preceding sentence shall not apply to any item described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)).

''(B) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

''(i) CERTAIN PARTNERSHIPS OWNED BY REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

''(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNERSHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

''(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

''(C) TRANSITIONAL RULE.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.''.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (7) the following new paragraph:

''(8) The application of subsection (e) of section 710 or the regulations prescribed under section 710(f) to prevent the avoidance of the purposes of section 710.''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

''(k) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(8), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended by striking ''or (i)'' and inserting '', (i), or (k)''.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by striking ''paragraph (3)'' in paragraph (5)(A), as so redesignated, and inserting ''paragraph (4)''; and

(C) by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which this section applies by reason of subsection (b)(8) unless—

''(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

''(ii) there is or was substantial authority for such treatment, and

''(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(B) RULES RELATING TO REASONABLE BELIEF.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).''.

(d) INCOME AND LOSS FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) INTERNAL REVENUE CODE.—Section 1402(a) is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ''; and'', and by inserting after paragraph (17) the following new paragraph:

''(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(2) SOCIAL SECURITY ACT.—Section 211(a) of the Social Security Act is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; and'', and by inserting after paragraph (16) the following new paragraph:

''(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(e) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' after ''to the extent otherwise provided by''.

(2) Section 741 is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnership)'' before the period at the end.

(3) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnership.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2010.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2010, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2010.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(e) of such Code (as added by this section) shall take effect on December 31, 2010.

SEC. 413. EMPLOYMENT TAX TREATMENT OF PROFESSIONAL SERVICE BUSINESSES.

(a) IN GENERAL.—Section 1402 is amended by adding at the end the following new subsection:

''(m) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary, the shareholder's pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1)) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if the principal asset of such business is the reputation and skill of 3 or fewer employees.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(13) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business if substantially all of the activities of such trade or business involve providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.

''(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which prevent the avoidance of the purposes of this subsection through tiered entities or otherwise.

''(5) CROSS REFERENCE.—For employment tax treatment of wages paid to shareholders of S corporations, see subtitle C.''.

(b) CONFORMING AMENDMENT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

''(l) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 of the Internal Revenue Code of 1986 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary of the Treasury, the shareholder's pro rata share of items referred to in subparagraph (A) shall be

increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if the principal asset of such business is the reputation and skill of 3 or fewer employees.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(12) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business if substantially all of the activities of such trade or business involve providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

Subtitle C—Corporate Provisions

SEC. 421. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

(a) IN GENERAL.—Section 361 (relating to nonrecognition of gain or loss to corporations; treatment of distributions) is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on March 15, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZATIONS.

(a) IN GENERAL.—Paragraph (2) of section 356(a) is amended—

(1) by striking ''If an exchange'' and inserting ''Except as otherwise provided by the Secretary—

''(A) IN GENERAL.—If an exchange'';

(2) by striking ''then there shall be'' and all that follows through ''February 28, 1913'' and inserting ''then the amount of other property or money shall be treated as a dividend to the extent of the earnings and profits of the corporation''; and

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

''(B) CERTAIN REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(D) to which section 354(b)(1) applies or any other reorganization specified by the Secretary, in applying subparagraph (A)—

''(i) the earnings and profits of each corporation which is a party to the reorganization shall be taken into account, and

''(ii) the amount which is a dividend (and source thereof) shall be determined under rules similar to the rules of paragraphs (2) and (5) of section 304(b).''.

(b) EARNINGS AND PROFITS.—Paragraph (7) of section 312(n) is amended by adding at the end the following: ''A similar rule shall apply to an exchange to which section 356(a)(1) applies.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 356(a) is amended by striking ''then the gain'' and inserting ''then (except as provided in paragraph (2)) the gain''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange between unrelated persons pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

Subtitle D—Other Provisions

SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.

(a) EXTENSION OF APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4611(f) is amended by striking ''December 31, 2017'' and inserting ''December 31, 2020''.

(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) is amended to read as follows:

''(B) the Oil Spill Liability Trust Fund financing rate is 34 cents a barrel.''.

(c) INCREASE IN PER INCIDENT LIMITATIONS ON EXPENDITURES.—Subparagraph (A) of section 9509(c)(2) is amended—

(1) by striking ''$1,000,000,000'' in clause (i) and inserting ''$5,000,000,000'';

(2) by striking ''$500,000,000'' in clause (ii) and inserting ''$2,500,000,000''; and

(3) by striking ''$1,000,000,000 PER INCIDENT, ETC'' in the heading and inserting ''PER INCIDENT LIMITATIONS''.

(d) EFFECTIVE DATE.—

(1) EXTENSION OF FINANCING RATE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASE IN FINANCING RATE.—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''November 30, 2010'';

(B) in the heading for subsection (b)(2), by striking ''JUNE 2, 2010'' and inserting ''NOVEMBER 30, 2010''; and

(C) in subsection (b)(3), by striking ''November 6, 2010'' and inserting ''April 30, 2011''.

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

(A) in paragraph (1)(B), by striking ''June 2, 2010'' and inserting ''November 30, 2010'';

(B) in the heading for paragraph (2), by striking ''JUNE 2, 2010'' and inserting ''NOVEMBER 30, 2010''; and

(C) in paragraph (3), by striking ''December 7, 2010'' and inserting ''May 31, 2011''.

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

(A) by striking ''June 2, 2010'' each place it appears and inserting ''December 1, 2011''; and

(B) in subsection (c), by striking ''November 6, 2010'' and inserting ''May 1, 2011''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''November 6, 2010'' and inserting ''April 30, 2011''.

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

(1) in subparagraph (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E) the following:

''(F) the amendments made by section 501(a)(1) of the American Jobs and Closing Tax Loopholes Act of 2010; and''.

(c) CONDITIONS FOR RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before ''shall apply'' the following: ''(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 502. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REASON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''(g) COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.—

''(1) If—

''(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

''(B) that benefit year has expired,

''(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

''(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either $100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

''(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

''(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

''(B) The State shall, if permitted by State law, defer the establishment of a new benefit year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph(1)(A);

''(C) The State shall pay, if permitted by State law—

''(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

''(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

''(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by this section, expire after the date of enactment of this Act.

SEC. 503. EXTENSION OF THE EMERGENCY CONTINGENCY FUND.

(a) IN GENERAL.—Section 403(c) of the Social Security Act (42 U.S.C. 603(c)) is amended—

(1) in paragraph (2)(A), by inserting '', and for fiscal year 2011, $2,500,000,000'' before ''for payment'';

(2) by striking paragraph (2)(B) and inserting the following:

''(B) AVAILABILITY AND USE OF FUNDS.—

''(i) FISCAL YEARS 2009 AND 2010.—The amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2009 shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with paragraph (3), except that the amounts shall remain available through fiscal year 2011 to make grants and payments to States in accordance with paragraph (3)(C) to cover expenditures to subsidize employment positions held by individuals placed in the positions before fiscal year 2011.

''(ii) FISCAL YEAR 2011.—Subject to clause (iii), the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011 shall remain available through fiscal year 2012 and shall be used to make grants to States based on expenditures in fiscal year 2011 for benefits and services provided in fiscal year 2011 in accordance with the requirements of paragraph (3).

''(iii) RESERVATION OF FUNDS.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011, $500,000 shall be placed in reserve for use in fiscal year 2012, and shall be used to award grants for any expenditures described in this subsection incurred by States after September 30, 2011.'';

(3) in paragraph (2)(C), by striking ''2010'' and inserting ''2012'';

(4) in paragraph (3)—

(A) in clause (i) of each of subparagraphs (A), (B), and (C)—

(i) by striking ''year 2009 or 2010'' and inserting ''years 2009 through 2011'';

(ii) by striking ''and'' at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ''; and''; and

(iv) by adding at the end the following:

''(III) if the quarter is in fiscal year 2011, has provided the Secretary with such information as the Secretary may find necessary in order to make the determinations, or take any other action, described in paragraph (5)(C).''; and

(B) in subparagraph (C), by adding at the end the following:

''(iv) LIMITATION ON EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—An expenditure for subsidized employment shall be taken into account under clause (ii) only if the expenditure is used to subsidize employment for—

''(I) a member of a needy family (without regard to whether the family is receiving assistance under the State program funded under this part); or

''(II) an individual who has exhausted (or, within 60 days, will exhaust) all rights to receive unemployment compensation under Federal and State law, and who is a member of a needy family.'';

(5) by striking paragraph (5) and inserting the following:

''(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT AUTHORITY.—

''(A) FISCAL YEARS 2009 AND 2010.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

''(B) FISCAL YEAR 2011.—Subject to subparagraph (C), the total amount payable to a single State under subsection (b) and this subsection for fiscal year 2011 shall not exceed 30 percent of the annual State family assistance grant.

''(C) ADJUSTMENT AUTHORITY.—If the Secretary determines that the Emergency Fund is at risk of being depleted before September 30, 2011, or that funds are available to accommodate additional State requests under this subsection, the Secretary may, through program instructions issued without regard to the requirements of section 553 of title 5, United States Code—

''(i) specify priority criteria for awarding grants to States during fiscal year 2011; and

''(ii) adjust the percentage limitation applicable under subparagraph (B) with respect to the total amount payable to a single State for fiscal year 2011.''; and

(6) in paragraph (6), by inserting ''or for expenditures described in paragraph (3)(C)(iv)'' before the period.

(b) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(2)—

(A) by striking ''2010'' and inserting ''2011''; and

(B) by striking all that follows ''repealed'' and inserting a period; and

(2) in subsection (d)(1), by striking ''2010'' and inserting ''2011''.

(c) PROGRAM GUIDANCE.—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section to a jurisdiction for subsidized employment do not support any subsidized employment position the annual salary of which is greater than, at State option—

(1) 200 percent of the poverty line (within the meaning of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section 673(2)) for a family of 4; or

(2) the median wage in the jurisdiction.

Subtitle B—Health Provisions

SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of Public Law 111–148, is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(b) APPLICATION.—For fiscal year 2011, the Secretary of Health and Human Services may implement the amendment made by subsection (a) by posting on the Internet website of the Centers for Medicare & Medicaid Services a list of the areas and the hospitals whose reclassifications will be extended pursuant to such amendment. Hospitals located in or reclassified to labor market areas that are affected by such extension may terminate or withdraw their reclassifications by following the procedures included in section 412.273 of title 42, Code of Federal Regulations, except that any request for such termination or withdrawal must be received by the Medicare Geographic Classification Review Board not later than the date that is 5 business days after the day of such posting on the Internet website of the Centers for Medicare & Medicaid Services or June 18, 2010, whichever date is later.

(c) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173)), is amended by inserting ''in fiscal years 2008 and 2009'' after ''For purposes of implementation of this subsection''.

SEC. 512. REPEAL OF DELAY OF RUG-IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 3122 of Public Law 111–148 is repealed and the provision of law amended by such section is restored as if such section had not been enacted.

SEC. 514. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of such title that involve reprocessing of claims, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $175,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) REPEAL OF EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM MEDICAID.—Section 6502 of Public Law 111–148 is repealed and the provisions of law amended by such section are restored as if such section had never been enacted. Nothing in the previous sentence shall affect the execution or placement of the insertion made by section 6503 of such Act.

(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Effective as if included in

the enactment of Public Law 111–148, section 2001(a)(5)(B) of such Act is amended by striking all that follows ''is amended'' and inserting the following: ''by inserting after '100 percent' the following: '(or, beginning January 1, 2014, 133 percent)'.''.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: ''The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.''.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking ''PER PERSON'' in the heading; and

(B) by striking ''each employee'' and inserting ''employees''; and

(2) in subparagraph (C), by striking '', on a case-by-case basis,''.

(e) ELECTRONIC HEALTH RECORDS.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking ''reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)'' and inserting ''reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis for such classes or types of providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government)''; and

(2) in paragraph (6)(B), by inserting before the period the following: ''and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost''.

(f) CORRECTIONS OF DESIGNATIONS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking ''and'' before ''(XVI) the medical'' and by striking ''(XVI) if'' and inserting ''(XVII) if''; and

(B) in subsection (ii)(2), by striking ''(XV)'' and inserting ''(XVI)''.

(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PROGRAM TO 340B DRUG DISCOUNT PROGRAM.

(a) ADDITION OF INPATIENT DRUG DISCOUNT.—Title III of the Public Health Service Act is amended by inserting after section 340B (42 U.S.C. 256b) the following:

''SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVIDUALS WITHOUT PRESCRIPTION DRUG COVERAGE.

''(a) REQUIREMENTS FOR AGREEMENTS WITH THE SECRETARY.—

''(1) IN GENERAL.—

''(A) AGREEMENT.—The Secretary shall enter into an agreement with each manufacturer of covered inpatient drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered inpatient drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after January 1, 2011, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2). For a covered inpatient drug that also is a covered outpatient drug under section 340B, the amount required to be paid under the preceding sentence shall be equal to the amount required to be paid under section 340B(a)(1) for such drug. The agreement with a manufacturer under this subparagraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B.

''(B) CEILING PRICE.—Each such agreement shall require that the manufacturer furnish the Secretary with reports, on a quarterly basis, of the price for each covered inpatient drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the 'ceiling price'), and shall require that the manufacturer offer each covered entity covered inpatient drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.

''(C) ALLOCATION METHOD.—Each such agreement shall require that, if the supply of a covered inpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section.

''(2) REBATE PERCENTAGE DEFINED.—

''(A) IN GENERAL.—For a covered inpatient drug purchased in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

''(i) the average total rebate required under section 1927(c) of the Social Security Act (or the average total rebate that would be required if the drug were a covered outpatient drug under such section) with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

''(ii) the average manufacturer price for such a unit of the drug during such quarter.

''(B) OVER THE COUNTER DRUGS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the 'rebate percentage' shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(3) of such Act.

''(ii) DEFINITION.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

''(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

''(4) REQUIREMENTS FOR COVERED ENTITIES.—

''(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

''(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

''(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism under the previous sentence within 12 months of the enactment of this section, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

''(iii) PROHIBITING DISCLOSURE TO GROUP PURCHASING ORGANIZATIONS.—In the event that a covered entity is a member of a group purchasing organization, such entity shall not disclose the price or any other information pertaining to any purchases under this section directly or indirectly to such group purchasing organization.

''(B) PROHIBITING RESALE, DISPENSING, OR ADMINISTRATION OF DRUGS EXCEPT TO CERTAIN PATIENTS.—With respect to any covered inpatient drug that is subject to an agreement under this subsection, a covered entity shall not dispense, administer, resell, or otherwise transfer the covered inpatient drug to a person unless—

''(i) such person is a patient of the entity; and

''(ii) such person does not have health plan coverage (as defined in subsection (c)(3)) that provides prescription drug coverage in the inpatient setting with respect to such covered inpatient drug.

For purposes of clause (ii), a person shall be treated as having health plan coverage (as defined in subsection (c)(3)) with respect to a covered inpatient drug if benefits are not payable under such coverage with respect to such drug for reasons such as the application of a deductible or cost sharing or the use of utilization management.

''(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered inpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraph (A) or (B) with respect to drugs of the manufacturer. The use or disclosure of information for performance of such an audit shall be treated as a use or disclosure required by law for purposes of section 164.512(a) of title 45, Code of Federal Regulations.

''(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraph (A) or (B), the covered entity shall be liable to the manufacturer of the covered inpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the Secretary and the manufacturer under this subsection.

''(E) MAINTENANCE OF RECORDS.—

''(i) IN GENERAL.—A covered entity shall establish and maintain an effective recordkeeping system to comply with this section and shall certify to the Secretary that such entity is in compliance with subparagraphs (A) and (B). The Secretary shall require that hospitals that purchase covered inpatient drugs for inpatient dispensing or administration under this subsection appropriately segregate inventory of such covered inpatient drugs, either physically or electronically, from drugs for outpatient use, as well as from drugs for inpatient dispensing or administration to individuals who have (for purposes of subparagraph (B)) health plan coverage described in clause (ii) of such subparagraph.

''(ii) CERTIFICATION OF NO THIRD-PARTY PAYER.—A covered entity shall maintain records that contain certification by the covered entity that no third party payment was received for any covered inpatient drug that is subject to an agreement under this subsection and that was dispensed to an inpatient.

''(5) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the distinct part of the hospital shall not be considered a covered entity under this subsection unless the hospital is otherwise a covered entity under this subsection.

''(6) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered inpatient drugs and single State agencies under

section 1902(a)(5) of the Social Security Act of the identities of covered entities under this subsection, and of entities that no longer meet the requirements of paragraph (4), by means of timely updates of the Internet website supported by the Department of Health and Human Services relating to this section.

''(7) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

''(b) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that meets the requirements described in subsection (a)(4) and is one of the following:

''(1) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

''(A) is owned or operated by a unit of State or local government, is a public or private nonprofit corporation which is formally granted governmental powers by a unit of State or local government, or is a private nonprofit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan for medical assistance under title XIX of such Act; and

''(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined using the methodology under section 1886(d)(5)(F) of the Social Security Act as in effect on the date of enactment of this section) greater than 20.20 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act (as so in effect on the date of enactment of this section).

''(2) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(3) A free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(4) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of paragraph (1)(A).

''(5) An entity that is a rural referral center, as defined by section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of paragraph (1)(A) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.

''(c) OTHER DEFINITIONS.—In this section:

''(1) AVERAGE MANUFACTURER PRICE.—

''(A) IN GENERAL.—The term 'average manufacturer price'—

''(i) has the meaning given such term in section 1927(k) of the Social Security Act, except that such term shall be applied under this section with respect to covered inpatient drugs in the same manner (as applicable) as such term is applied under such section 1927(k) with respect to covered outpatient drugs (as defined in such section); and

''(ii) with respect to a covered inpatient drug for which there is no average manufacturer price (as defined in clause (i)), shall be the amount determined under regulations promulgated by the Secretary under subparagraph (B).

''(B) RULEMAKING.—The Secretary shall by regulation, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, establish a method for determining the average manufacturer price for covered inpatient drugs for which there is no average manufacturer price (as defined in subparagraph (A)(i)). Regulations promulgated with respect to covered inpatient drugs under the preceding sentence shall provide for the application of methods for determining the average manufacturer price that are the same as the methods used to determine such price in calculating rebates required for such drugs under an agreement between a manufacturer and a State that satisfies the requirements of section 1927(b) of the Social Security Act, as applicable.

''(2) COVERED INPATIENT DRUG.—The term 'covered inpatient drug' means a drug—

''(A) that is described in section 1927(k)(2) of the Social Security Act;

''(B) that, notwithstanding paragraph (3)(A) of section 1927(k) of such Act, is used in connection with an inpatient service provided by a covered entity that is enrolled to participate in the drug discount program under this section; and

''(C) that is not purchased by the covered entity through or under contract with a group purchasing organization.

''(3) HEALTH PLAN COVERAGE.—The term 'health plan coverage' means—

''(A) health insurance coverage (as defined in section 2791, and including coverage under a State health benefits risk pool);

''(B) coverage under a group health plan (as defined in such section, and including coverage under a church plan, a governmental plan, or a collectively bargained plan);

''(C) coverage under a Federal health care program (as defined by section 1128B(f) of the Social Security Act); or

''(D) such other health benefits coverage as the Secretary recognizes for purposes of this section.

''(4) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in section 1927(k) of the Social Security Act.

''(d) PROGRAM INTEGRITY.—

''(1) MANUFACTURER COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The establishment of a process to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

''(I) Developing and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices under such subsection.

''(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

''(III) Conducting periodic monitoring of sales transactions by covered entities.

''(IV) Inquiring into any discrepancies between ceiling prices and manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

''(ii) The establishment of procedures for manufacturers to issue refunds to covered entities in the event that there is an overcharge by the manufacturers, including the following:

''(I) Providing the Secretary with an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

''(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time.

