

112TH CONGRESS
1ST SESSION

S. _____

To implement the United States–South Korea Free Trade Agreement.

IN THE SENATE OF THE UNITED STATES

_____ (by request) introduced the following bill; which was
read twice and referred to the Committee on _____

A BILL

To implement the United States–South Korea Free Trade
Agreement.

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

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “United States–South Korea Free Trade Agreement Im-
6 plementation Act”.

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

Sec. 1. Short title.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING
TO, THE AGREEMENT

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- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Arbitration of claims.
- Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Rules of origin.
- Sec. 203. Customs user fees.
- Sec. 204. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 205. Reliquidation of entries.
- Sec. 206. Recordkeeping requirements.
- Sec. 207. Enforcement relating to trade in textile or apparel goods.
- Sec. 208. Regulations.

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefitting From the Agreement

- Sec. 311. Commencing of action for relief.
- Sec. 312. Commission action on petition.
- Sec. 313. Provision of relief.
- Sec. 314. Termination of relief authority.
- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

Subtitle B—Motor Vehicle Safeguard Measures

- Sec. 321. Motor vehicle safeguard measures.

Subtitle C—Textile and Apparel Safeguard Measures

- Sec. 331. Commencement of action for relief.
- Sec. 332. Determination and provision of relief.
- Sec. 333. Period of relief.
- Sec. 334. Articles exempt from relief.
- Sec. 335. Rate after termination of import relief.
- Sec. 336. Termination of relief authority.
- Sec. 337. Compensation authority.
- Sec. 338. Confidential business information.

Subtitle D—Cases Under Title II of the Trade Act of 1974

- Sec. 341. Findings and action on South Korean articles.

TITLE IV—PROCUREMENT

- Sec. 401. Eligible products.

TITLE V—TRADE ADJUSTMENT ASSISTANCE

3

Sec. 501. Short title.

Subtitle A—Extension of Trade Adjustment Assistance

PART I—APPLICATION OF PROVISIONS RELATING TO TRADE ADJUSTMENT ASSISTANCE

Sec. 511. Application of provisions relating to trade adjustment assistance.

PART II—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Sec. 521. Group eligibility requirements.

Sec. 522. Reductions in waivers from training.

Sec. 523. Limitations on trade readjustment allowances.

Sec. 524. Funding of training, employment and case management services, and job search and relocation allowances.

Sec. 525. Reemployment trade adjustment assistance.

Sec. 526. Program accountability.

Sec. 527. Extension.

PART III—OTHER ADJUSTMENT ASSISTANCE

Sec. 531. Trade adjustment assistance for firms.

Sec. 532. Trade adjustment assistance for communities.

Sec. 533. Trade adjustment assistance for farmers.

PART IV—GENERAL PROVISIONS

Sec. 541. Applicability of trade adjustment assistance provisions.

Sec. 542. Termination provisions.

Sec. 543. Sunset provisions.

Subtitle B—Health Coverage Improvement

Sec. 551. Health care tax credit.

Sec. 552. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.

Sec. 553. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.

Subtitle C—Offsets

PART I—UNEMPLOYMENT COMPENSATION PROGRAM INTEGRITY

Sec. 561. Mandatory penalty assessment on fraud claims.

Sec. 562. Prohibition on noncharging due to employer fault.

Sec. 563. Reporting of rehired employees to the directory of new hires.

PART II—ADDITIONAL OFFSETS

Sec. 571. Adjustment of equipment utilization rate for advanced imaging services.

Sec. 572. Increase in penalty on paid preparers who fail to comply with earned income tax credit due diligence requirements.

Sec. 573. Requirement for prisons located in the United States to provide information for tax administration.

TITLE VI—OFFSETS

Sec. 601. Merchandise processing fees.

Sec. 602. Extension of customs user fees.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to approve and implement the free trade
4 agreement between the United States and South
5 Korea entered into under the authority of section
6 2103(b) of the Bipartisan Trade Promotion Author-
7 ity Act of 2002 (19 U.S.C. 3803(b));

8 (2) to secure the benefits of the agreement en-
9 tered into pursuant to an exchange of letters be-
10 tween the United States and the Government of
11 South Korea on February 10, 2011;

12 (3) to strengthen and develop economic rela-
13 tions between the United States and South Korea
14 for their mutual benefit;

15 (4) to establish free trade between the United
16 States and South Korea through the reduction and
17 elimination of barriers to trade in goods and services
18 and to investment; and

19 (5) to lay the foundation for further coopera-
20 tion to expand and enhance the benefits of the
21 Agreement.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

1 (1) AGREEMENT.—The term “Agreement”
2 means the United States–South Korea Free Trade
3 Agreement approved by Congress under section
4 101(a)(1).

5 (2) COMMISSION.—The term “Commission”
6 means the United States International Trade Com-
7 mission.

8 (3) HTS.—The term “HTS” means the Har-
9 monized Tariff Schedule of the United States.

10 (4) SOUTH KOREA.—The term “South Korea”
11 means the Republic of Korea.