''(iii) The provision of access through the Internet website supported by the Department of Health and Human Services to the applicable ceiling prices for covered inpatient drugs as calculated and verified by the Secretary in accordance with this section, in a manner (such as through the use of password protection) that limits such access to covered entities and adequately assures security and protection of privileged pricing data from unauthorized re-disclosure.

''(iv) The development of a mechanism by which—

''(I) rebates, discounts, or other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered inpatient drugs to covered entities are reported to the Secretary; and

''(II) appropriate credits and refunds are issued to covered entities if such discounts, rebates, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

''(v) Selective auditing of manufacturers and wholesalers to ensure the integrity of the drug discount program under this section.

''(vi) The establishment of a requirement that manufacturers and wholesalers use the identification system developed by the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(vii) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations to be promulgated by the Secretary not later than January 1, 2011;

''(II) shall not exceed $10,000 per single dosage form of a covered inpatient drug purchased by a covered entity where a manufacturer knowingly charges such covered entity a price for such drug that exceeds the ceiling price under subsection (a)(1); and

''(III) shall not exceed $100,000 for each instance where a manufacturer withholds or provides materially false information to the Secretary or to covered entities under this section or knowingly violates any provision of this section (other than subsection (a)(1)).

''(2) COVERED ENTITY COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements specified under subsection (a)(4).

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The development of procedures to enable and require covered entities to update at least annually the information on the Internet website supported by the Department of Health and Human Services relating to this section.

''(ii) The development of procedures for the Secretary to verify the accuracy of information regarding covered entities that is listed on the website described in clause (i).

''(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered inpatient drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(4)(A).

''(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site and each covered entity's purchasing status under sections 340B and

this section can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(v) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations promulgated by the Secretary; and

''(II) shall not exceed $10,000 for each instance where a covered entity knowingly violates subsection (a)(4)(B) or knowingly violates any other provision of this section.

''(vi) The termination of a covered entity's participation in the program under this section, for a period of time to be determined by the Secretary, in cases in which the Secretary determines, in accordance with standards and procedures established by regulation, that—

''(I) the violation by a covered entity of a requirement of this section was repeated and knowing; and

''(II) imposition of a monetary penalty would be insufficient to reasonably ensure compliance with the requirements of this section.

''(vii) The referral of matters, as appropriate, to the Food and Drug Administration, the Office of the Inspector General of the Department of Health and Human Services, or other Federal or State agencies.

''(3) ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.—From amounts appropriated under subsection (f), the Secretary may establish and implement an administrative process for the resolution of the following:

''(A) Claims by covered entities that manufacturers have violated the terms of their agreement with the Secretary under subsection (a)(1).

''(B) Claims by manufacturers that covered entities have violated subsection (a)(4)(A) or (a)(4)(B).

''(e) AUDIT AND SANCTIONS.—

''(1) AUDIT.—From amounts appropriated under subsection (f), the Inspector General of the Department of Health and Human Services (referred to in this subsection as the 'Inspector General') shall audit covered entities under this section to verify compliance with criteria for eligibility and participation under this section, including the antidiversion prohibitions under subsection (a)(4)(B), and take enforcement action or provide information to the Secretary who shall take action to ensure program compliance, as appropriate. A covered entity shall provide to the Inspector General, upon request, records relevant to such audits.

''(2) REPORT.—For each audit conducted under paragraph (1), the Inspector General shall prepare and publish in a timely manner a report which shall include findings and recommendations regarding—

''(A) the appropriateness of covered entity eligibility determinations and, as applicable, certifications;

''(B) the effectiveness of antidiversion prohibitions; and

''(C) the effectiveness of restrictions on inpatient dispensing and administration.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2011 and each succeeding fiscal year.''.

(b) RULEMAKING.—Not later than January 1, 2011, the Secretary shall promulgate regulations implementing section 340B–1 of the Public Health Service Act (as added by subsection (a)).

(c) CONFORMING AMENDMENT TO SECTION 340B.—Paragraph (1) of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) is amended by adding at the end the following: ''Such agreement shall further require that, if the supply of a covered outpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section. The agreement with a manufacturer under this paragraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B–1.''.

(d) CONFORMING AMENDMENTS TO MEDICAID.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence, by striking ''and paragraph (6)'' and inserting '', paragraph (6), and paragraph (8)''; and

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

''(8) LIMITATION ON PRICES OF DRUGS PURCHASED BY 340B–1-COVERED ENTITIES.—

''(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B–1 of the Public Health Service Act with respect to covered inpatient drugs (as defined in such section) purchased by a 340B–1-covered entity on or after January 1, 2011.

''(B) 340B–1-COVERED ENTITY DEFINED.—In this subsection, the term '340B–1-covered entity' means an entity described in section 340B–1(b) of the Public Health Service Act.''; and

(2) in subsection (c)(1)(C)(i)(I)—

(A) by striking ''or'' before ''a covered entity''; and

(B) by inserting before the semicolon the following: '', or a covered entity for a covered inpatient drug (as such terms are defined in section 340B–1of the Public Health Service Act)''.

SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN'S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) DEFINITION OF COVERED OUTPATIENT DRUG.—

(1) AMENDMENT.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking ''covered entities described in subparagraph (M)''and inserting ''covered entities described in subparagraph (M) (other than a children's hospital described in subparagraph (M))''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking ''and a children's hospital'' and all that follows through the end of the subparagraph and inserting a period.

SEC. 518. CONFORMING AMENDMENT RELATED TO WAIVER OF COINSURANCE FOR PREVENTIVE SERVICES.

Effective as if included in section 10501(i)(2)(A) of Public Law 111–148, section 1833(a)(3)(A) of the Social Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by striking ''section 1861(s)(10)(A)'' and inserting ''section 1861(ddd)(3)''.

SEC. 519. 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)(5) of the Social Security Act (42 U.S.C. 1395cc(j)(5)), as inserted by section 6401(a) of Public Law 111–148, 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''.

SEC. 520. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made after the date of the enactment of this Act.''.

SEC. 521. 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 ''THE FIRST 5 MONTHS ''; and

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

''(11) UPDATE FOR THE LAST 7 MONTHS 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 December 31, 2010, the update to the single conversion factor shall be 2.2 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2011 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2011 and subsequent years as if subparagraph (A) had never applied.

''(12) UPDATE FOR 2011.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 1.0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 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. 522. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C.1395w–4(e)) is amended by adding at the end the following new paragraph:

''(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

''(A) IN GENERAL.—

''(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2012, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

''(I) The Secretary shall configure the physician fee schedule areas using the Metropolitan Statistical Areas (each in this paragraph referred to as an 'MSA'), as defined by the Director of the Office of Management and Budget as of the date of the enactment of this paragraph, as the basis for the fee schedule areas.

''(II) For purposes of this clause, the Secretary shall treat all areas not included in an MSA as a single rest-of-State MSA and any reference in this paragraph to an MSA shall be deemed to include a reference to such rest-of-State MSA.

''(III) The Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a 'GAF') in descending order.

''(IV) In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of all the remaining MSAs in the State. If the ratio of the GAF of the highest cost MSA to the weighted-average of the GAF of remaining lower cost MSAs is 1.05 or greater, the highest cost MSA shall be a separate fee schedule area.

''(V) In the next iteration, the Secretary shall compare the GAF of the MSA with the second-highest GAF to the weighted-average GAF of the all the remaining MSAs (excluding MSAs that become separate fee schedule areas). If the ratio of the second-highest MSA's GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA shall be a separate fee schedule area.

''(VI) The iterative process shall continue until the ratio of the GAF of the MSA with highest remaining GAF to the weighted-average of the remaining MSAs with lower GAFs is less than 1.05, and the remaining group of MSAs with lower GAFs shall be treated as a single rest-of-State fee schedule area.

''(VII) For purposes of the iterative process described in this clause, if two MSAs have identical GAFs, they shall be combined.

''(ii) TRANSITION.—For services furnished on or after January 1, 2012, and before January 1, 2017, in the State of California, after calculating the work, practice expense, and malpractice geographic indices that would otherwise be determined under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index that would otherwise be in effect for such county, the Secretary shall instead apply the index that would otherwise be in effect for such county.

''(B) SUBSEQUENT REVISIONS.—After the transition described in subparagraph (A)(ii), not less than every 3 years the Secretary shall review and update the fee schedule areas using the methodology described in subparagraph (A)(i) and any updated MSAs as defined by the Director of the Office of Management and Budget. The Secretary shall review and make any changes pursuant to such reviews concurrent with the application of the periodic review of the adjustment factors required under paragraph (1)(C) for California.

''(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2012, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to a fee schedule area established in accordance with this paragraph.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking ''The term'' and inserting ''Except as provided in subsection (e)(6)(C), the term''.

SEC. 523. 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.

TITLE VI—OTHER PROVISIONS

SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7(a) of Public Law 111–157, is amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on May 31, 2010.

SEC. 602. ALLOCATION OF GEOTHERMAL RECEIPTS.

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

SEC. 603. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration—Business Loans Program Account'', $505,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section; and

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

Such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

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

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''May 31, 2010'' and inserting ''December 31, 2010''.

(c) APPROPRIATION.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $5,000,000, to remain available until expended, which may be transferred and merged with the appropriation for ''Small Business Administration—Salaries and Expenses''.

SEC. 604. EMERGENCY AGRICULTURAL DISASTER ASSISTANCE.

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

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

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

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced specialty crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

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

(b) SUPPLEMENTAL DIRECT PAYMENT.—

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

(2) ACRE PROGRAM.—Eligible producers that received direct payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

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

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

(B) ADMINISTRATIVE COSTS.—State Secretary of Agriculture may not use more than five percent of the funds provided for costs associated with the administration of the grants provided in paragraph (1).

(C) ADMINISTRATION OF GRANTS.—State Secretary of Agriculture may enter into a contract with the Department of Agriculture to administer the grants provided in paragraph (1).

(D) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(E) MAXIMUM GRANT.—The maximum amount of a grant made to a State for counties described in paragraph (1)(B) may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to issue payments to eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 60 days after the date on which the State receives grant funds; and

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

(i) the manner in which the State provided assistance;

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

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(D) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

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

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

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

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

(B) the county-eligible production, as determined under paragraph (5).

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

(A) the total funds made available to carry out this subsection; by

(B) the sum of the county-eligible production, as determined under paragraph (5).

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

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

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2009 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible aquaculture producers;

(B) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided per species of aquaculture; and

(iii) the process by which the State determined the levels of assistance to eligible aquaculture producers.

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

(6) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

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

(B) includes the information reported to the Secretary under paragraph (4)(C).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

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

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

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

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

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

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

(3) LOANS.—

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

(B) ELIGIBILITY.—

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

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

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

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

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

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section and the amendment made by this section.

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

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

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

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

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 605. SUMMER EMPLOYMENT FOR YOUTH.

There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Department of Labor—Employment and Training Administration—Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (''WIA''), $1,000,000,000 shall be available for obligation on the date of enactment of this Act for grants to States for youth activities, including summer employment for youth: Provided, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: Provided further, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: Provided further, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': Provided further, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds: Provided further, That an amount that is not more than 1 percent of such amount may be used for the administration, management, and oversight of the programs, activities, and grants carried out with such funds, including the evaluation of the use of such funds: Provided further, That funds available under the preceding proviso, together with funds described in section 801(a) of division A of the American Recovery and reinvestment Act of 2009 (Public Law 111–5), and funds provided in such Act under the heading ''Department of Labor–Departmental Management–Salaries and Expenses'', shall remain available for obligation through September 30, 2011.

SEC. 606. HOUSING TRUST FUND.

(a) FUNDING.—There is hereby appropriated for the Housing Trust Fund established pursuant to section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568), $1,065,000,000, for use under such section: Provided, That of the total amount provided under this heading, $65,000,000 shall be available to the Secretary of Housing

and Urban Development only for incremental project-based voucher assistance to be allocated to States to be used solely in conjunction with grant funds awarded under such section 1338, pursuant to the formula established under section 1338 and taking into account different per unit subsidy needs among states, as determined by the Secretary.

(b) AMENDMENTS.—Section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) is amended—

(1) in subsection (c)—

(A) in paragraph (4)(A) by inserting after the period at the end the following: ''Notwithstanding any other provision of law, for the fiscal year following enactment of this sentence and thereafter, the Secretary may make such notice available only on the Internet at the appropriate government website or websites or through other electronic media, as determined by the Secretary.'';

(B) in paragraph (5)(C), by striking ''(8)'' and inserting ''(9)''; and

(C) in paragraph (7)(A)—

(i) by striking ''section 1335(a)(2)(B)'' and inserting ''section 1335(a)(1)(B)''; and

(ii) by inserting ''the units funded under'' after ''75 percent of''; and

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

''(k) ENVIRONMENTAL REVIEW.—For the purpose of environmental compliance review, funds awarded under this section shall be subject to section 288 of the HOME Investment Partnerships Act (12 U.S.C. 12838) and shall be treated as funds under the program established by such Act.''.

SEC. 607. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT ACT OF 2010.

(a) SHORT TITLE.—This section may be cited as the ''Individual Indian Money Account Litigation Settlement Act of 2010''.

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term ''Amended Complaint'' means the Amended Complaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The term ''Land Consolidation Program'' means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractional interests in trust or restricted land.

(3) LITIGATION.—The term ''Litigation'' means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term ''Plaintiff'' means a member of any class certified in the Litigation.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT.—The term ''Settlement'' means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(7) TRUST ADMINISTRATION CLASS.—The term ''Trust Administration Class'' means the Trust Administration Class as defined in the Settlement.

(c) PURPOSE.—The purpose of this section is to authorize the Settlement.

(d) AUTHORIZATION.—The Settlement is authorized, ratified, and confirmed.

(e) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation of jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

(B) TREATMENT.—On certification under subparagraph (A), the Trust Administration Class shall be treated as a class under Federal Rule of Civil Procedure 23(b)(3) for purposes of the Settlement.

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Trust Land Consolidation Fund''.

(B) AVAILABILITY OF AMOUNTS.—Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—

(i) to conduct the Land Consolidation Program; and

(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Indian Education Scholarship Holding Fund''.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(3) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(g) TAXATION AND OTHER BENEFITS.—

(1) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement—

(A) shall not be included in gross income; and

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code of 1986 that takes into account excludible income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

(A) as income for the month during which the amounts were received; or

(B) as a resource.

SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).

(2) PIGFORD CLAIM.—The term ''Pigford claim'' has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2210).

(b) APPROPRIATION OF FUNDS.—There is hereby appropriated to the Secretary of Agriculture $1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable. The funds appropriated by this subsection are in addition to the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) USE OF FUNDS.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

(d) TREATMENT OF REMAINING FUNDS.—If any of the funds appropriated by subsection (b) are not obligated and expended to carry out the Settlement Agreement, the Secretary of Agriculture shall return the unused funds to the Treasury and may not make the unused funds available for any purpose related to section 14012 of the Food, Conservation, and Energy Act of 2008, for any other settlement agreement executed in In re Black Farmers Discrimination Litigation, No. 08–511 (D.D.C.), or for any other purpose.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into the Settlement Agreement or any other settlement agreement. Nothing in this section shall be construed as creating the basis for a Pigford claim.

(f) CONFORMING AMENDMENTS.—Section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) is amended—

(1) in subsection (c)(1)—

(A) by striking ''subsection (h)'' and inserting ''subsection (g)''; and

(B) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(2) by striking subsection (e);

(3) in subsection (g), by striking ''subsection (f)'' and inserting ''subsection (e)'';

(4) in subsection (i)—

(A) by striking ''(1) IN GENERAL.—Of the funds'' and inserting ''Of the funds''; and

(B) by striking paragraph (2);

(5) by striking subsection (j); and

(6) by redesignating subsections (f), (g), (h), (i), and (k) as subsections (e), (f), (g), (h), and (i), respectively.

SEC. 609. EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION TO INCLUDE ALL CHAPTER 61 DISABILITY RETIREES REGARDLESS OF DISABILITY RATING PERCENTAGE OR YEARS OF SERVICE.

(a) PHASED EXPANSION CONCURRENT RECEIPT.—Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

''(a) PAYMENT OF BOTH RETIRED PAY AND DISABILITY COMPENSATION.—

''(1) PAYMENT OF BOTH REQUIRED.—

''(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (in this section referred to as a 'qualified retiree') is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

''(B) APPLICABILITY OF FULL CONCURRENT RECEIPT PHASE-IN REQUIREMENT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree is subject to subsection (c).

''(C) PHASE-IN EXCEPTION FOR 100 PERCENT DISABLED RETIREES.—The payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following qualified retirees:

''(i) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

''(ii) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

''(D) TEMPORARY PHASE-IN EXCEPTION FOR CERTAIN CHAPTER 61 DISABILITY RETIREES; TERMINATION.—Subject to subsection (b), during the period beginning on January 1, 2011, and ending on September 30, 2012, subsection (c) shall not apply to a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

''(2) QUALIFYING SERVICE-CONNECTED DISABILITY DEFINED.—In this section:

''(A) 50 PERCENT RATING THRESHOLD.—In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs. However, during the period specified in paragraph (1)(D), members or former members receiving retired pay under chapter 61 with 20 years or more of creditable service computed under section 12732 of this title, but not otherwise entitled to retired pay under any other provision of this title, shall qualify in accordance with subparagraphs (B) and (C).

''(B) INCLUSION OF MEMBERS NOT OTHERWISE ENTITLED TO RETIRED PAY.—In the case of a member or former member receiving retired pay under chapter 61 of this title, but who is not otherwise entitled to retired pay under any other provision of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2011, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent.

''(ii) January 1, 2012, rated 80 percent or 70 percent.

''(iii) January 1, 2013, rated 60 percent or 50 percent.

''(C) ELIMINATION OF RATING THRESHOLD.—In the case of a member or former member receiving retired pay under chapter 61 regardless of being otherwise eligible for retirement, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2014, rated 40 percent or 30 percent.

''(ii) January 1, 2015, any rating.

''(3) LIMITED DURATION.—Notwithstanding the effective date specified in each clause of subparagraphs (B) and (C) of paragraph (2), the clause—

''(A) shall apply only if the termination date specified in paragraph (1)(D) would occur during or after the calendar year specified in the clause; and

''(B) shall not apply beyond the termination date specified in paragraph (1)(D).''.

(b) CONFORMING AMENDMENT TO SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b) of such section is amended to read as follows:

''(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED FOR SUCH RETIREES.—

''(1) GENERAL REDUCTION RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the members retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(2) CHAPTER 61 RETIREES NOT OTHERWISE ENTITLED TO RETIRED PAY.—

''(A) BEFORE TERMINATION DATE.—If a member with a qualifying service-connected disability (as defined in subsection (a)(2)) is retired under chapter 61 of this title, but is not otherwise entitled to retired pay under any other provision of this title, and the termination date specified in subsection (a)(1)(D) has not occurred, the retired pay of the member is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

''(B) AFTER TERMINATION DATE.—Subsection (a) does not apply to a member described in subparagraph (A) if the termination date specified in subsection (a)(1)(D) has occurred.''.

(c) CONFORMING AMENDMENT TO FULL CONCURRENT RECEIPT PHASE-IN.—Subsection (c) of such section is amended by striking ''the second sentence of''.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

''§ 1414. Concurrent receipt of retired pay and veterans' disability compensation''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item related to section 1414 and inserting the following new item:

''1414. Concurrent receipt of retired pay and veterans' disability compensation.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 610. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) by striking ''before May 31, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 611. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

''(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

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

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

SEC. 612. STATE COURT IMPROVEMENT PROGRAM.

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

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) MARKET-RELATED CONTRACT EXTENSION OPTION.—Upon a timber purchaser's written request, the Secretary may make a one-time modification to the qualifying contract to add 3

years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) REPORTING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(d) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(e) NO SURRENDER OF CLAIMS.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.

(a) MODIFICATION OF ALLOCATION RULES.—Section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 80) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)''; and

(3) by adding at the end the following:

''(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAMS.—

''(A) REDISTRIBUTION AMONG STATES.—Notwithstanding sections 1301(m) and 1302(e) of SAFETEA–LU (119 Stat. 1202 and 1205), the Secretary shall apportion funds authorized to be appropriated under subsection (b) for the projects of national and regional significance program and the national corridor infrastructure improvement program among all States such that each State's share of the funds so apportioned is equal to the State's share for fiscal year 2009 of funds apportioned or allocated for the programs specified in section 105(a)(2) of title 23, United States Code.

''(B) DISTRIBUTION AMONG PROGRAMS.—Funds apportioned to a State pursuant to subparagraph (A) shall be—

''(i) made available to the State for the programs specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program), and in the same proportion for each such program that—

''(I) the amount apportioned to the State for that program for fiscal year 2009; bears to

''(II) the amount apportioned to the State for fiscal year 2009 for all such programs; and

''(ii) administered in the same manner and with the same period of availability as funding is administered under programs identified in clause (i).''.

(b) EXPENDITURE AUTHORITY FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2010'' and inserting ''American Jobs and Closing Tax Loopholes Act of 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be treated as being included in that Act at the time of the enactment of that Act.

(d) SAVINGS CLAUSE.—

(1) IN GENERAL.—For fiscal year 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, the amount of funds apportioned to each State under section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147) that is determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out the projects of national and regional significance program and national corridor infrastructure improvement program shall be the greater of—

(A) the amount that the State was authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program according to the provisions of that Act, as in effect on the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program pursuant to the provisions of that Act, as amended by the amendments made by this section.

(2) OBLIGATION AUTHORITY.—For fiscal year 2010, the amount of obligation authority distributed to each State shall be the greater of—

(A) the amount that the State was authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the date of enactment of this Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection.

(4) INCREASE IN OBLIGATION LIMITATION.—The limitation under the heading ''Federal-aid Highways (Limitation on Obligations) (Highway Trust Fund)'' in Public Law 111–117 is increased by such sums as may be necessary to carry out this subsection.

(5) CONTRACT AUTHORITY.—Funds made available to carry out this subsection shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(6) AMOUNTS.—The dollar amount specified in section 105(d)(1) of title 23, United States Code, the dollar amount specified in section 120(a)(4)(B) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117), and the dollar amount specified in section 120(b)(10) of such title shall each be increased as necessary to carry out this subsection.

SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.

(a) IN GENERAL.—Section 278(a) of the Trade Act of 1974 (19 U.S.C. 2372(a)) is amended by adding at the end the following:

''(3) RULE OF CONSTRUCTION.—For purposes of this section, any reference to 'workers', 'workers eligible for training under section 236', or any other reference to workers under this section shall be deemed to include individuals who are, or are likely to become, eligible for unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, or who remain unemployed after exhausting all rights to such compensation.''.

(b) DEFINITION OF ELIGIBLE INSTITUTION.—Section 278(b)(1) of the Trade Act of 1974 (19 U.S.C. 2372(b)(1)) is amended—

(1) by striking ''section 102'' and inserting ''section 101(a)''; and

(2) by striking ''1002'' and inserting ''1001(a)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is amended—

(1) in subsection (a), by striking the last sentence; and

(2) by adding at the end the following:

''(c) ADMINISTRATIVE AND RELATED COSTS.—The Secretary may retain not more than 5 percent of the funds appropriated under subsection (b) for each fiscal year to administer, evaluate, and establish reporting systems for the Community College and Career Training Grant program under section 278.

''(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under subsection (b) shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

''(e) AVAILABILITY.—Funds appropriated under subsection (b) shall remain available for the fiscal year for which the funds are appropriated and the subsequent fiscal year.''.

SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

(a) EXTENSIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective date column and inserting ''12/31/2013'':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).

(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''amounts determined by the Secretary'' and all that follows through ''5208.59.80'' and inserting ''amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208''; and

(B) in paragraph (2), by striking ''October 1, 2008'' and inserting ''December 31, 2013'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''imported cotton fabric''; and

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''United States''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

SEC. 617. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking ''chapter 51'' and inserting ''chapter 62''.

(b) FULL RESTORATION OF PAYMENT LEVELS IN FISCAL YEAR 2010.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 62 of the Harmonized Tariff Schedule of the United States, subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

SEC. 618. DEPARTMENT OF COMMERCE STUDY.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall report to Congress detailing—

(1) the pattern of job loss in the New England, Mid-Atlantic, and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

SEC. 619. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(B) by striking ''Not later than'' and inserting the following:

''(1) DEFINITION.—In this subsection, the term 'covered program' means a program for which funds are appropriated under this division—

''(A) in an amount that is—

''(i) more than $2,000,000,000; and

''(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

''(B) that did not exist before the date of enactment of this Act.

''(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

''(A) a description of the goals for the covered program using recovery funds;

''(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

''(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

''(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

''(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

''(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

''(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

''(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

''(i) discusses the progress of the agency in implementing the plan;

''(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

''(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

''(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

''(v) discusses—

''(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

''(II) if the covered program has failed to meet the milestones, the reasons why; and

''(III) any changes in the milestones for the covered program, including the reasons for the change;

''(vi) discusses the performance of the covered program, including—

''(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

''(II) if the covered program has failed to meet the performance measures, the reasons why; and

''(III) any trends in information relating to the performance of the covered program; and

''(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.'';

(2) in subsection (f)—

(A) by striking ''Within 180 days'' and inserting the following:

''(1) IN GENERAL.—Within 180 days''; and

(B) by adding at the end the following:

''(2) PENALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the Attorney General may bring a civil action in an appropriate United States district court against a recipient of recovery funds from an agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

''(B) NOTIFICATION.—

''(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

''(ii) LIMITATION.—A court may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

''(C) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court shall consider—

''(i) the number of times the recipient has failed to provide the information required under subsection (c);

''(ii) the amount of recovery funds provided to the recipient;

''(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

''(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

''(D) APPLICABILITY.—This paragraph shall apply to any report required to be submitted on or after the date of enactment of this paragraph.

''(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

''(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

''(4) PUBLIC LISTING.—

''(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information required under subsection (c) for the calendar quarter.

''(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the Board, the reason for noncompliance.

''(5) REGULATIONS AND REPORTING.—

''(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

''(B) REPORTING.—

''(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include—

''(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

''(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

''(III) any other information determined appropriate by the Director.''; and

(3) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

TITLE VII—BUDGETARY PROVISIONS

SEC. 701. BUDGETARY PROVISIONS.

(a) 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.

(b) EMERGENCY DESIGNATIONS.—Sections 501, 511, and 516—

(1) are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g));

(2) in the House of Representatives, are designated as an emergency for purposes of pay-as-you-go principles; and

(3) in the Senate, are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

The SPEAKER pro tempore. The motion shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means.

The gentleman from Michigan (Mr. LEVIN) and the gentleman from Michigan (Mr. CAMP) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I yield myself 4 minutes.

We will be voting on two amendments. I want to comment first on that relating to jobs. It is major job legislation. Included are billions for financing infrastructure, Build America Bonds. And here is what one school district said. I read it because it applies to school districts, to communities, to people throughout this country.

The Build America Bonds have been used in virtually every State, probably in most counties. Here is what one superintendent said.

''Build America Bonds proved to be a brass tacks approach to address critical needs in our school district such as new school buses, roof replacements, and technology upgrades. Relief provided by BABs allowed us to ensure taxpayers a lower interest rate while at the same time putting people to work.''

There is also authority for other important bonds. There are tax incentives in this bill for business relating to jobs. The R&D tax credit, the biodiesel tax credit. There is a provision, it's an incentive for retailers to invest in their real estate, infrastructure, building jobs, and also provisions to help U.S. companies compete overseas, not taking their jobs overseas, and allowing manufacturers to use AMT tax credits, otherwise unused for investment in the United States of America and for jobs in the United States of America.

SBA loans to small businesses, summer jobs programs, overall more than $26 billion here for job creation, as well as for individual tax relief.

We essentially pay for this bill with a provision where you invest your own money, you get a capital gains. If you manage other people's money, ordinary income. We phase it in so that there will be a period of time for this to occur, as well as closing loopholes in the use of foreign credit so companies don't shift their jobs overseas.

The second part of this amendment relates to unemployment insurance. I will say this very, very briefly. Those who vote ''no'' are essentially going to say to millions of workers in this country, Your benefits will not be available even though you are looking for work.

The second amendment relates to SGR, and this relates not only to physicians, but most importantly to the families that they treat. If we don't act, there will be a 21 percent cut in reimbursement for physicians and also for military families. Now, this is provided by statutory PAYGO.

□ 1145

So colleagues, the choice is clear. This is about American jobs, this is for unemployment for those looking for work who can't find it, and it's for physicians to avoid a 21 percent cut. This is not only about physicians, but their patients under Medicare.

We must act; we must move on this now. The Senate will then have to move quickly when they return. We must stand on the side of supporting American jobs and preventing outsourcing of those jobs.

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

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

Let's be clear about what we are doing here today, and, that is, absolutely nothing. This bill is going nowhere. It will not be signed into law, and it will be totally rewritten in the Senate. Majority Leader REID made that perfectly clear on the floor of the Senate last night. So if you want to walk a $54.2 billion deficit-increasing, tax-hiking, job-killing plank, vote ''yes.'' If not, vote ''no.''

Let's also be clear that this bill has nothing to do with jobs. In fact, virtually every business group is opposed to this package: the Chamber of Commerce, Home Builders, Associated General Contractors, the National Federation of Independent Businesses, the National Association of Manufacturers, and the list goes on and on. Employers across the country say this bill will hurt our economic recovery. With employment stuck at nearly 10 percent, this is the last bill this House should be passing.

And here we are addressing yet another fundamental flaw in the Democrats' health care overhaul. Had the Democrats not hidden the true cost of that law, we would not be here today voting on another so-called ''doc fix,'' a fix that expands the deficit by $22.9 billion, kicks the can 19 months down the road, has doctors facing a 33 percent cut in 2012, and will force us to spend billions more. We could have paid for a much better package—like the ones the Republicans offered on the House floor last fall—by simply standing up to the trial lawyers and passing commonsense lawsuit reform.

Let's also be honest about the real deficit impact because it is much, much more than the $54.2 billion we have before us. Every Member of this House knows we will be back voting again to increase the deficit in order to again extend these programs and to extend COBRA and FMAP subsidies, both of which were deleted from the bill early this morning. Now, whether you eat the cookie in one bite or several little bites, it has the same number of calories. We owe it to ourselves and to the American people to be honest about just how much deficit spending we're being asked to swallow.

Given that this bill adds $54.2 billion to the deficit but is somehow PAYGO compliant, I think we can officially declare dead the myth that PAYGO will instill fiscal discipline.

So just what are we getting for this deficit spending? Not jobs and not tax cuts. There is no net tax relief before us today. In fact, the Democrats are imposing permanent tax increases at the worst possible time to pay for temporary extensions of current law.

There is a $17.7 billion tax on carried interest, including real estate partnerships and venture capital firms, that would discourage the entrepreneurial risk-taking that is crucial to economic growth and job creation.

The proposed tax on small business income is perhaps even more troubling. President Obama himself claims that 70 percent of new jobs come from small businesses, yet the bill would increase taxes on certain small businesses by subjecting to employment taxes the business profits as opposed to wages.

The bill also includes more than a half dozen complex changes to our international tax rules. These new changes collectively raise close to $15 billion but have not been reviewed by the Ways and Means Committee. Given the desperate shape of our economy and the need to remain competitive with other countries, we should not be rushing forward with massive tax increases without knowing their exact impact.

I urge my colleagues to vote ''no'' on increasing the deficit by over $50 billion and to vote ''no'' on raising taxes permanently when unemployment is stuck at nearly 10 percent.

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

Mr. LEVIN. Mr. Speaker, it is now my privilege to yield 2 minutes to the distinguished chairman of the Energy and Commerce Committee, Mr. WAXMAN.

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

Mr. WAXMAN. I want to urge my colleagues to vote for the part of this legislation that would update the SGR, which is the payment for physicians under the Medicare program. It's absolutely critical to do this if we are going to keep doctors in Medicare and keep the promise to Medicare beneficiaries that they will have access to physicians' services.

This provision will provide a moderate increase in physician fees, 2.2 percent for the rest of this year, another 1 percent next year. If we don't act, doctors' fees will be cut by 21 percent from where they are today. This would be unconscionable.

The truth is we should be doing a lot more than this. We should have had a permanent fix of the SGR issue. We need to ensure stability for the Medicare patients and their doctors. After we pass this, we will go back and address that issue, but it is important that we adopt the SGR part.

Finally, I want to express my deep regret that we are not including two provisions that are essential to the fiscal security of those hardest hit by the recession: an extension of COBRA coverage and a 6-month extension of the Medicaid matching increase that helps States cope with the effects of this recession. Failing to do this will cost jobs and hurt vulnerable people. I hope this is not our final action on this subject.

At least let's do what we can today. Support the physician payment improvement and support the bill.

In addition, here is some additional specific information about the new 340B–1 program. Under it, covered entities will receive discounts on covered inpatient drugs in cases where the drug is provided to a patient who does not have health insurance coverage that provides prescription drug coverage in the inpatient setting with respect to such covered drug.

The intent of Congress is that the Secretary implement and operate the 340B and 340B–1 programs in such a manner as to minimize the burden for providers and manufacturers who will be participating in both programs, and ensure the efficiency and integrity of the programs. Thus, 340B–1 Program has been specifically designed to permit the Secretary to operate it under the same general rules and conditions as the 340B Program.

To the extent that a drug is a covered drug under both the 340B and 340B–1 program, the drug's AMP and ceiling price are required to be the same in each program. If a drug is a covered drug in the 340B–1 program, but not the 340B program, the Secretary must use methods to determine the AMP or ceiling prices that are the same, or as applicable, similar to, the methods that would be used to make these calculations under the 340B program.

Two unique aspects of the 340B–1 inpatient drug program present challenges for hospitals and other participating entities. In many cases inpatient drugs are often included, for billing and other purposes, as part of a bundled price for medical procedures. In addition, 340B–1 discounted inpatient drugs are only available for patients that do no have health plan coverage that provides prescription drug coverage in the inpatient setting with respect to such covered drug. However, in many cases, particularly in emergency situations, hospitals or other participating entities might have no knowledge of a patient's insurance status (or information about whether a patient has health plan coverage that covers a drug in the inpatient setting) at the time the drug is administered. The Committee intends that in implementing this section, HRSA take these unique circumstances into account and act to make certain that participating entities can fully participate and receive discounts for all covered drugs in the 340B–1 program.

Section 518 contains a conforming amendment to section 340B(A)(1) of the Public Health Services Act regarding circumstances where the supply of a 340B drug is insufficient to meet demand. New paragraphs 340B–1(a)(1)(B) and 340B–1(a)(1)(C) contain identical language. These paragraphs in sections 340B and 340B–1 contain ''must offer'' language. Under these 340B and 340B–1 ''must offer'' provisions, manufacturers may not discriminate against or refuse to sell to 340B or 340B–1 entities at the 340B or 340B–1 price. The intent of these provisions is to codify HRSA's current approach to handling the ''must offer'' provisions of the 340B law, and to require that HRSA use this same approach for drugs covered under section 340B–1. Under this current HRSA approach, codified in this legislation, in cases where there may be a drug shortage, 340B and 340B–1 entities do not automatically go to the front of the line. But the manufacturer cannot send them to the back of the line either. With regard to supply shortages and drug availability, manufacturers must treat 340B and 340B–1 entities the same way they treat all their other customers. This language also contains a requirement for Secretarial approval of manufacturers' plans for cases where drug shortages exist. The timing of these approvals is at the discretion of the Secretary.

New section 340B–1 and a conforming amendment to section 340B allow the HHS Secretary to combine manufacturers' agreements for the 340B and 340B–1 program. However, unless specifically mentioned in the 340B conforming amendments in this legislation, this legislation is not intended to change the operations of the 340B program.

Nothing in section 340B or 340B–1 requires that hospitals and other qualifying entities participate in both the 340B and 340B–1 program. Participating entities may, at their discretion, participate in either, neither, or both programs.

Mr. CAMP. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. I thank the gentleman for yielding and for his outstanding leadership.

This is a challenging time in the life of this country. Families are hurting, businesses in the city and on the farm are struggling. It's the worst recession in the last 25 years, and from Washington, D.C., failed economic policies.

So what do you do after your Big Government stimulus bill is a failure? Well, apparently the answer in this Congress is pass another one. Really, seriously. About a year and a half ago, with the support of this administration, Democrats in Congress passed a $1 trillion stimulus bill. Unemployment was at 7.5 percent, and we were told we had to borrow $1 trillion from future generations of Americans for this liberal wish list of spending priorities or unemployment would go over 8 percent. Unemployment now, as we all

know, is hovering at a painful 10 percent.

But after the stimulus bill was passed and failed, we came to March of this year, and the Democrats' answer was pass another stimulus bill built on the same economic policies, the HIRE Act, $17.6 billion. And now after the ''stimulus'' bill and after ''son of stimulus'' bill, we are now considering ''grandson of stimulus,'' and the American people are getting tired of it.

Democrats literally want us to take the same failed economic policies of this administration of the last year and a half and spend another $102 billion. This ''grandson of stimulus'' is another last-minute, patched-together hodgepodge effort to say they're working on jobs that will tack $54 billion onto our deficit and will increase taxes by more than $47 billion. They throw on $23 billion in there for a doc fix with no offsets. This is what Democrats actually kept out of the recent health care legislation to keep it under it's so-called ''$1 trillion'' number. It really doesn't fix anything.

As the ranking member of the committee just said, we've got temporary extensions paid for with permanent tax increases, and the American people are catching on. But this is what happens when a Democrat majority has no budget and no plan and no vision to get America working again. We've seen this movie before: ''Stimulus'' fails, ''Son of Stimulus'' fails, and now, as we all prepare to leave the Congress this weekend and remember those who fell defending our freedom at home and abroad, ''Grandson of Stimulus'' is on the floor.

Look, it's time for some new ideas here on the floor. I say to my colleagues, men and women that I respect, who have all earned the right to be here, why don't we try something completely different. How about fiscal discipline in Washington, D.C. right now? And how about let's do what John F. Kennedy did; let's do what Ronald Reagan did: across-the-board tax relief for working families, small businesses, and family farms. Get government under control, get government out of the way, and this economy will come roaring back.

Mr. LEVIN. It is now my privilege to yield 2 minutes to the chairman of the Transportation and Infrastructure Committee—this is about infrastructure and transportation—JIM OBERSTAR.

Mr. OBERSTAR. Thank you, Mr. Chairman.

I strongly support this legislation extending Build America bonds and marketable distribution of highway funding. Build America bonds allow taxable bond access for State and local governments, create new types of investors, and attract them to infrastructure from pension funds and tax-exempt organizations.

This bill also provides $521 million in highway funding for highway and transit for more equitable distribution of Federal funding than was adopted under the Senate language in the HIRE Act.

The Senate revisions earmark funding under two major discretionary programs—Projects of National Regional Significance and the National Corridor Program—for a small select group of States. Under our distribution, we revise and make equitable the Senate revisions which skewed the highway formula. Under this provision in this bill, every State receives its fair share, apportionment share, of the funds available under these programs.

Thirty-seven States will receive more highway and transit funding through this modification, which will produce thousands of jobs across all these States, 18,000 jobs. In contrast to the gentleman who just recently was before me and said, oh, the stimulus hasn't produced jobs, every month our committee has held a hearing—I have chaired 19 hearings—every month to hold States accountable for the jobs produced under our stimulus program: 1,300,000 jobs, 34,000 lane miles of highway improved, 1,262 bridges repaired, replaced or rebuilt, 10,000 transit buses acquired by local transit agencies, $409 million in taxes paid by workers on job sites. That is a success. That is putting America back to work.

I rise today in strong support of H.R. 4213, the ''American Jobs and Closing Tax Loopholes Act of 2010''.

The American Jobs Act includes two major provisions to increase investment in our nation's infrastructure: (1) an extension of authority for Build America Bonds and (2) provisions to require a more equitable distribution of certain categories of Federal highway funding.

H.R. 4213 extends the Build America Bonds program for 2 years, through 2012. Build America Bonds were first authorized by the American Recovery and Reinvestment Act of 2009 to assist State and local governments in accessing credit markets in the wake of the financial crisis. Specifically, Build America Bonds allow State and local governments to access the taxable bond market, thereby reaching new types of investors such as pension funds and tax-exempt organizations.

By giving State and local governments a choice between accessing the tax-exempt municipal bond market and the taxable bond market to meet their financing needs, Build America Bonds allow State and local governments to select the bond market that provides the lowest financing cost, and the biggest bang for the buck.

Build America Bonds have proven to be an important tool for State and local governments to finance much-needed infrastructure improvements. As of April 30, 2010, State and local governments have used Build America Bonds to finance more than $96 billion in infrastructure projects, including improvements to schools, hospitals, water and sewer utilities, highways, transit, and airports. I strongly support the extension of this program.

H.R. 4213 also provides an additional $521 million of highway funding to allow for a more equitable distribution of certain categories of Federal highway funding than the distribution of highway funding provided under the Hiring Incentives to Restore Employment (HIRE) Act.

In March, the majority of the House voted to pass the HIRE Act based, in part, on an express commitment by Senate Majority Leader REID that the Senate would pass subsequent jobs legislation to distribute highway funding more equitably—according to the House formula.

The highway formula provisions in this jobs bill implement Majority Leader REID's commitment. I thank him, Speaker PELOSI, and Majority Leader HOYER for their tireless work to resolve this issue and provide each State and highway program with a fair share of highway formula funding.

I would also like to thank the 55 Democratic first- and second-term Members, led by the gentleman from New York (Mr. MCMAHON) and the gentleman from Ohio (Mr. DRIEHAUS), and the Members of the Committee on Transportation and Infrastructure, led by the gentlewoman from Texas (Ms. JOHNSON), the gentleman from Michigan (Mr. SCHAUER), and the gentleman from Ohio (Mr. BOCCIERI), for their instrumental work in spearheading efforts to marshal support for enactment of the highway formula provisions included in H.R. 4213. In addition, I thank the Members of the Illinois, California, and other affected State delegations for helping us reach the compromise that we bring to the Floor today.

The Senate revisions of the HIRE Act earmarked funding under two major highway discretionary programs—the Project of National and Regional Significance, PNRS, program and the National Corridor Infrastructure Improvement, National Corridor, program—for a small, select group of States. Under this distribution, four States received 58 percent of the funding and 21 States received nothing.

The treatment of these programs in the Senate revisions of the HIRE Act skewed the highway formula, significantly benefitting four States with a permanent windfall due to these earmarks.

The provisions in H.R. 4213 revise the distribution of PNRS and National Corridor program funding so that every State receives a fair share of the funds made available under these programs. Specifically, H.R. 4213 provides each State with a share of the PNRS and National Corridor funds equal to the greater of that which the State received under the HIRE Act or under H.R. 4213, the American Jobs Act.

Thirty-seven States receive more highway dollars based on the modification to the distribution of highway formula funding included in H.R. 4213. This new highway funding will produce thousands of jobs across these States—jobs that are critically important to the construction sector currently suffering from 21.8 percent unemployment.

Under the Recovery Act, we have clearly seen States demonstrate their ability to put highway and transit dollars to work quickly to create and sustain jobs—322,000 direct, on-project jobs in the first year of the Recovery Act and 49,000 direct jobs last month alone. In total, these highway and transit funds have created and sustained more than 1 million jobs over the past year.

In December, the American Association of State Highway and Transportation Officials reported to our Committee that States currently have a backlog of 7,497 ready-to-go highway and bridge projects totaling $47.3 billion.

Given the States' extraordinary performance under the Recovery Act and the overwhelming highway investment needs, we can expect that the highway funding provided under H.R. 4213 will result in hundreds of projects under contract—with shovels in the ground—within 90 days.

Based upon Federal Highway Administration estimates, the $521 million of additional funding provided under H.R. 4213 will create more than 18,000 family-wage jobs.

The HIRE Act also distributed ''additional'' formula funding (provided in lieu of additional Congressionally-directed projects) among only six of 13 current State highway formula programs.

In doing so, it effectively designated seven programs—the Appalachian Development Highway System, Rail-Highway Grade Crossing, Equity Bonus, Recreational Trails, Safe Routes to School, Coordinated Border Infrastructure, and Metropolitan Planning programs—as ''second tier'' programs, providing them less funding in FY 2010 and FY 2011 and weakening their standing during the ongoing authorization process.

The highway provisions in H.R. 4213 appropriately recognize the standing of all of the current highway formula programs: distributing ''additional'' formula funding through all current State highway formula programs, rather than just six. This modification is critically important to the Appalachian Development Highway System, Metropolitan Planning, and Safe Routes to School programs.

Today narks the third time that the House will vote on language to revise the HIRE Act's highway funding distribution, which this chamber has twice passed language to amend. With the rock-solid commitment of the House Democratic Leadership and Senate Majority Leader REID, I look forward to enacting the highway formula modifications included in H.R. 4213 and providing every State with a fair share of the funds distributed under these programs as they begin to move forward with their summer highway construction seasons.

I urge my colleagues to join me in supporting H.R. 4213, the ''American Jobs and Closing Tax Loopholes Act of 2010''.

Attached is a state-by-state highway funding table outlining the additional funding provided by H.R. 4213.

HIGHWAY AND BRIDGE FORMULA FUNDING BY STATE UNDER SURFACE TRANSPORTATION EXTENSION ACTS HIRE ACT VS. H.R. 4213, THE ''AMERICAN JOBS ACT OF 2010''—MAY 27, 2010

37 STATES FARE BETTER UNDER THE AMERICA JOBS ACT THAN UNDER THE HIRE ACT

[No State receives less under the American Jobs Act than under the HIRE Act]

State	HIRE act [1]	H.R. 4213, American jobs act [2]	Increase/(decrease) Under H.R. 4213
Alabama	$1,160,135,018	$1,178,768,813	$18,633,795
Alaska	700,070,601	703,484,406	3,413,805
Arizona	1,119,833,846	1,137,317,569	17,483,723
Arkansas	780,938,284	780,938,284	0
California	5,548,334,984	5,548,334,984	0
Colorado	808,562,089	808,562,089	0
Connecticut	771,124,583	774,468,106	3,343,523
Delaware	254,115,413	258,166,183	4,050,770
Dist. of Col.	241,637,283	241,637,283	0
Florida	2,901,459,068	2,948,516,503	47,057,435
Georgia	1,991,725,595	2,023,498,871	31,773,276
Hawaii	258,011,916	262,133,940	4,122,024
Idaho	436,473,412	443,558,991	7,085,579
Illinois	2,133,468,322	2,133,468,322	0
Indiana	1,454,478,216	1,473,826,863	19,348,648
Iowa	721,928,309	731,252,426	9,324,118
Kansas	582,189,917	591,518,358	9,328,441
Kentucky	1,012,890,986	1,027,305,950	14,414,964
Louisiana	1,045,633,419	1,045,633,419	0
Maine	280,240,625	284,757,226	4,516,601
Maryland	918,077,359	930,393,685	12,316,326
Massachusetts	935,232,711	950,187,222	14,954,511
Michigan	1,628,896,250	1,649,577,451	20,681,201
Minnesota	969,838,993	969,838,993	0
Mississippi	730,280,701	740,066,612	9,785,911
Missouri	1,422,349,455	1,444,428,478	22,079,023
Montana	595,326,967	604,421,087	9,094,120
Nebraska	439,714,255	446,827,117	7,112,863
Nevada	509,981,437	517,716,094	7,734,658
New Hampshire	255,499,273	259,619,857	4,120,584
New Jersey	1,522,180,325	1,522,180,325	0
New Mexico	558,845,157	564,388,783	5,543,626
New York	2,585,021,983	2,601,114,874	16,092,891
North Carolina	1,600,085,980	1,625,905,549	25,819,569
North Dakota	376,542,187	382,541,944	5,999,758
Ohio	2,046,630,272	2,071,931,711	25,301,439
Oklahoma	958,778,621	958,778,621	0
Oregon	747,025,067	747,025,067	0
Pennsylvania	2,533,737,942	2,561,421,751	27,683,809
Rhode Island	328,209,791	333,303,797	5,094,006
South Carolina	960,038,143	962,956,224	2,918,081
South Dakota	423,697,858	430,371,013	6,673,155
Tennessee	1,286,665,098	1,286,665,098	0
Texas	4,835,326,375	4,912,212,474	76,886,099
Utah	482,941,887	490,736,905	7,795,018
Vermont	299,846,556	304,031,221	4,184,665
Virginia	1,550,364,905	1,550,364,905	0
Washington	1,021,098,782	1,021,098,782	0
West Virginia	660,653,936	660,653,936	0
Wisconsin	1,135,046,618	1,138,278,090	3,231,471
Wyoming	389,303,475	395,692,926	6,389,451
Total	58,910,490,244	59,431,879,178	521,388,934

[1] The Surface Transportation Extension Act of 2010, title IV of P.L. 111–147, the ''Hiring Incentives to Restore Employment Act'' (HIRE Act).
[2] H.R. 4213, the ''American Jobs and Closing Tax Loopholes Act of 2010''.
This table was prepared by the Committee on Transportation and Infrastructure Majority staff based on technical assistance provided by the Federal Highway Administration.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to the distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise in opposition to this ''deficit extenders'' bill. There is no dispute that items such as unemployment insurance, Medicare physician payment, and R&D tax credits need to be addressed. However, the legislation before us exemplifies an odd view of fiscal responsibility. We don't have to pay for new spending, but every time we temporarily extend existing tax cuts, we have to permanently increase other taxes.

Despite the majority's pay-as-you-go rhetoric, this bill adds $54 billion to our out-of-control budget deficit. It also imposes a number of new taxes

that have not been examined by the tax writing Ways and Means Committee. These include an $11 billion payroll tax hike on small businesses, as well as the carried interest tax increase that threatens to devastate the commercial real estate and venture capital industries, both of which are vital to my State of California.

□ 1200

The majority would like to characterize this as a ''jobs bill.'' Yet the truth is that virtually all of the policies in this bill were already in place throughout 2009, the same year our economy lost 3 million jobs.

This is not a jobs bill. It's just another extension of the ''tax-too-much, spend-too-much, borrow-too-much'' philosophy that we have come to expect from this Democratic majority.

I urge the defeat of this bill.

Mr. LEVIN. It is now my privilege to yield 2 minutes to the very distinguished gentleman from New York, CHARLES RANGEL.

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

Mr. RANGEL. One would listen to this debate and believe that it's only Democrats who have an economic problem that we're facing. It's almost embarrassing to listen to the minority talk about the deficit and not even explain how we got into this deficit.

I want to congratulate the chairman of our committee, as well as our leader.

It's very, very difficult for this Congress and for this country to move forward the way that we should and to ease the pain of the fiscal crisis that was created by the previous administration when you're acting alone.

It would just seem to me that Republicans have to learn to understand that people have lost their jobs, that people need health care, that people who really lost their homes are not Democrats and Republicans. They are Americans.

I think that we should get fed up just with placing blame. I don't remember the last time I mentioned ''Ford'' and ''Cheney,'' because this is not going to help us in terms of where we're going. If you're talking about health care, the Republicans say ''no.'' If you're talking about education, the Republicans say ''no.'' If you're talking about easing the pain of those people who have lost their jobs, their dignity, their ability to put food on their tables, then we have to find some way to work together so that the answers we give are able to give some comfort to people, are able to bring jobs back to the United States of America, and are able to make certain, when we have inequities in our tax system, that we move forward and not say we're increasing taxes but that we're trying to make the tax system fairer.

So, somewhere along the line, people are going to get fed up with the blame game. We're trying to move forward on this bill here to create the jobs, to ease the pain of those who haven't got the jobs, and to bring some type of equity to our tax system.

Just saying ''no'' is not going to work forever. It does not have a political base, but the time is not too late for us to take a look and ask whether or not our Governors really appreciate the fact that we are ignoring the burden that we are placing on them in providing health care.

Vote for this bill. It's the best we can do at this point in time.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, sadly, this isn't a jobs bill. This is pork barrel spending wrapped in tax increases and dipped in debt to China, and the way it treats our local doctors, like beggars, is just shameful.

Continuing to tax and spend like we are Greece is not the answer to getting people back to work or to tackling this growing and dangerous debt, especially when you have tax increases that kill jobs for our small businesses, for our real estate, and for our U.S. companies that are trying to compete overseas.

This is alarming. Sometime this weekend, America's debt will reach $13 trillion for the first time in our history; $13 trillion. So who is responsible for running up all this debt?

A new report by the Joint Economic Committee shows that, since 1946, congressional Democrats have added twice as much to America's debt than have Republicans. They like to blame Bush or Reagan or anyone else for the staggering debt, but they are squarely to blame for generating two-thirds of the Federal debt that American families must now repay through higher taxes or a slower economy, and they're just getting started.

Our national debt is 83 percent of our economy. It's whoppingly huge. It's going to grow to over 100 percent under the Obama budget. Unless we stop congressional Democrats and President Obama from spending us even deeper into a hole, future generations of Americans will be dragging an anchor of debt that will drown their dreams and cripple our Nation's prosperity.

We can start today by preventing another $54 billion in spending we can never hope to repay and that our children can never hope to repay—$54 billion—larger than our agencies of Treasury, Commerce, and Social Security combined.

So new debt, new tax increases, job-killing provisions. Let's stop the madness. Let's say ''no'' to this bill and ''yes'' to real jobs.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to a member of the Ways and Means Committee, the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, this bill supports the efforts of American entrepreneurs and of American businesses to create jobs here at home, and at the same time, it closes down perverse tax loopholes that encourage big corporations to ship American jobs overseas.

On the plus side, it invests and encourages investments in research and development by businesses right here at home, which are provisions that our colleagues have supported in the past. It invests in the very successful Build America Bonds initiative that has driven new investment in roads, in bridges, and in essential infrastructure here at home. It pays for all of these investments by eliminating a number of loopholes in the Tax Code, including a very awful loophole that encourages big corporations to export, not American products, but American jobs.

Very simply, Mr. Speaker, creative corporate tax lawyers have devised a way to have American taxpayers, our constituents, foot the bill for the taxes that their corporations pay to foreign governments for their overseas operations. Think about that. We don't pay for the taxes that American corporations have to pay for jobs here at home and earnings here at home. Yet our constituents are footing the bill for taxes American corporations pay to foreign governments for jobs created overseas. That creates a terrible incentive for big American corporations to move jobs and operations away from the United States. It is a great deal for big corporations, and we understand why they want to protect those loopholes, but it is a lousy deal for American workers and American taxpayers.

The choice we face here is very clear: A vote against this bill is a vote against investing in jobs in America and in favor of protecting loopholes to offshore American jobs.

I urge my colleagues to support this bill and to support America's small businesses and America's jobs.

Mr. CAMP. Mr. Speaker, I submit for the RECORD a list of all of the American businesses that oppose this bill because it will cost us American jobs.

JOB CREATORS OPPOSE DEMOCRATS' DEFICIT EXTENDER BILL

CITE CONCERNS THAT PROVISIONS WILL HINDER JOB CREATION, DECREASE COMPETITIVENESS OF AMERICAN BUSINESSES

Since Democrats introduced their latest version of H.R. 4213, ''The American Jobs and Closing Tax Loopholes Act,'' business leaders and organizations that represent millions of American businesses and their employees have voiced their opposition to the job-killing, deficit extending bill. These employers say that the legislation is anti-job growth, will place American businesses at a worldwide competitive disadvantage, subject them to higher taxes and will harm the nation's path to economic recovery.

Given the disconnect between House Democrats' rhetoric on jobs and their votes for tax increases, it is no wonder employers are confused, new investments aren't being made and unemployment continues to hover at close to 10 percent. Below are just some of the concerns expressed by employers.

U.S. Chamber of Commerce: ''However, Congress' decision with this legislation, to saddle small business, American worldwide companies, and investment partnerships with draconian tax increases that will hinder job creation, decrease the competitiveness of American businesses, and deter economic

growth, leaves the Chamber no choice but to oppose this legislation as currently drafted.''

Business Roundtable: ''These tax increases would take us two steps backwards in terms of the job-creating legislation; we strongly need to move our economy forward, not backwards, to stay competitive with the rest of the world.''

National Association of Home Builders: ''NAHB estimates that the economic impact of taxing carried interest as 100 percent ordinary income would be a loss of 33,000 jobs due to reduced multifamily rental housing construction and $1.2 billion in reduced annual property tax revenues to state and local governments.''

National Association of Manufacturers: ''Unfortunately, the onerous tax increases...could outweigh the benefits of the pro-growth changes by imposing significant new costs on American businesses and threatening job creation, U.S. competitiveness and overall economic growth.''

Associated General Contractors: ''Unfortunately, the bill reduces the effectiveness of these provisions by reducing capital available for private construction and limiting private job creation by increasing taxes on many small businesses in the construction industry.''

National Foreign Trade Council: ''These new revenue proposals will make American businesses less able to compete in foreign markets, will subject them to double taxation, and as a result may have significant negative consequences on worldwide American businesses and their U.S. employees.''

Promote America's Competitive Edge: ''The proposed changes in the international tax rules will make a bad situation worse, making it even more difficult for American worldwide companies to compete.''

Technology CEO Council: ''At a time when innovative companies are looking for more certainty and stability, the extenders bill as currently drafted fails to provide either . . . last-minute proposals to raise revenue could outweigh the bill's positive aspects, possibly costing—not creating—jobs.''

IBM: ''The pending legislation would impose significant new tax increases that will completely overwhelm any positive economic effect of the R&D tax credit, harming the U.S. economy just as recovery has begun.''

Black Entertainment Television Founder Robert Johnson: ''In my opinion, this legislation would cause a rapid decline in minority private equity firms and possibly eliminate minority participation in this important financial sector of the American economy . . . If minority funds are reduced or eliminated it will also impact investments in urban cities and job creation and economic development in markets where it is most needed.''

Finance Executives International: ''With more Americans out of work than any other time in the last 50 years, businesses in the U.S. have an obligation to get our citizens back to work. Other countries seem to understand this call to action, and are working tirelessly to lower tax rates and bring in businesses from around the globe. By passing H.R. 4213, the United States would be harming the competitiveness of American worldwide companies.''

Emergency Committee for American Trade: ''H.R. 4213 will undermine U.S. commercial engagement overseas and put U.S. enterprises and their workers at an even greater competitive disadvantage . . . H.R. 4213 is a major step in the wrong direction.''

Silicon Valley Leadership Group: ''We are concerned that the recent revenue off-sets are being used as 'pay-fors' at the expense of U.S. jobs.''

Real Estate Roundtable: ''Capital formation is what leads to job and tax base creation—this proposal would discourage it. Now is not the time to raise taxes. The tax hike will further delay economic recovery and make financing and refinancing more difficult.''

S Corporation Association of America: ''It represents an $11 billion tax hike on employers in the middle of a very difficult economy, and it should be rejected.''

Organization for International Investment: ''[S]everal of the international proposals in the Amendment may diminish the ability of foreign multinationals to continue making significant contributions to the U.S. economy and U.S. employment.''

Investment Company Institute: ''Congressional action at this time would be both redundant and counterproductive.''

I yield 3 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. I thank my friend for yielding.

Mr. Speaker, I rise in opposition to this deficit extender bill.

This bill reflects the American people's rejection of the even more expensive bill Democrat leaders wanted to pass this week but couldn't, so now they're searching for an exit strategy and, mostly, for someone else to blame for their inability to govern.

Let us be clear: This charade is an effort to entice Republicans into defeating an unpaid-for bill. The Senate is gone. The door is closed. Nothing is going to come of this bill irrespective of who votes for or against it.

The title suggests its authors think this bill is about jobs. One expert at the Urban Institute calls that ''Orwellian'' and ''hideously mislabeled.'' From a taxpayer perspective, this is not about jobs. It is about more government spending, more debt, more taxes. That means fewer private-sector jobs.

This bill is also an admission that the trillion-dollar 2009 stimulus plan has failed. We were told that, if we passed that plan, unemployment would be 7.4 percent and falling, not 9.9 percent and rising. So now our colleagues want to extend the unemployment benefits for another 6 months.

Why just through November? Why not through December as originally intended?

Well, we need to get through the next election cycle. Not one penny of the $40 billion that it will cost is paid for. Instead, our colleagues simply declare this eighth extension of unemployment insurance an emergency and add it to our $13 trillion debt.

But can an eighth bill doing anything still be called an ''emergency''?

This bill perpetuates the payment of a record 99 weeks of unemployment benefits, which encourages benefit collection over work. As the Detroit News recently put it, even in Michigan, which has America's highest unemployment rate, ''Some job applicants are rejecting work offers so they can continue collecting unemployment benefits.''

Stop the madness. Defeat this bill. Then let's really promote jobs by relieving job-creating businesses and workers of higher government spending, borrowing, and taxes, instead of adding to those burdens.

GENERAL LEAVE

Mr. LEVIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 4213.

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

There was no objection.

Mr. LEVIN. I am privileged to yield 2 minutes to another distinguished member of our committee, the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, you have just heard the Republicans say to unemployed workers whose benefits are expiring: We don't care.

Forty billion dollars, the biggest unpaid part of this bill, is for unemployment benefits to the 1.2 million people whose benefits are going to expire by the end of June.

Now, you just heard a Member of the other side say: We don't care what happens to them.

Well, they also don't care about the small businesses because, for those of you who have never been unemployed, when you get that check and when you have no money, you take it out and spend it. You pay for rent. You go to stores and buy things. There are all of those store owners, and nobody is coming in to buy because nobody has any money. If you think starving the children of unemployed people by saying, We're not going to give you money to go to the store and get food for your kids, is going to somehow make them go out and find work in a time when we have six people looking for every job in this country, you simply don't understand the human condition.

Now, The Wall Street Journal can't understand. They said, We can't understand why unemployment benefits have anything to do with jobs.

If you don't have money in people's pockets while they're looking for jobs, you'll have more businesses collapsing. You can go through strip malls all over this country where little businesses have closed because nobody has any money to buy anything.

There is no reason for us to be inhumane. If we can spend billions and billions of dollars on a war in Iraq, worrying about their bridges and all of their infrastructure, and if we can't worry about people in Ohio and in Pennsylvania and in Michigan and in New York and in California, there is something really wrong in this body. Unemployment insurance is the essence of being human and of being American.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Nevada (Mr. HELLER).

Mr. HELLER. I thank the gentleman for yielding.

Mr. Speaker, I rise today in strong opposition to H.R. 4213, a misguided bill masquerading as tax relief.

Instead of creating jobs, this bill will cost jobs. Instead of providing much needed certainty, this bill merely kicks the can down the road. Instead of helping our economy recover, this bill will more likely delay it.

In fact, this bill has more than $100 billion of deficit spending, coupled with nearly $50 billion in tax increases. We should not do either. Yes, this bill does have a few good things that I could support, largely on the doctor formula, geothermal energy, and even unemployment programs, but there is a better way.

I introduced a bill today to provide a short-term extension of unemployment insurance, SGR, COBRA, flood insurance, and SBA loan programs. This is routinely extended by this Congress in a bipartisan fashion. My bill is completely paid for with unused stimulus funds.

The majority has passed a health care takeover, cap-and-trade, cap-and-tax schemes, a so-called stimulus bill, and now this. H.R. 4213 contains air-dropped tax increases, accounting gimmicks, and a hodgepodge of propped-up stimulus programs that show the American people that, once again, we are governed by a bunch of backroom deals and not a government guided by ideals.

When a bill has to be rigged together that is bad for builders, bad for investors, bad for seniors, bad for real estate, bad for energy, bad for contractors, bad for innovators, bad for financial interests, bad for small businesses, bad for the high-tech industry, bad for entrepreneurs, and bad for worldwide American companies—in short, bad for taxpayers and job creators—then it is a bad bill.

Mr. Speaker, I urge a ''no'' vote.

□ 1215

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Education and Labor Committee, Mr. GEORGE MILLER of California.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

A year-and-a-half ago, this country was suffering from a recession created by years of extreme economic and fiscal policies under the previous administration and the financial scandals of Wall Street. There were 800,000 jobs a month being lost when President Obama was sworn into office.

Thanks to the Recovery Act, we are now seeing positive job gains. Over the last 3 months, we have added an average of 187,000 jobs, but people still are not able to find jobs in sufficient numbers. People are still losing their health care as they lose their job. People are losing their homes because of the extended term that they are spending as unemployed Americans. And we have got to help these people.

The idea somehow that we can now wind this down or these people really are not now looking for work—in all of our communities, when jobs are advertised, 10 times, 20 times the number of people as there are jobs show up seeking that job, seeking that opportunity to help their families. We have got to be able to respond to that.

That is what this legislation does. As the economists have told us, it is one of the best things we can do for Main Street, because, unfortunately, these people need to spend this money immediately, whether it is on groceries, or clothing, or rent, or utilities, to try to keep their families together. We have got to pass this legislation.

Mr. CAMP. Mr. Speaker, I yield 2 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this bill comes in at a svelte $54 billion of a budget bust, and I found it ironic that the chairman of the committee and the former chairman of the committee have talked about this in the context of job creation. Even Mr. VAN HOLLEN from Maryland said it was going to be supported by entrepreneurs.

But let's look carefully and quickly at what the job creators are saying about this bill.

The United States Chamber of Commerce says it will hinder job creation.

The Business Roundtable says it takes us two steps backwards in terms of job creating.

The National Association of Manufacturing says it will threaten job creation, U.S. competitiveness, and overall economic growth.

IBM says these tax increases will completely overwhelm any positive economic impact of the R&D tax credit.

And the technology leaders of our nation, that is, the Silicon Valley Leadership Group, says that these offsets are going to be done at the expense of U.S. job creation.

Look, this is a cascading disappointment. This is a majority that has become absolutely blind to the realities of the stimulus. With all due respect to one of the chairmen of the committee who spoke a couple of minutes ago, having a straight face and arguing that the stimulus has been a success is not persuasive in my district. My district was promised unemployment was going to peak at 8 percent if we spent the $1 trillion. Employment in Illinois is now at 11½ percent. The delta therefore is a difference of 199,000 jobs for the State of Illinois.

This needs to go back to the drawing board. This bill needs to be defeated and pulled out of the record. Let's get about the business of serious job creation, and not just fall headlong into an orthodoxy that is a complete failure.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to another distinguished member of the Ways and Means Committee, Mr. LEWIS of Georgia.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today in strong support of this jobs bill. We are making progress, but there are still far too many people who want to work but cannot find a job. We must not stop and we will not stop until each and every person has a good job. But until that time comes, we must help and take care of our brothers and sisters who have lost their jobs through no fault of their own.

This bill extends emergency assistance to unemployed Americans. It also provides TANF emergency jobs to help States create jobs and assist struggling families.

Every day, individuals call my office. They want to work. Many have years of experience. They never in a million years thought that they would have to rely on these programs to get by and make ends meet.

We have a responsibility and a moral obligation to help our friends and neighbors during these hard times. This is our duty. If we are honest with ourselves, we all know this bill is not enough. But we must take this step. We cannot wait a moment longer.

I urge all of my colleagues to put politics aside and do what is right and support this necessary legislation.

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

My friends on the other side have essentially claimed Republicans don't care about unemployed Americans. Nothing could be further from the truth. We believe these programs must be extended. But we also believe they must be paid for, as legislation introduced by Mr. HELLER of Nevada does, and of which I am a cosponsor.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I serve as the number two Republican on the House Budget Committee. But as a member of the House Budget Committee, I am a little bit like the Maytag repairman. We are the loneliest people in town.

We have nothing to do, because, Mr. Speaker, there is no budget. The Democrats refuse to bring a budget. For the first time in the history of the House of Representatives there will be no budget, because the Democrats want no limit on what they can spend, no speed bump on the way to national bankruptcy.

Today is no different. They spend even more money on a so-called extenders bill. But according to the Congressional Budget Office, the only thing that gets extended is the deficit; $25 billion of deficit extension in the first year, $54 billion of deficit extension over the next 10.

Mr. Speaker, how much longer can we borrow 43 cents on the dollar from the Chinese and send the bill to our children and our grandchildren?

My colleagues on the other side of the aisle say, Well, this bill is under

PAYGO. We are going to save money. Well, if PAYGO works, why has the deficit increased tenfold under their watch? PAYGO remains a cruel hoax.

Let me mention three loopholes in this bill. Well, $39.5 billion of spending is designated as an emergency. That falls outside of PAYGO. $21.9 billion of Medicare spending, the so-called doc fix, comes under something called directed scoring. It magically has no cost. Then we have the double accounting, $11.8 billion, and new taxes to be used, first to offset the cost, and then on a new oil spill fund.

Mr. Speaker, my friends on the other side of the aisle are using accounting gimmicks that would make Bernie Madoff blush. Is it any wonder that the national press reported that our national debt is now $13 trillion, the highest ever in American history? You cannot spend, borrow, and bail out your way to economic prosperity.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to another distinguished Member of our committee, the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL. I thank the gentleman for acknowledging me.

I stand in support of this legislation. I had not intended to offer any rancor or any response to the other side, but when I have heard the rhetoric of the last couple of speakers, I must tell you, it kind of goes like this: The people that set the fire are now the ones calling the fire department.

What they inherited when Bill Clinton walked out the door was a $5.7 trillion surplus. When they talk about fictitious theology, how about tax cuts paying for themselves? That is why we find ourselves where we do.

Until Mr. CAMP qualified the remarks of Mr. HELLER, not one Republican speaker mentioned unemployment benefits. That is what this is about at this moment. There are 435 of us here, and all 435 would have done this differently, myself included. However, that is not the option as you address unemployment benefits which begin to expire next week. That is the cornerstone of this undertaking.

One of my papers opined this morning that the cost of human inaction is intolerable. Thousands of working families will lose their benefits if we don't undertake this action.

Job-creating incentives are in this legislation. I know. I have helped to author them and write them. The Build America Bonds campaign, any Member of this House can go back home with a sense of pride and satisfaction as they witness the implementation of the Build America Bonds initiative.

This bill protects Private Activity Bonds from the onerous Alternative Minimum Tax, lowering costs for State and local governments that use the bonds for airports, school loans, and other essential needs. Take this to an advertisement in your local paper, where it says relief from Alternative Minimum Tax, and take it to the airport that is being expanded. They have utilized that opportunity.

New Markets Tax Credits. I have been in the middle of it, and we protect them from AMT to promote investment in low-income neighborhoods.

That is what this legislation is about today.

Mr. CAMP. I yield 2 minutes, Mr. Speaker, to the gentleman from Texas, Dr. BURGESS.

Mr. BURGESS. I thank the gentleman for yielding.

Let's talk just a little bit about fires and who set them and when they were set. I rise today to talk about the so-called doc fix that is contained within the bill. But first I think a little history is in order.

Quoting from a paper by Dr. John Shay from December of 2006: Originally, Medicare doctors were reimbursed under what is called the customary prevailing rate, the CPR. Congress thought that spent too much money, so in 1989 in the Omnibus Budget Reconciliation Act—sound familiar?—they enacted what was called the relative value payment system, RVRPS. That was supposed to hold down payments.

In between, we had something called the Medicare economic index that based doctor pay on the cost-of-living adjustment. None of these things satisfied Congress in holding down costs, so in 1992, remember, George Bush was not President in 1992, George W. Bush was not President in 1992, although we like to blame things on the previous administration; the Congress was controlled by Democrats, and they enacted the volume performance standard, or VPS, which was in fact the forerunner of today's SGR. This is not a problem that began in the last administration. This is in fact a problem that was set in motion by administrative pricing when Medicare was enacted back in 1965.

Now, here is the deal. We are going to pass this thing today, and I appreciate the fact we separated out the doc fix from the other parts of the legislation. But it is not going to benefit America's doctors, because the Senate went home.

If we really wanted to help America's doctors, we would have done this in the weeks that we gave ourselves in April when we passed the last extension. But we didn't. We were in recess all day Wednesday, for crying out loud. The Senate has gone home.

June 1, doctors get their pay cut. CMS says don't worry, we will hold their checks for two weeks. Do you know what happens when you hold a check in a one- or two-doctor office for two weeks? That doctor doesn't have a paycheck at the end of their month, their margins are so tight.

Now, here is the real legislative malpractice that occurred here two months ago when we passed the health care bill. Here is the Clinton Medicare economist, Marilyn Moon, who said the health care legislation's $500 billion cuts to hospitals, insurers, and other Medicare providers should have been earmarked to deal with the doctor fees first.

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

Mr. CAMP. I yield the gentleman an additional minute.

Mr. BURGESS. That money in the health care bill that was cut from Medicare should have dealt with the doctor fees first, and anything else left over should have gone to pay for the other programs that they wanted to buy.

Quoting from Ms. Moon: ''They should have used Medicare dollars to fix this. It is irresponsible'' that the health care law left such a major issue unresolved, while at the same time claiming—claiming—to reduce the Federal deficit.

Continuing to quote: ''I think we should have put a crowbar in our wallets.''

Well, look, here is the problem. We passed a bill. We cut half a trillion dollars from Medicare, and we didn't fix the fundamental problem that is preventing our Medicare patients from having care. You want access to an insurance policy, fine. I would always rather have access to a doctor.

Mr. LEVIN. Mr. Speaker, I now yield 2 minutes to another distinguished member of our Ways and Means Committee, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I appreciate the gentleman's courtesy.

We are watching the harsh reality of governing without any meaningful Republican participation. It would have been an opportunity as we were moving forward to act as if they were actually legislating. People who were part of the party could have been able to zero in on some of these things.

I personally am absolutely committed to deal with the SGR problem. This bill is a step forward to deal with it. It is not as good as what we had passed earlier in the House. But it is interesting that our friends on the other side of the aisle just took a hike, decided to be negative.

One of the best examples is their hypocrisy or willful ignorance when it comes to the stimulus.

□ 1230

I talked to hundreds of people who were here in town, and I'm sure some of them made it to Republican offices as part of the construction industry fly-in. All were thankful for the investment of the economic recovery package that kept people working in construction. Not just the thanks from teachers, firefighters, energy industry who have benefited from the jobs that have resulted, but they heard that particularly from infrastructure companies, if they cared to listen.

I find a certain amount of disingenuous argument here when people are saying, well, we can't use emergency funding to help unemployed people in America. It should, instead, be funded by raising taxes or cutting programs.

These are the same people that funded not billions of dollars, but hundreds of billions of dollars year after year after year in emergency spending for the war in Iraq, which was absolutely foreseeable, predictable, and they paid for that ''off the books.'' But when it comes to Americans unemployed, well, all of a sudden, then, we want to be more stringent.

Last but not least, I appreciate what is done with the committee in terms of infrastructure. The Build America Bonds, lifting the caps on sewer and water financing, that will put people to work.

Is this a perfect bill? No. But I think it's an important step forward. It keeps the principles moving, and it ignores the hypocrisy that we're hearing on the other side of the aisle. I strongly urge a ''yes'' vote.

Mr. CAMP. Mr. Speaker, I will insert into the RECORD a letter to the Speaker of the House by 12 physicians' organizations representing 155,000 physicians opposing this legislation.

May 26, 2010

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI, On behalf of the undersigned national surgical societies, we would like to thank you for your leadership and ongoing efforts to pass a permanent replacement for the flawed Medicare physician payment formula. It is vital that Congress adopt a policy that provides long-term stability to ensure that our nation's seniors, disabled and military families enrolled in the TRICARE program maintain access to high quality surgical care. Unfortunately, short term approaches—including the sustainable growth rate (SGR) policy contained in the proposed House amendment to H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010—fall short of this goal, so we must oppose such legislative proposals.

With regard to H.R. 4213 (as released on May 20), our specific concerns include:

Rather than permanently repealing the SGR, the bill only provides temporary relief from the pending payment cuts for three and a half years; the formula applied in 2012 and 2013 will likely result in a pay freeze for most surgeons; the bill reverts back to the SGR in 2014 when physicians will once again be facing cuts in excess of 35 percent; and with an estimated price tag of nearly $500 billion in 2014, it will be virtually impossible to permanently fix the problem at a later date.

These continued payment cuts, rising practice costs and a lack of certainty going forward, make it difficult, if not impossible, for already financially challenged surgical practices to continue to treat Medicare patients. A February 2010 survey conducted by the Surgical Coalition confirms that surgeons and anesthesiologists will be forced to make significant changes in their practices if Medicare payments continue to decline, jeopardizing timely access to surgical care. The survey found that 37 percent of respondents will change their Medicare status to ''nonparticipating'' and an additional 29 percent will opt out of Medicare altogether. In addition, those remaining in Medicare will also make significant changes to their practices, with 69 percent limiting the number of Medicare patient appointments; 47 percent reducing time spent with Medicare patients; and 45 percent no longer providing certain services. Finally, the survey demonstrates a direct connection between Medicare payment cuts, jobs and the economy, as 43 percent of respondents stated they would reduce staff; 44 percent would defer the purchase of new medical equipment; and 32 percent would defer purchases of health information technology.

Surgeons are keenly aware of the fiscal challenges confronting Congress and our nation. We believe, however, that the most fiscally responsible approach is to permanently repeal the SGR today, rather than growing the cost by acting on it tomorrow. We remain steadfast in our commitment to ensure and improve all Americans' access to quality surgical care and we stand ready to work with you to find a solution that will achieve this goal.

Sincerely,
American Academy of Facial Plastic and Reconstructive Surgery;
American Academy of Otolaryngology-Head and Neck Surgery;
American Association of Neurological Surgeons;
American Association of Orthopaedic Surgeons;
American College of Osteopathic Surgeons;
American Congress of Obstetricians and Gynecologists;
American Osteopathic Academy of Orthopedics;
American Society of Cataract and Refractive Surgery;
American Society of Plastic Surgeons;
American Urological Association;
Congress of Neurological Surgeons;
Society for Vascular Surgery.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, this bill has short-term extensions and permanent tax hikes and still, over time, puts $54 billion onto our national debt.

Now, there are some of these extensions that we would all support if they were offset. But adding to the national debt is the wrong way and a harmful way.

This is not a time to raise taxes on investments and business. That's a sure way to kill jobs. For example, one of the provisions, higher taxes on carried interest means less dollars into real estate investment development. In Omaha alone developers and contractors have gone bankrupt, jobs lost, projects stalled or killed because of lack of capital, and this will make it worse. More taxes equals less capital, means more jobs lost.

This is a job-killing bill, and I am going to vote against it.

Mr. LEVIN. Mr. Speaker, I now yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY), another distinguished member of our committee.

Ms. BERKLEY. Mr. Speaker, Nevada is hurting. The people I represent in Southern Nevada are hurting.

This bill extends the unemployment benefits for the 14.2 percent of my fellow Americans who find themselves unemployed so they can pay their bills and feed their children. It's not their fault that they are unemployed.

I support this bill because teachers I represent are going to get a tax credit for the school supplies they purchase, because Nevadans will be able to continue to deduct our sales tax from our Federal income tax, because there's money in here so we can provide summer jobs for high school students. Small business will receive tax incentives to preserve their jobs. Restaurants and retail stores can improve their businesses and expand by the R&D tax credit. Major job-creating infrastructure projects like the expansion of McCarran Airport and all of those great downtown building and transportation projects are going to continue because of the Buy America Bonds and the Recovery Zone Bond program.

And, finally, the extension of Medicare reimbursement to our country's doctors for 19 months. It's necessary. It's not permanent. We need to do permanent. It's going to help them care for their patients.

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

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS), another member of our committee, a distinguished member indeed.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of this jobs bill because this legislation would provide summer jobs for hundreds of thousands of young people, keep unemployment checks coming, provide money for small businesses, keep jobs at home in America.

It also will provide hope for those who have almost given up, wondering where their next work opportunity will come from. And, of course, it provides an opportunity for us to more adequately compensate our doctors.

Doctors are an integral part of health care delivery, and there ought not be any reason for senior citizens not to get the services that they need because we're not paying our doctors.

This is a job-creating, services-providing bill. I strongly support it and urge its passage.

Mr. LEVIN. Mr. Speaker, I will enter into the RECORD a letter from the AARP in support of the SGR provision for physicians under Medicare and their patients.

AARP,
Washington, DC, May 28, 2010.

DEAR REPRESENTATIVE: On behalf of millions of AARP's members, we urge you to vote in favor of critically needed legislation to ensure that Medicare beneficiaries do not lose access to their physicians.

Absent Congressional action by June 1st, physicians who treat Medicare patients will receive a 21 percent reduction in their reimbursement. We are concerned that these cuts could have a dramatic impact on beneficiaries' access to physicians—particularly in rural areas. Some of our members have already experienced difficulty in finding a physician who will accept Medicare patients—a problem that can be more common for those newly eligible for Medicare. For nearly a decade, Congress has used short-term patches to prevent imminent cuts to how doctors who treat Medicare patients are paid—an approach that has created a great deal of anxiety among Medicare patients and the health providers who serve them. People on Medicare deserve the peace of mind of knowing they can find a doctor when they need one.

AARP is pleased that this legislation prevents the drastic 21 percent cut and provides a stable payment rate for the physicians who treat Medicare patients. While we recognize this is only a short term solution, our members—and the physicians who treat them—should not continue to be held hostage by short-term band-aid patches to an unworkable Sustainable Growth Rate (SGR) formula. Going forward, we are committed to working with Members of Congress from both sides of the aisle to repeal the SGR, and to establish a permanent physician payment system that rewards value and ends the uncertainty for patients and providers alike.

Sincerely,

NANCY A. LEAMOND.

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to the very distinguished gentlewoman from California (Ms. LEE).

Ms. LEE of California. Mr. Speaker, I rise in strong support of H.R. 4213, and I thank the gentleman for yielding but also for his deep commitment to create jobs.

For months now the Congressional Black Caucus, which I am proud to chair, has been laser focused on turning this economic disaster inherited from the Bush administration around. Our focus has been jobs, jobs, jobs, and making sure that the chronically unemployed are included in our efforts. We have worked with President Obama and Speaker PELOSI, House and Senate leadership, committee chairs, and our coalition partners to develop a legislative strategy to address the needs of millions of Americans who are struggling in this tough economic environment.

I am proud to say that this bill provides $1 billion for summer youth jobs and an additional $2.5 billion to extend emergency funding for the Temporary Assistance for Needy Families program.

I want to thank Speaker PELOSI and Chairman LEVIN. I want to also thank Mr. RANGEL and OBEY and MILLER and all of our leadership for working with us to include these provisions.

This bill also extends unemployment insurance, which really is a lifeline for folks struggling to keep their heads above water, just plain surviving, mind you, in both Democratic and Republican districts. Our actions today will make a huge difference for millions of Americans and help put people to work and close off egregious tax loopholes that subsidize companies which ship American jobs overseas. And we will finally pay the debt owed by our government to Black farmers and Native Americans.

But we still have a lot to do. We have to create direct jobs for people which will help turn the economy around and help tackle the deficit. I will cast my vote today for this lifeline on behalf of all of those individuals whose Members simply refuse to do so.

I urge my colleagues to do the morally correct thing and vote ''yes.'' People want to work. This bill puts people back to work. It helps them survive until they find a job, and this is the patriotic thing to do.

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

Mr. LEVIN. I now yield 1 minute to the gentlewoman from New York (Mrs. MALONEY), chair of the Joint Economic Committee.

Mrs. MALONEY. Mr. Speaker, I rise in support.

A new report from the Joint Economic Committee shows that extending unemployment benefits is not only the morally right thing to do, it is fiscally responsible.

The report focuses on unemployed disabled workers. By the end of 2010, the JEC estimates that 290,000 unemployed disabled workers will exhaust their unemployment benefits. Without extension of unemployment benefits, the JEC estimates that two-thirds of these workers will leave the labor force and move on to Social Security Disability Insurance.

Shifting these workers from the labor force and onto the SSDI rolls, the cost of inaction is a $24.2 billion lifetime cost.

By contrast, keeping these workers attached to the labor force by extending unemployment insurance benefits and COBRA premium subsidies is $721 million in 2010.

The JEC analysis concludes that the Federal Government can save $23.5 billion by extending unemployment benefits and avoiding a lifetime of SSDI for currently unemployed workers.

I urge a ''yes'' vote.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentleman for yielding.

Mr. Speaker, I am a strong supporter of stabilizing Medicare physicians' payments permanently. Short-term fixes create instability and uncertainty for physicians and patients. But if we don't act now, on June 1 our doctors are going to see their Medicare payments cut by over 20 percent, and I am simply not willing to allow that to happen, which is why I'm voting ''yes.''

This bill will ensure that doctors who see Medicare patients over the next 19 months will 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's not a perfect solution, but it is essential for the health and well-being of seniors and disabled persons on Medicare.

I urge a ''yes'' vote.

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

Mr. LEVIN. Mr. Speaker, it is now my more than distinct privilege, and I repeat that, more than my distinct privilege, to yield 1 minute to the Speaker of the United States House of Representatives, NANCY PELOSI.

Ms. PELOSI. Mr. Speaker, I thank the distinguished chairman for his recognition and also for the excellent job he has done to bring this bill to the floor today, the American Jobs and Closing Tax Loopholes Act.

Mr. Speaker, it is our responsibility here, almost an ethical one really, to create jobs for the American people. Equally important is to reduce the deficit. So any of the pieces of legislation that we bring to the floor must strive to do both, to strike that balance.

□ 1245

I congratulate the chairman on this important legislation because it does both, creates jobs and helps to reduce the deficit. If I had four words to describe the bill, it would be the same four words—it's a four letter word, I prepare you for that—jobs, jobs, jobs, and jobs. It's about jobs, it's about summer jobs for young people, it's about Build America bonds, jobs and the infrastructure sector, it's about jobs that are produced by our investments in research and development tax credits in the legislation to have research into higher skilled jobs and bring us to a different place technologically. That's very important.

It's about helping people who have lost their job through no fault of their own. And that's important to them individually; but it's also important, as economists tell us, that unemployment insurance is the fastest way to inject demand into the economy, thereby creating jobs immediately. These and in other ways in this legislation we are creating jobs. And we are doing so in a way, as I say, the unemployment insurance will create jobs, create a revenue stream which will help to reduce the deficit. The rest of the bill is all paid for in a fiscally sound way, and I congratulate distinguished Chairman LEVIN for making that so.

I am particularly pleased about a benefit for our veterans as we go into Memorial Day. Other Members have mentioned the SGR, how important it is to have that provision in this legislation. I myself wish it were permanent. It's 19 months. We have to move to giving more certainty to our physicians and to our seniors. This is about our seniors and their ability to keep the doctors that they have if they so wish, and under this legislation they will do so.

But as I close, I just want to make note that as we gather here on Memorial Day weekend, as we go forward, there is a very important provision in this bill that I hope all Members will take home and convey with our gratitude to our men and women in uniform, and that is the issue of concurrent receipt. We call it the veterans disability tax repeal. Its technical term is concurrent receipt. If you are a veteran and if you are disabled, you will recognize this term. And in this legislation there is funding—it is paid for—there is funding to cover the concurrent receipt, the repeal of it for the next—to address it in a positive way for the next 2 years.

So if it's about young people and summer jobs, if it's about building the infrastructure of America, if it's investing in research and development and the high technologies that will make us competitive and keep us number one, if it's about helping those who

through no fault of their own have lost their jobs, but recognizing that that investment injects demand into the economy and creates jobs, this is a bill that does just that in a fiscally sound way, while honoring our veterans on this Memorial Day.

So I thank the gentleman for this very important legislation and urge my colleagues to give a big strong ''aye'' vote to the American Jobs and Closing Tax Loopholes Act. It's named that for one very important reason. In this legislation, which is job creating, it closes the loophole which has allowed businesses to ship jobs overseas. Can you believe that we have a tax policy that enables offshoring?

So if you have one thing to say about this bill to your constituents, you can say that today you voted to close the loophole to ship U.S. jobs overseas and giving businesses a tax break to do so. It's not right. It will be corrected today. Thank you, Mr. LEVIN.

I urge my colleagues to vote ''aye.''

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

This legislation before us raises the deficit by $54 billion. It is not the fiscally responsible legislation that some claim it to be.

I insert in the RECORD the analysis by the Congressional Budget Office that shows the deficit increases by $54.2 billion under this legislation.

Estimate of the Statutory Pay-As-You-Go Effects for H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010 (As reported by the Committee on Rules on May 26, 2010 with a subsequent draft amendment transmitted to CBO on May 27, 2010)

[Millions of dollars, by fiscal year]

PRELIMINARY													
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Division I: Section 523—Medicare Sustainable Growth Rate Reform.													
NET INCREASE OR DECREASE (−) IN THE ON-BUDGET DEFICIT													
Total On-Budget Changes for Division I	3,143	14,455	5,320	0	0	0	0	0	0	0	0	22,918	22,918
Less:													
Current-Policy Adjustment for Medicare Payments to Physicians [1]	3,143	14,455	4,281	0	0	0	0	0	0	0	0	21,879	21,879
Statutory Pay-As-You-Go Impact for Division I	0	0	1,040	0	0	0	0	0	0	0	0	1,040	1,040
Division II: All Other Provisions (The amendment printed in part A of the Rules Committee report on H.R. 4213, as modified by the amendment printed in part B of Rules Committee report and the further amendment printed in section 2 of the rule, except for section 523 of the amendment.)													
NET INCREASE OR DECREASE (−) IN THE ON-BUDGET DEFICIT													
Total On-Budget Changes for Division II	22,305	45,115	−763	−3,319	−3,764	−25,092	17,098	−4,360	−3,648	−2,915	−3,095	34,481	37,573
Less:													
Designated as Emergency Requirements [2]	12,205	26,715	180	175	120	60	45	0	0	0	0	39,455	39,500
Statutory Pay-As-You-Go Impact for Division II	10,100	18,400	−943	−3,494	−3,884	−25,152	17,053	−4,360	−3,648	−2,915	−3,095	−4,974	−1,927
Division I and Division II Combined:													
NET INCREASE OR DECREASE (−) IN THE ON-BUDGET DEFICIT													
Total On-Budget Changes	25,448	59,570	4,557	−3,319	−3,764	−25,092	17,098	−4,360	−3,648	−2,915	−3,095	57,399	60,492
Less:													
Current-Policy Adjustment for Medicare Payments to Physicians [1]	3,143	14,455	4,281	0	0	0	0	0	0	0	0	21,879	21,879
Designated as Emergency Requirements [2]	12,205	26,715	189	175	120	60	45	0	0	0	0	39,455	39,500
Statutory Pay-As-You-Go Impact	10,100	18,400	96	−3,494	−3,884	−25,152	17,053	−4,360	−3,648	−2,915	−3,095	−3,934	−887
Memorandum—Components of the Emergency Designation (Division I and Division II Combined)													
Changes in Outlays	12,205	26,555	0	0	0	0	0	0	0	0	0	38,760	38,760
Changes in Revenues [3]	0	−160	−180	−175	−120	−60	−45	0	0	0	0	−695	−740

Sources: Congressional Budget Office and Joint Committee on Taxation.

Note: Components may not sum to totals because of rounding.

1. Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians. CBO estimates that the maximum available adjustment for a physician payment policy through December 31, 2011, is about $21.9 billion.

2. Section 701 of H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010 would designate section 501 (unemployment insurance) of the bill as an emergency requirement pursuant to section 4 (g) of the Statutory Pay-As-You-Go Act of 2010.

3. Negative numbers represent a DECREASE in revenues.

BUDGETARY EFFECTS OF H.R. 4213, THE AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010 (AS REPORTED BY THE COMMITTEE ON RULES ON MAY 26, 2010 WITH A SUBSEQUENT DRAFT AMENDMENT TRANSMITTED TO CBO ON MAY 27, 2010)

[Millions of dollars, by fiscal year]

	PRELIMINARY														
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2014	2010–2015	2010–2019	2010–2020
Division I: Section 523—Medicare Sustainable Growth Rate Reform															
NET INCREASE IN DEFICITS FROM DIRECT SPENDING															
Medicare Physician Payment Update	3,143	14,455	5,320	0	0	0	0	0	0	0	0	22,918	22,918	22,918	22,918
Division II: All Other Provisions (The amendment printed in part A of the Rules Committee report on H.R. 4213, as modified by the amendment printed in part B of Rules Committee report and the further amendment printed in section 2 of the rule, except for section 523 of the amendment.)															
CHANGES IN REVENUES															
TOTAL CHANGES IN REVENUES [1]	−6,855	−10,201	6,391	8,037	7,657	28,714	−13,468	7,884	6,977	6,158	6,548	5,028	33,742	41,281	47,829
On budget revenues	−6,855	−10,666	5,484	7,121	6,862	27,965	−14,201	7,215	6,546	5,931	6,176	1,946	29,911	35,389	41,565
Off-budget revenues	0	465	907	916	795	749	733	669	431	227	372	3,082	3,831	5,892	6,264
CHANGES IN DIRECT SPENDING (OUTLAYS)															
Title I—Infrastructure Incentives	14	554	2,090	2,871	2,871	2,871	2,871	2,871	2,871	2,871	2,871	8,399	11,270	22,752	25,623
Title II—Extensions of Expiring Provisions	3,302	1,363	0	0	0	0	0	0	0	0	0	4,664	4,664	4,664	4,664
Title III—Pension Funding Relief	0	0	−70	−130	−200	−260	−130	−100	−30	100	160	−400	−660	−820	−660
Title IV—Revenue Offsets	0	500	400	100	0	0	0	0	0	0	0	1,000	1,000	1,000	1,000
Title V—Unemployment, Health, Other Assistance.															
Subtitle A—Unemployment/Other	12,254	28,486	473	88	40	7	2	0	0	0	0	41,341	41,348	41,350	41,350
Subtitle B—Health Provisions	−3,151	−371	270	212	17	15	21	−21	2	18	23	−3,023	−3,009	−2.989	−2,966
Subtotal (Title V)	9,103	28,115	743	300	57	22	23	−21	2	18	23	38,318	38,339	38,361	38,384
Title VI—Other Provisions	3,031	3,917	1,558	661	370	240	133	105	55	27	27	9,537	9,777	10,097	10,124
TOTAL CHANGES IN OUTLAYS (DIVISION II)	15,450	34,449	4,721	3,802	3,098	2,873	2,897	2,855	2,898	3,016	3,081	61,519	64,392	76,058	79,138
NET INCREASE OR DECREASE (−) IN DEFICITS FROM REVENUES AND DIRECT SPENDING															
NET CHANGES IN DEFICITS [2]	22,305	44,650	−1,670	−4,235	−4,559	−25,841	16,365	−5,029	−4,079	−3,142	−3,467	56,491	30,650	34,777	31,309
On-budget deficit change	22,305	45,115	−763	−3,319	−3,764	−25,092	17,098	−4,360	−3,648	−2,915	−3,095	59,573	34,481	40,669	37,573
Off-budget deficit change	0	−465	−907	−916	−795	−749	−733	−669	−431	−227	−372	−3,082	−3,831	−5,892	−6,264
Division I and Division II Combined															
CHANGES IN REVENUES (DIVISION I AND DIVISION II)															
TOTAL CHANGES IN REVENUES [1]	−6,855	−10,201	6,391	8,037	7,657	28,714	−13,468	7,884	6,977	6,158	6,548	5,028	33,742	41,281	47,829
On-budget revenues	−6,855	−10,666	5,484	7,121	6,862	27,965	−14,201	7,215	6,546	5,931	6,176	1,946	29,911	35,389	41,565
Off-budget revenues	0	465	907	916	795	749	733	669	431	227	372	3,082	3,831	5,892	6,264
CHANGES IN DIRECT SPENDING (DIVISION I AND DIVISION II)															
TOTAL CHANGES IN OUTLAYS	18,593	48,904	10,041	3,802	3,098	2,873	2,897	2,855	2,898	3,016	3,081	84,438	87,310	98,976	102,057
NET INCREASE OR DECREASE (−) IN DEFICITS FROM REVENUES AND DIRECT SPENDING (DIVISION I AND DIVISION II)															
NET CHANGES IN DEFICITS [2]	25,448	59,105	3,650	−4,235	−4,559	−25,841	16,365	−5,029	−4,079	−3,142	−3,467	79,410	53,568	57,695	54,228
On-budget deficit change	25,448	59,570	4,557	−3,319	−3,764	−25,092	17,098	−4,360	−3,648	−2,915	−3,095	82,492	57,399	63,587	60,492
Off-budget deficit change	0	−465	−907	−916	−795	−749	−733	−669	−431	−227	−372	−3,082	−3,831	−5,892	−6,264

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.
Notes: Components may not sum to totals because of rounding.
[1] Negative numbers denote a DECREASE in federal revenues; positive numbers denote an increase in revenues.
[2] Positive numbers denote an INCREASE in the budget deficit; negative numbers denote a decrease in the deficit.
[3] Section 701 of H.R. 4213 would designate section 501 of the bill as an emergency requirement pursuant to section 4 (g) of the Statutory Pay-As-You-Go Act of 2010.

So the result is piling even more on an unsustainable level of debt the country is carrying already. This legislation imposes permanent tax increases to pay for temporary extensions of tax relief, meaning there is actually no net tax relief overall. And the real problem with that is for 6 months of a provision like the research and development tax credit there are permanent tax increases throughout the economy that will be there forever. So while in another 6 months we will be back trying to find a way to extend the research and development tax credit, there will be yet more permanent tax increases, making it very difficult for our economy to recover, particularly given the nature of those tax increases, hitting particularly hard on small business, the engines of economic growth and job creation. Even as the President has said, nearly 70 percent of new jobs come from small businesses.

But it is unprecedented to tax certain small businesses in the way this bill is doing, by going after taking unemployment taxes and applying it to their profits. And this comes at the worst possible time, when so many small businesses across America are struggling and trying to make that decision do they buy that piece of equipment. Do they stay in business at all? Do they hire that extra person? And putting a layer of tax increases over them at this time is particularly onerous.

This legislation double counts oil spill excise tax revenues. So this is not the fiscally responsible bill some would claim. While it quadruples the excise tax to fund the Oil Spill Liability Trust Fund, it counts this twice because, while it's intended to be reserved for the trust fund and used to mitigate oil spills, it shouldn't be counted as contributing to general deficit reduction, as this legislation does.

There is irresponsible health spending that also increases the deficit. If the so-called health care overhaul and reform had actually done its job, we wouldn't be here with a major Medicare problem, the physician payment formula. Because it was so important to make that bill look less expensive, the physician payment formula, which was actually the fix, was a part of that legislation, was taken out, and therefore we are again back again trying to find a way to address that issue.

I think that's why so many physicians groups have come forward representing more than 155,000 doctors across America saying this is not the way to do it. This is not the legislation. They are compelled to not support this legislation because it doesn't really do anything to fix the physician payment formula for Medicare physicians, which is so important for seniors all across America.

I would say this is a flawed process, and flawed processes lead to flawed legislation. Much of this bill, unprecedented changes in tax law with regard to partnerships that help build shopping centers and apartment buildings all across our country. Significant changes in the way partisanship income is treated. Significant changes in the way investment income is treated in terms of real estate partnerships. No hearings on this legislation before the Ways and Means Committee, no markup of the legislation. It just comes airdropped into the bill and comes directly to the floor. And that's why you have seen so many business groups come forward, so many employer representative organizations come forward and say they have to oppose this bill, even recognizing the deep needs in America on unemployment and other issues. They have to oppose this legislation because of the way it's crafted and the way it's put together.

Had we had an opportunity to debate this in committee, had we had an opportunity to actually hear from the job providers and job creators, I think we would have come up with a different result. I think we would have been able to fine-tune this legislation; we would have been able to come up with a way to address these pressing needs that Americans are facing.

So I would say when all is said and done, you come to the conclusion this bill, even though it's been split up and we are going to have two votes instead of one vote, both of these bills are unacceptable because they raise the deficit, because they add new tax burdens in a recession and make it much more difficult for our economy to recover so that the engine of economic growth, small business and investment, the private sector can actually have its way and begin to create the kind of economic growth and job creation that America so needs.

I yield back the balance of my time.

Mr. LEVIN. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman has 3 minutes remaining.

Mr. LEVIN. I yield myself 30 seconds and then the balance of the time to the majority leader.

In a word, the minority objects when we pay for jobs bills after years of their creating deficits. They object when there is an emergency under statutory PAYGO and we provide for unemployment comp. So in a word or a few words, they project nothing either constructive or positive.

Mr. Speaker, I end on both a constructive and positive note by yielding the balance of my time to our distinguished majority leader.

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

Mr. HOYER. I thank the chairman for yielding.

I want to thank Chairman LEVIN. Chairman LEVIN has worked, along with his staff, Janice Mays, the staff director and other members of an extraordinary staff, around the clock. And I am sure Mr. CAMP would say his Republican staff has worked around the clock, too. We thank all of them for the work that they do. I thank Mr. LEVIN for his leadership, for his focus, and his tenaciousness in bringing us to this point.

Let me make a couple of observations before I speak pointedly about the bill. First of all, ladies and gentlemen of this House, the public understands that there is no bipartisanship in this House. All Republicans are going to vote against this bill, my presumption is. Maybe I am wrong. I hope I am wrong. But my presumption is they'll vote to a person against this bill.

They have voted almost to a person against every bill that we have passed over the last 16 months to try to bring this economy back from the extraordinarily deep recession, the deepest that we have had in 75 years, resulting from the economic policies that they put in place when they were exclusively in control.

Yet they come to the floor and talk about deficits. Democrats of course, when we controlled the Presidency, created one of the highest surpluses, and indeed the only administration that had a net surplus after 8 years, the Clinton administration. The Republicans will say, yes, but for 6 of those years we controlled the Congress. And my response is, yes, and for 12 of the years you controlled the Congress, and 6 of those under a Republican President, George Bush.

Unfortunately, every year that I have been here serving with a Republican President, every year without exception, we have had large deficits. Every year. However, under Bill Clinton we had the only 4 surplus years that I have been here. We had 4 surplus years as a result of an economic program that was adopted. Again, it was adopted exclusively by Democrats. No Republican voted for that in 1993 either in the House or in the Senate.

So we created surpluses. We got the economy moving. And then my friend on the other side talks about jobs; we should have had hearings about job creation. Frankly, the worst period of job creation in the last 30 years was the 8 years of the Bush administration. Without exception the worst. Stark example: the Clinton administration, 216,000 jobs created per month; the Bush administration, 11,000 jobs per month. That's 205,000 jobs per month, over 2 million per year.

That is why, of course, because of that disastrous economic performance, we fell into this extraordinary ditch that we have tried to pull ourselves out of. And we are coming out of it. That's the good news, Mr. and Mrs. America, my colleagues. We are coming out of it. It's slow, it's not as fast as we would like, but it's successful.

Now, I give you an interesting fact: over the last 4 months of an economic program, the Recovery Act and other jobs bills that we passed, we have created 573,000 jobs in the last 4 months. All positive months. If the next two-thirds of the year replicate that production, we will create more jobs this

year after this deepest recession any of us in this Chamber have experienced ever in our lifetimes, we will create more jobs this year, if we replicate the first third of the year, than the Bush administration created in its 8 years. Hear that statistic and check me if I am wrong. About 1.7 million jobs versus a little over a million jobs over the 96 months were net created during the Bush administration.

□ 1300

So when we talk about jobs and deficits, I think we have some credibility. We have some credibility because we created surpluses; the only 4 years of surplus, again, under the Clinton administration, that we had in my 30 years in Congress. And in terms of jobs, Bill Clinton created 21 million private-sector jobs during the course of his Presidency. George Bush? Approximately a million. A stark difference in the impact of the economic policies pursued by the two parties.

I would hope some of you would say to yourselves that—not because we're trying to place blame, but because we're probably trying to learn, hopefully, from our experience. And you might come to the conclusion at some point in time, You know what? What they have suggested works. What they have pursued works, contrary to what Mr. Armey, who was your former majority leader who, when we adopted that program in 1993, said we would have deep deficits and exploding unemployment. We had exactly the opposite. We had declining deficits and 4 years of surplus and an explosion of job creation; 216,000 a month.

We continue to pursue creation of jobs. That's what this bill is about, creation of jobs. We're also pursuing closing tax loopholes and making sure people don't offshore jobs so we keep jobs here in America, since inheriting the worst economic crisis since the Great Depression and an economy shedding almost 800,000 jobs per month. That's not creating jobs; that's losing. During the last 3 months of the Bush administration, we lost about 750,000 jobs per month, 1½ million in 3 months, as opposed to creating 573,000 in the last 4 months.

President Obama and the 111th Congress have been dedicated to standing up for the middle class, its interests, and its future. The work continues today with the American Jobs Closing Tax Loopholes and Preventing Outsourcing Act, which will support millions of American jobs.

This bill is a significant investment in America's entrepreneurs and its workers. It helps to restore the flow of credit to small businesses, which hire the majority of America's workers. It extends the important R&D tax credit, research and development, which helps businesses innovate, grow, and create jobs. That's what we need to be about, creating jobs for our people.

It invests in the successful Build America Bonds and Recovery Zone Bonds, which create jobs and build much needed projects, like schools, hospitals, roads, and public transit. It puts young people to work with summer jobs programs so that they're not out in the streets, so they start to learn some skills, so that they have something to do with their time. That's good for them to learn job skills, that's good to get projects done that need to be done, and it provides for idle hands having work.

This bill also protects the safety net for Americans who are out of work through no fault of their own. It extends their unemployment insurance and helps them keep their health coverage. That's not only the right thing to do; it is also one of the most effective ways to boost local economies.

In addition, by preventing physician reimbursement rates from falling, it ensures that millions of seniors, military retirees, and people with disabilities can continue seeing their doctors.

Now, let me say something about what the ranking member said, for whom I have a great deal of respect. He said the docs don't like this. I don't like this. Unfortunately, none of your colleagues in the United States Senate voted for a bill that we sent to them. I don't think any of you voted over here for it either, which made a permanent fix to this doctors' roller coaster of pretending that we're going to cut doctors' reimbursement. We're not going to do that. We're not going to do it because we want to make sure that our seniors, that our folks with disabilities and others have access to their doctors. So we're not going to do that.

So we play a game. It is a game of dollars, of course, an important game. But we play a game that we're somehow not going to do it, so we do it in short stretches. You did the same thing when you were in charge. We're doing it again.

We should do this permanently. The Speaker is for permanent fix. I'm for permanent fix. And if we need to pay for it, I will vote to pay for it. And we do need to pay for it. Now, whether we need to pay for it immediately all up front or we pay for it as we do sporadically, but either way, we all know we're going to do this.

So I say to my friend, I understand the doctors are not pleased. I am not pleased. The Speaker's not pleased. Mr. LEVIN is not pleased. And certainly Mr. WAXMAN is not pleased. And my colleagues on this side of the aisle are not pleased. I presume your colleagues are not either. But, frankly, this is what you did when you were in charge. And we're doing it for the same reason: We need to get the votes. And I'm hopeful that we can join together in a bipartisan way at some point in time, and because we don't have a bipartisan way, frankly, we've got to carry the load ourselves.

I've been in the minority. It's easy to say ''no.'' It's much easier being in the minority. When I was the minority whip, nobody ever asked me did I lose by 1 or did I lose by 20. They assumed I was going to lose, and it didn't matter how much I lost by. Now, of course, if I lose by 1, they know that and I get a lot of flack, properly so.

So we could do better policy if we would do bipartisan policy, if we could do a broader outlook. So I invite you to engage. I don't think you'll do so today, but I hope you will in the future. That's not the only right thing to do. It's also one of the most effective ways to boost our local economies.

In addition, by preventing physician reimbursement rates from falling, it insures that millions of seniors, military retirees, and people with disabilities can continue seeing their doctors. We hope you don't vote against that. It will be a separate vote. You won't have to vote for the rest of the stuff if you don't like it, but vote for the SGR. Vote at least for the next 19 months to say to doctors, We're going to reimburse you at a proper rate to serve seniors, military retirees, and people with disabilities. At least vote for that one if you think docs ought to be reimbursed. Or if you think docs ought to have a 21-percent cut, vote against it.

Those are some of the many steps this bill takes to create jobs and protect Americans struggling in hard times. But just as importantly, this job creation is funded by efforts to close unfair tax loopholes and enforce corporate accountability. This bill would close the loophole that enables Wall Street fund managers to pay taxes at a rate 20 percent lower than the rate for ordinary working Americans. We differ on that. I understand that. And a lot of people have talked about how we can tweak that, if you will. It's a question, however, of basic fairness of taxing people on money they earn at similar rates. And I want to say something on that, because I think there's been some misinterpretation.

I can't speak for every one of my Democratic colleagues, but I'm a strong believer that if people take money out of their pocket, take capital at risk, that there ought to be a differential tax rate, and there is and there will continue to be. At least with my support, there will continue to be.

Further, this bill closes the tax loophole that lets multinational corporations profit by shipping jobs overseas and putting Americans out of work. I believe most of you on the other side of the aisle, my friends and colleagues, don't believe that's a proper thing for us to do. I hope you will join us on that.

By taking advantage of the foreign tax credit, these corporations are able to avoid American and foreign taxes, giving them incentives to move offshore and take jobs from people here at home. Again, tax fairness and the needs of our middle class both urge us to close this loophole. Another loophole for the privileged that Republicans have defended for years.

Finally, this bill takes the first step to hold the oil industry accountable for

the historic mess it made in the Gulf of Mexico. British Petroleum will be millions of dollars in debt when this concludes. It increases the amount the oil industry must pay into the Oil Spill Liability Trust.

I urge my colleagues to support this bill. It's a good bill for jobs. It's a good bill for closing tax loopholes. It's a good bill for dissuading people from taking jobs overseas. Take this step for America, and continue to build on the economic progress that we have made over the last 17 months.

Mr. HARE. Mr. Speaker, I rise today in strong support of the American Jobs and Closing Tax Loopholes Act which would create jobs, extend critical tax credits, provide assistance to people in need, and ensures that my home state of Illinois is able to continue building its infrastructure.

The bill extends unemployment insurance until November 30, 2010. It extends the National Flood Insurance Program until the end of the year. It also extends key tax credits for Illinois clean energy producers. Further, enactment of this legislation will ensure that short line and regional rail lines can continue critical track maintenance, providing reliable infrastructure for rail customers and communities across the nation. It achieves this through the Railroad Track Maintenance Credit. The 45G rail tax credit will enable small and mid-sized railroads to update and upgrade their track capacities in order to promote those railroads as a viable way to move freight. This provision means that railroads in and around my district, such as the Burlington Junction Railway, the Decatur Junction Railway, the Illinois & Midland Railroad, the Iowa Interstate Railroad, the Keokuk Junction Railway, and the Toledo, Peoria & Western Railroad, would all be able to make the necessary upgrades and perform maintenance to tracks which move our nation's food, consumer goods, and coal.

Another aspect of this bill that I am proud to support is commonly known as the ''Doc Fix'', which prevents a 21 percent doctor payment cut under Medicare which is scheduled to take place in June in order to preserve seniors' access to the doctor of their choice. This 19 month fix to the Sustainable Growth Rate formula increases physician payment rates by 2.2 percent for the rest of 2010 and 1 percent in 2011. This provision is necessary to guarantee that Medicare beneficiaries can continue to enjoy the excellent access to care that they do today.

Finally, H.R. 4213 ensures that Illinois highway funds are protected. A provision in the original legislation would have cost Illinois $118 million. But language was added to ensure the state can keep these critical resources. I thank Chairman OBERSTAR for working with the Illinois delegation to ensure that the state was held harmless in this regard.

The bill saves taxpayer dollars by ending subsidies for corporations who ship our jobs overseas, requiring Wall Street investment fund billionaires to pay their fair share of taxes, and ensuring BP meets its responsibility for the Gulf of Mexico oil spill.

We are finally starting to see some positive momentum in the job market. But with many Americans still looking for work, these long-term extensions of unemployment insurance are critical to ordinary families' ability to make ends meet. I am pleased this bill also includes two important provisions for our farmers in Illinois. An extension of the National Flood Insurance Program will give families who live along the Mississippi River important protection from future disasters. In addition, those farmers who produce clean energy like biodiesel and ethanol will continue to receive a tax credit.

We pay for much of this by ceasing to reward multinational corporations for shipping American jobs overseas. This policy combined with several unfair trade deals has battered the manufacturing base in my district. It is time to stand up for American workers again.

Mr. CONYERS. Mr. Speaker, today, I rise in strong support of the American Jobs, Closing Tax Loopholes and Preventing Outsourcing Act. We cannot afford to ignore the job crisis any longer. I believe today's legislation will help Americans struggling with this recession by funding summer jobs programs, assisting the unemployed, extending transportation funding, bringing justice to black farmers and closing tax loopholes for Wall Street managers. Additionally, it includes critical measures to address and prevent federal disasters, including the devastating oil spill in the Gulf and coal mining accidents.

Today's legislation would offer support to those who are most in need by extending unemployment benefits such as unemployment compensation through November 2010. Moreover, the bill extends the Emergency Contingency Fund which provides funds to states to help for Temporary Assistance for Needy Families (TANF), aid to needy families, subsidized employment programs. The American Jobs Act will stop the 21 percent reduction in Medicare reimbursements that doctors were scheduled to see on June 1st 2010. This legislation would also address unemployment by allowing local Workforce Investment Boards to expand successful summer jobs programs which would provide over 300,000 jobs for those ages 14 to 24. It is important to give our youth the opportunity to gain essential skills in order to be competitive in our globalized economy.

I am disappointed the COBRA six month extension was removed from the bill as well as a six-month extension on Medicaid matching rates that would offer addition help to states with high levels of unemployment. Removal of these provisions will put many families at risk during these hard economic times.

As we recover from the worst financial crisis since the Great Depression, the American Jobs Act will force Wall Street fund managers to pay their fair share on taxes carried interest and capital gains. Currently, investment fund managers such as those who work in private equity and hedge funds only pay 15 percent tax on carried interest, while the average small business owner pays significantly higher rates. During the run up to the financial crisis many hedge funds engaged in speculative derivatives and other toxic assets which pushed our economy to the brink of a depression. The Jobs Act will force them to pay their fair share and bring lost billions in revenue to the Treasury. Lastly, the bill ends loopholes that encourage firms to claim foreign tax credits with respect to foreign taxes paid on income in order to ship jobs abroad.

I also support the American Jobs Act because it provides funds for critical transportation projects in Michigan and across the country by allocating over four billion dollars to the popular Build America Bonds initiative. Lauded as one of the most successful parts of the Recovery Act, the Build America Bonds are bonds with tax exemption on interest. The extension of this initiative will allow for the construction of new schools, roads, environmental projects, public safety facilities, and government housing projects. Furthermore, Michigan historically has been a donor state in transportation funding, sending more money to the federal government than it receives in transportation dollars. The American Jobs legislation addresses an inequity in the funding of surface transportation projects.

I am also pleased the American Jobs Act contains a provision that will help resolve the discrimination claims brought by African American farmers against the U.S. Department of Agriculture. In the original Pigford litigation, many potential plaintiffs were unable to timely file their lawsuits due to a failure to give adequate notice of the claims period, barring the claims of as many as 70,000 farmers. In § 14012 of the 2008 Farm Bill, Congress authorized ''late-filing'' Pigford v. Glickman claimants who were denied a ''determination on the merits'' of their claims a cause of action in the United States District Court for the District of Columbia to seek such a determination. On February 18, Agriculture Secretary Tom Vilsack announced that the USDA had reached a global settlement of these claims with the Pigford claimants. That settlement, however, was predicated on the appropriation of $1.15 billion by Congress to pay the claims and costs. With this legislation, we appropriate the funds that will lead to a final resolution of the claims brought by this class of Black farmers more than a decade ago, ending a shameful chapter in the history of USDA and paving the way for the resolution of the claims brought by other minority farmers.

Today's legislation seeks to address deficiencies we have seen in the federal response to preventing and addressing disasters. While the long-term effects of the oil spill in the Gulf are still unknown, analysts estimate that costs could exceed $14 billion. By increasing the amount that the oil companies pay into the Oil Spill Liability Trust Fund, there will be more funds to assist individuals, businesses and communities so that they are not left uncompensated for damages. This bill also extends the National Flood Insurance Program and provides measures to increase mine safety.

Mr. Speaker, I hear from constituents every day whose unemployment benefits are running out and do not know how to pay their mortgage, utilities or food. We must keep safety nets available so that our fellow Americans do not go hungry. Extending these lifelines necessitates the use of emergency spending. The unemployment rate in Detroit is alarmingly high, 27.9 percent which means nearly 254,465 unemployed people in the city. There needs to be a sense of urgency in this chamber on job creation and specifically full employment, where every American worker who wants a job would have the opportunity to do so. I believe that investing in our greatest resource, the American worker, should not be a partisan issue. Today's legislation is a good first step but much more is required to help America recover from this Great Recession. I look forward to continuing to work with my colleagues on providing jobs for every American.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise in support of H.R. 4213, the American Jobs and Closing Tax Loopholes

Act of 2010. This bill would create or save over one million jobs, extend much needed help to those struggling to find work, and close tax loopholes for corporations that send American jobs overseas. I was unable to cast my vote in support of this important piece of legislation and would like to reflect for the RECORD that, if I had voted I would have voted yes.

With a 12.6% unemployment rate, my top priority is to get Californians back to work; this bill would bring critical assistance to those who are still looking for work by extending unemployment insurance through November of this year.

This bill will also create and save jobs by extending tax credits to small businesses, enabling them to hire more employees and expand operations. More needs to be done to help our economy make a full recovery and get our people back to work, but this bill takes care of those who are suffering as our economy continues to recover.

Once again, I rise in support of this legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I rise today in strong opposition to the legislation before us today, which adds $54 billion to the deficit and imposes new taxes on job-creating businesses.

Make no question, Mr. Speaker, that I support a number of the provisions within this bill, including the extension of the state sales tax deduction that is so important to residents of my home state of Washington. In 2004, I was part of the effort that reinstated the state sales tax deduction for the first time in nearly 20 years. Since then, I have worked long and hard with my colleagues from both sides of the aisle to extend this important provision and make it permanent.

For this reason, Mr. Speaker, I am frustrated that instead of simply extending the state sales tax deduction and the other tax relief provisions that help Americans reinvest in our economy, the Democrat majority has chosen to tie these policies to a hodge-podge list of government spending programs that will have nothing to do with creating jobs and will balloon the deficit.

In addition, Mr. Speaker, this bill includes permanent tax increases on job-creators—supposedly to ''offset'' the costs of extending current tax relief measures for one year. It simply makes no sense to give just a one-year temporary extension of the state sales tax deduction while permanently raising other taxes. At the same time, those who control Congress made no effort to offset $54 billion in government spending included in the bill.

This defies logic, and increases the already stifling burden of debt this Congress has saddled on our children and grandchildren.

While this bill includes some very worthy proposals that Congress needs to pass, I can't support permanent new taxes on business investment and job creation—especially at a time when our economy is struggling.

I encourage my colleagues to vote no on this bill, and I stand ready to work with my colleagues on legislation that will actually help put our nation's economy on the road to recovery.

Mr. STARK. Mr. Speaker, I rise to oppose the American jobs and Closing Tax Loopholes Act.

Three days ago I would have held my nose and supported this bill. I deplore many of the corporate tax breaks extended here, I don't believe it goes far enough to close loopholes that encourage off-shoring, and I am angered that it fails to fully close the carried interest loophole. However, the bill did include other key provisions to protect working families and Medicare beneficiaries.

Unfortunately, ''Blue Dog'' Democrats insisted that many of those key provisions be removed. Rather than reforming Medicare's physician payment system and creating several years of stability, the bill has a 19-month patch that is far less than what is needed. The bill eliminates the COBRA premium assistance program that enabled families to maintain their health insurance while they are between jobs. They even went so far as to remove emergency Medicaid funding for States that was the only hope to prevent States from dumping women, children and frail seniors off their Medicaid rolls.

What Congress does has consequences. When we choose to subsidize corporations through the tax code, rather than sustain Medicaid or the COBRA premium assistance program, our choice means people will lose health care. I was reminded of this sad reality yesterday when a constituent called to tell me he is getting laid off next month. Without COBRA assistance, which expires on Monday, he will be without health care. He was put in the difficult position of suggesting his employer terminate him earlier so his family could afford to remain insured. That isn't a choice anyone should be forced to make.

I cannot vote for this bill knowing that we are cutting off health care to the unemployed, while continuing absurd tax breaks, such as the so-called Research and Development Tax Credit. GAO has found that this credit provides a windfall to huge corporations to engage in behavior they would have engaged in with or without the credit. Eliminating this credit and other wasteful corporate credits would allow us to pay for COBRA assistance. Unfortunately, Congress is choosing corporate interests over the interests of families and workers.

There are good provisions in this legislation. Extending the TANF Emergency Contingency Fund so that States can continue successful subsidized employment programs is the right thing to do. Continuing extended unemployment insurance benefits for the millions of Americans still looking for work is also the right thing to do. Providing pension relief for workers is long overdue. I strongly support these provisions.

But I cannot vote to support a bill that has been stripped of other vitally important provisions for America's working families, while maintaining special interest tax breaks.

Ms. ESHOO. Mr. Speaker, I rise today to express my views on the American Jobs and Closing Tax Loopholes Act, H.R 4213. There are four reasons I will vote for the bill.

It extends unemployment benefits for America's jobless workers at a time when they need it most, providing basic assistance for needy families.

It extends the temporary increase in the federal Medicaid matching funds delivered to the states. This provision will give local communities the certainty they need as they enter another fiscal year strapped for cash.

It provides critical assistance to those struggling to pay for healthcare by extending the COBRA premium assistance program.

It extends the Research and Development Tax Credit to the end of this year, a tax credit I have fought to make permanent since entering Congress in 1993. This is a very short extension, but it is better than no extension at all.

Having said the above, I strenuously oppose other parts of the bill.

I believe Sections 411 and 412 on carried interest are bad policy which could cause damage to a fragile economy struggling to create jobs. Jobs are created by risk takers. Venture capitalists launch small businesses. They invest in the communities in which they live. They take significant risks when they bet on the next great American dream. What is so unfortunate about this legislation is that it contains an ill-advised provision that puts the job-creating engine of our innovation economy in jeopardy by stopping inventors dead in their tracks. I oppose the tax treatment in the bill because I believe it is anti-job and anti-innovation.

Section 404 also runs counter to job creation and investing in America. It limits the ability of businesses to bring revenue back to the United States at a time when we can't afford to turn it away. It also changes long-standing international tax law that will put our most innovative U.S. companies at a disadvantage when competing around the world.

I also strongly object to the cost of this bill. More than half of the bill is not paid for. We should and can do better for the American people.

Mr. Speaker, I cannot vote against those most in need, and I won't. But I feel very strongly about the deep flaws in this legislation and regret that the sections I point out are included in H.R. 4213. I hope that by the time a Conference Report reaches us that these policies will no longer be part of the legislation.

Mr. LANGEVIN. Mr. Speaker, I rise in support of this jobs and economic assistance package, which includes an extension of numerous tax provisions critical to sustaining and building jobs, while providing relief to thousands of Rhode Islanders who are still struggling to rebuild after a devastating recession and recent catastrophic flooding.

Our economy is beginning to show signs of recovery, but that progress has been slow in reaching Rhode Island. People are still looking for jobs, small businesses are struggling to keep their doors open and homeowners continue to face high rates of foreclosure. These problems were only compounded by historic flooding in the Northeast, which damaged and destroyed thousands of homes and businesses across Rhode Island.

Our constituents deserve to know that we are doing everything in our power to support them during these difficult times. This bill extends unemployment insurance through November 30th to help families make ends meet while they look for new job opportunities. It also continues important small business lending programs to help spur job growth and hiring.

I am particularly pleased that this bill contains an extension of the national disaster tax provisions through 2010. Since the catastrophic floods hit Rhode Island, I have worked tirelessly with our state's delegation in pursuing every avenue of assistance and relief that the federal government can provide. In addition to our other efforts, I joined my colleague, Representative PATRICK KENNEDY, in introducing the National Disaster Tax Extenders Act, to ensure that Rhode Islanders would

be eligible to receive the same disaster tax assistance as other states have in the past. I am happy to see that language included in this bill.

The disaster provisions will give Rhode Islanders the maximum opportunity to deduct losses from their federal income taxes as a result of the flooding. They also allow businesses that have been affected to deduct expenses like demolition, repair and clean up, as well as apply a net operating loss carry back for 5 years, instead of two.

This legislation also averts a 21 percent reimbursement cut to physicians so they can continue to provide care to our seniors who rely on Medicare. The reimbursement cut is replaced with a 2.2 percent payment increase though 2010 and an additional 1 percent, increase in 2011. While I am disappointed that a permanent fix of the flawed Medicare reimbursement formula was not possible given our current budgetary constraints, it is my hope that Congress corrects this policy soon, so we do not continue to sustain greater costs in the future.

Among other important provisions in this bill is financial relief for our veterans that allows concurrent receipt of both military retirement pay and VA military disability pay for 2 years. It provides an extension of the Temporary Assistance for Needy Families, TANF, emergency relief fund to help states with their social assistance and employment programs. It extends numerous pro-business and pro-community tax provisions, like the R&D tax credit, enhanced deductions for charitable contributions, deduction of classroom expenses for teachers, and investments in alternative energy use and development.

Last but certainly not least, this bill increases the amount that oil companies are required to pay into the Oil Spill Liability Trust Fund, so that the taxpayers are not left with the bill to clean up calamitous man-made disasters like the tragic spill occurring in the Gulf of Mexico right now.

This bill is not a permanent solution to our problems. It has been significantly scaled back to minimize deficit spending, removing critical Medicaid assistance to states as well as an extension of COBRA health insurance premium assistance for the unemployed. Given Rhode Island's continued budgetary deficits and the inevitable loss of medical coverage to state residents, it is imperative that we take up consideration of the Medicaid and COBRA provisions immediately after Congress reconvenes in June.

In the mean time, I ask my colleagues to support the tax extenders package before us today so we can provide assistance to families and businesses that will help put Rhode Islanders back to work.

Mr. HIMES. Mr. Speaker, I rise today with regret that I am unable to cast my vote in support of H.R. 4213 as it stands. I am acutely aware that many families and workers across Connecticut are still struggling from the severe downturn in our economy. Last winter, I supported and voted for the American Recovery and Reinvestment Act. At the time, economists from across the spectrum were calling for a stimulus, and I continue to consider the stimulus a key element in a multi-pronged approach to turn our economy around. While the stimulus is clearly helping, we have yet to feel its full effects. Nearly $400 billion—or more than half—of Recovery Act funds remain unspent. Given this fact, I have serious reservations about authorizing additional spending at this time.

The legislation settled on during this process would increase spending by $115 billion, $60 billion of which is not paid for. While I applaud efforts to trim the size and scope of this bill, it still increases our national deficit without a plan to address our long-term fiscal health.

My concerns with this bill are tempered by my enthusiastic support for many of its provisions. I support, and have voted for, a permanent repeal of the flawed Sustainable Growth Formula, SGR, which threatens the financial viability of our medical providers for the sake of an accounting gimmick. I recently added my name to a letter calling upon the Senate to act on permanent reform of the SGR—these piecemeal measures like the ''fix'' in this bill, while necessary in the short term, are an irresponsible substitute for repealing and replacing this flawed formula.

I support a strong safety net for our unemployed and under-employed, and I have voted in favor of extending unemployment benefits. In a time of economic upheaval, these benefits are crucial to helping families make ends meet and stimulate the demand that leads to economic recovery. And, I support a number of the expiring or expired provisions in our tax code, such as the Research and Development tax credit, which are critical to innovation and job creation.

While I support many of the provisions contained in the bill, I generally will not and cannot support increased spending that does not meet the true spirit of the PAYGO legislation I cosponsored last summer and the President signed into law in February.

Today, I take a step towards thoughtfully rebalancing the budget. While we all know that the economy has by no means fully recovered, it's time to pull back government spending so that we don't find ourselves in an even more dangerous fiscal predicament down the road.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of H.R. 4213, American Jobs, Closing Tax Loopholes, and Preventing Outsourcing Act.

After losing over $17 trillion in total household wealth over the last 18 months of the Bush Administration, we have finally started on the path to economic growth. Thanks to the efforts of this Congress, we have had two straight months of job creation. Job losses have slowed dramatically, plummeting housing prices have stabilized, and our economy is beginning to produce again. Earlier this week, the Congressional Budget Office released a new report highlighting the job-creating impact of the Recovery Act. According to the CBO report, the Recovery Act boosted the Nation's economy by up to 4.2% in the first quarter of the year and has already supported as many as 2.8 million jobs. However, the recovery is fragile and we must continue to help businesses and individuals who are struggling. H.R. 4213 builds on earlier efforts to create jobs and support small businesses. The most important thing we can do to bolster our economy is to help provide opportunity to everyone who is willing to work hard to make the most of their God-given abilities. Earlier this week I visited two local businesses in North Carolina. I visited a coffee shop that is thriving after receiving a loan from the Small Business Administration, SBA, and a high tech company that is looking to grow. This bill includes a provision to extend the waiver of SBA fees and an extension of the Research and Development tax credit that boosts high tech companies like those in the Research Triangle Park. Among the other tax credits that aid small businesses, H.R. 4213 includes a provision that extends the special cost recovery period for restaurants and retail businesses that are growing and making capital purchases.

This bill also extends the successful Build America Bonds initiative that has led to billions of dollars of infrastructure improvements around the country and thousands of new jobs. It supports summer jobs initiatives that provide young people with employment and prepare them for productive work in the private sector. It supports job creation in the energy sector, so that America remains at the forefront of technology and reduces its dependence on foreign oil.

There are so many good provisions in this bill that it is hard to list them all, but I would like to call attention to two specific benefits that particularly affect North Carolina's second district. For years I have been working to correct an issue that prevents veterans from receiving the benefits they were promised and which they deserve on the basis of their service. I am proud to represent a large number of veterans in my district and many of these North Carolinians deserve ''concurrent receipt'' that allows our veterans to collect both disability and retirement pay. This bill provides concurrent receipt for the next 2 years. I have also fought to make sure that North Carolina's farmers, so hard-hit by the current economic downturn, receive support so that local agriculture can continue to provide quality food to America's dinner tables. As one of the Nation's leading poultry producers, North Carolina needs the agriculture disaster support provided by this bill, including assistance I demanded for poultry farmers who suffered catastrophic losses during this recession.

Let us continue to empower Americans on Main Street. I support helping our hard-working Americans and strengthening our economy. I support H.R. 4213, the American Jobs, Closing Tax Loopholes, and Preventing Outsourcing Act, and I urge my colleagues to join me in voting for its passage.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to express my views on H.R. 4213, the American Jobs and Closing Tax Loopholes Act. This is an important bill for our country as we continue to move out of the economic recession. I will be voting in favor of H.R. 4213. However, I have strong reservations about the carried interest tax provisions in this bill and its impact on job growth in areas like Silicon Valley, where innovation and venture capital funds play a key role in the economy.

The American economy gained 290,000 jobs last month, the largest number of job gains in a month since 2006, and the GDP increased by 3 percent last quarter. While these numbers clearly show positive economic growth, the economy has not been recovering fast enough for many families in Santa Clara County where unemployment is still at 11.4 percent—nearly 2 percent higher than the national average.

H.R. 4213 will do much to help California and Silicon Valley families hit by this recession. This bill will provide California with billions of dollars for unemployment benefits, direct assistance to needy families and children,

emergency rental assistance, and summer youth programs. I support all of these programs because they will provide a critical lifeline for families trying to keep their heads above water and survive this economic downturn.

These programs will help maintain the short-term stability of the economy, but families in the long-term need jobs the private sector will create. Venture capital investments help create these jobs of the future. This is why I am so concerned about the section in the bill that will increase the tax rate for carried interest as applied to venture capital. Unlike private equity funds, venture capital investments typically span multiple years and funding cycles. It is not uncommon for it to take 10 to 15 years for these ideas to reach the market, and in many cases they never do.

We have all heard of Google, Apple, Cisco, Genentech, and Tesla Motors. All of these companies were at one point just an idea in the minds of their founders. The system of venture capital allowed these ideas to develop and grow into major industries that created hundreds of thousands of jobs.

I applaud House leaders for delaying the implementation of changes to the carried interest tax for a year, but the eventual hit to venture capital investments is worrisome. Just as we are starting to emerge from the "Great Recession" this seems an inopportune time to overturn the venture capital system that has been an engine of job growth.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1403, the previous question is ordered.

The question of adoption of the motion is divided.

The first portion of the divided question is: Will the House concur in the Senate amendment with all of the matter proposed to be inserted by the amendment of the House other than section 523?

The question is on the first portion of the divided question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

The yeas and nays were ordered.

Pursuant to clause 9 of rule XX, this 15-minute vote on the first portion of the divided question will be followed by a 5-minute vote on the second portion of the divided question, if ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 204, not voting 13, as follows:

[Roll No. 324]

YEAS—215

Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Cao
Capps
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Deutch
Dicks
Dingell
Doyle
Edwards (MD)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Heinrich
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meek (FL)
Meeks (NY)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Snyder
Space
Speier
Spratt
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—204

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Capuano
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Cooper
Crenshaw
Culberson
DeFazio
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Djou
Doggett
Donnelly (IN)
Dreier
Driehaus
Duncan
Edwards (TX)
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Himes
Hoekstra
Hunter
Inglis
Inslee
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Latham
LaTourette
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Markey (CO)
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy (CT)
Murphy (NY)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Polis (CO)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Salazar
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Stark
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Boren
Brown-Waite, Ginny
Davis (AL)
Davis (KY)
Graves
Hastings (FL)
Johnson (GA)
Jones
Latta
Melancon
Ryan (WI)
Shuler
Stupak

□ 1338

Mr. GUTIERREZ changed his vote from "nay" to "yea."

So the first portion of the divided question was adopted.

The result of the vote was announced as above recorded.

(By unanimous consent, Ms. PELOSI was allowed to speak out of order.)

HONORING HERB SHANKS, DEMOCRATIC CLOAKROOM ATTENDANT

Ms. PELOSI. Mr. Speaker, I rise today to honor Herb Shanks, the Cloakroom attendant of the House Democratic Cloakroom for the last 38 years. Herb is retiring today after serving this institution much longer than probably most Members of the Congress. Indeed, he has served under seven Speakers of the House, and generations of Members have depended upon him.

As the Doorkeeper and Cloakroom Attendant, Herb has ensured the safety and security of House Members and staff by controlling access to the Democratic Cloakroom. He has also been a face of warm welcome to all Members.

Herb's dedicated service is representative of the many staff who serve this institution, particularly those who work in both the Democratic and the Republican Cloakrooms, and the nonpartisan officers who ensure smooth operations on the House floor. They may not be household names, but they proudly serve our Nation's families. Herb is joined here today by his twin daughters, Andrea and Angela; we thank them for sharing their father with us.

We also note that Herb is the proud grandfather of four and great grandfather of three. Today, we will present Herb with a flag that flew over the Capitol in his honor on this, his day of retirement, after 38 years of service. It is a fitting tribute to this great patriot, Herb Shanks.

Thank you, Herb.

I would now like to yield to the distinguished majority leader, Mr. HOYER.

Mr. HOYER. I thank the Speaker for yielding.

I have the honor of representing Herb in the Congress of the United States. He was born in Aquasco in April of 1936. In my view, he's a young man. For those of you who are much younger, I want you to know he's still a young man.

Herb, let me say to you, as the Speaker has pointed out, Herb has served with seven Speakers of the House, from Speaker Albert to Speaker PELOSI. For those of you in the Republican Cloakroom, I've had the opportunity to come over to your side, and I love the folks that you have working on your side. Like Herb, they treat us all alike. There are no Republicans or Democrats for them. They're just Members of Congress who serve together and work together on behalf of our country.

Herb, you have been a wonderful friend, and you have made everybody's day brighter every time they come in contact with you. You have been someone who has been so thoughtful, so courteous, so kind that all of us have been advantaged and our lives have been made better by your service. And Herb, as you leave—not our hearts, but this House, at least the Cloakroom—we know that you will hopefully come back from time to time and visit with us, and we will be again enriched with your presence and your demeanor.

We wish you God speed. And we say to you, thank you, good friend.

□ 1345

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The second portion of the divided question is: Will the House concur in the Senate amendment with the matter proposed to be inserted as section 523 of the amendment of the House?

The question is on the second portion of the divided question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEVIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 245, noes 171, not voting 16, as follows:

[Roll No. 325]

AYES—245

Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Burgess
Butterfield
Buyer
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Lowey
Luján
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCaul
McCollum
McGovern
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rogers (KY)
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Sutton
Tanner
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Whitfield
Wilson (OH)
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOES—171

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Baird
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Buchanan
Burton (IN)
Calvert
Camp
Campbell
Cantor
Cao
Carter
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Crenshaw
Culberson
Dahlkemper
Diaz-Balart, L.
Diaz-Balart, M.
Djou
Dreier
Duncan
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Griffith
Guthrie
Hall (TX)
Harman
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Lamborn
Lance
Latham
Lee (NY)
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
McCarthy (CA)
McClintock
McCotter
McDermott
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Salazar
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Taylor
Teague
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Wilson (SC)
Wittman
Wolf

NOT VOTING—16

Boren
Brown-Waite, Ginny
Davis (AL)
Davis (KY)
Delahunt
Graves
Gutierrez
Hastings (FL)
Jones
Latta
Melancon
Ryan (WI)
Sanchez, Loretta
Serrano
Shuler
Stupak

□ 1352

Mr. BAIRD changed his vote from ''aye'' to ''no.''

So the second portion of the divided question was adopted.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BOREN. Mr. Speaker, I was absent when rollcall votes occurred for H.R. 4213—The American Jobs, Closing Tax Loopholes and Preventing Outsourcing Act. I was not present because I was attending a funeral for a family member.

If I would have been present for the rollcall votes listed below for H.R. 4213, I would have voted in the following manner:

1. Roll No. 324, On concurring in Senate amendment with amendment (except portion comprising section 523) Agreed to by the Yeas and Nays; 215–204. I would have voted "nay."

2. Roll No. 325, On concurring in Senate amendment with portion of amendment comprising section 523 Agreed to by recorded vote: 245–171. I would have voted "nay."

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore (Mr. PASTOR of Arizona). Pursuant to clause 1(c) of rule XIX, proceedings will now resume on the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.