12 (5) TEXTILE OR APPAREL GOOD.—The term
13 “textile or apparel good” means a good listed in the
14 Annex to the Agreement on Textiles and Clothing
15 referred to in section 101(d)(4) of the Uruguay
16 Round Agreements Act (19 U.S.C. 3511(d)(4)).

17 **TITLE I—APPROVAL OF, AND**
18 **GENERAL PROVISIONS RE-**
19 **LATING TO, THE AGREEMENT**

20 **SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE**
21 **AGREEMENT.**

22 (a) APPROVAL OF AGREEMENT AND STATEMENT OF
23 ADMINISTRATIVE ACTION.—Pursuant to section 2105 of
24 the Bipartisan Trade Promotion Authority Act of 2002

1 (19 U.S.C. 3805) and section 151 of the Trade Act of
2 1974 (19 U.S.C. 2191), Congress approves—

3 (1) the United States–South Korea Free Trade
4 Agreement entered into on June 30, 2007, with the
5 Government of South Korea, and submitted to Con-
6 gress on [_____, 2011]; and

7 (2) the statement of administrative action pro-
8 posed to implement the Agreement that was sub-
9 mitted to Congress on [_____, 2011].

10 (b) CONDITIONS FOR ENTRY INTO FORCE OF THE
11 AGREEMENT.—At such time as the President determines
12 that South Korea has taken measures necessary to comply
13 with those provisions of the Agreement that are to take
14 effect on the date on which the Agreement enters into
15 force, the President is authorized to exchange notes with
16 the Government of South Korea providing for the entry
17 into force, on or after January 1, 2012, of the Agreement
18 with respect to the United States.

19 **SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED**
20 **STATES AND STATE LAW.**

21 (a) RELATIONSHIP OF AGREEMENT TO UNITED
22 STATES LAW.—

23 (1) UNITED STATES LAW TO PREVAIL IN CON-
24 FFLICT.—No provision of the Agreement, nor the ap-
25 plication of any such provision to any person or cir-

1 cumstance, which is inconsistent with any law of the
2 United States shall have effect.

3 (2) CONSTRUCTION.—Nothing in this Act shall
4 be construed—

5 (A) to amend or modify any law of the
6 United States, or

7 (B) to limit any authority conferred under
8 any law of the United States,
9 unless specifically provided for in this Act.

10 (b) RELATIONSHIP OF AGREEMENT TO STATE
11 LAW.—

12 (1) LEGAL CHALLENGE.—No State law, or the
13 application thereof, may be declared invalid as to
14 any person or circumstance on the ground that the
15 provision or application is inconsistent with the
16 Agreement, except in an action brought by the
17 United States for the purpose of declaring such law
18 or application invalid.

19 (2) DEFINITION OF STATE LAW.—For purposes
20 of this subsection, the term “State law” includes—

21 (A) any law of a political subdivision of a
22 State; and

23 (B) any State law regulating or taxing the
24 business of insurance.

1 (c) EFFECT OF AGREEMENT WITH RESPECT TO PRI-
2 VATE REMEDIES.—No person other than the United
3 States—

4 (1) shall have any cause of action or defense
5 under the Agreement or by virtue of congressional
6 approval thereof; or

7 (2) may challenge, in any action brought under
8 any provision of law, any action or inaction by any
9 department, agency, or other instrumentality of the
10 United States, any State, or any political subdivision
11 of a State, on the ground that such action or inac-
12 tion is inconsistent with the Agreement.

13 **SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF**
14 **ENTRY INTO FORCE AND INITIAL REGULA-**
15 **TIONS.**

16 (a) IMPLEMENTING ACTIONS.—

17 (1) PROCLAMATION AUTHORITY.—After the
18 date of the enactment of this Act—

19 (A) the President may proclaim such ac-
20 tions, and

21 (B) other appropriate officers of the
22 United States Government may issue such reg-
23 ulations,

24 as may be necessary to ensure that any provision of
25 this Act, or amendment made by this Act, that takes

1 effect on the date on which the Agreement enters
2 into force is appropriately implemented on such
3 date, but no such proclamation or regulation may
4 have an effective date earlier than the date on which
5 the Agreement enters into force.

6 (2) EFFECTIVE DATE OF CERTAIN PROCLAIMED
7 ACTIONS.—Any action proclaimed by the President
8 under the authority of this Act that is not subject
9 to the consultation and layover provisions under sec-
10 tion 104 may not take effect before the 15th day
11 after the date on which the text of the proclamation
12 is published in the Federal Register.

13 (3) WAIVER OF 15-DAY RESTRICTION.—The 15-
14 day restriction contained in paragraph (2) on the
15 taking effect of proclaimed actions is waived to the
16 extent that the application of such restriction would
17 prevent the taking effect on the date on which the
18 Agreement enters into force of any action pro-
19 claimed under this section.

20 (b) INITIAL REGULATIONS.—Initial regulations nec-
21 essary or appropriate to carry out the actions required by
22 or authorized under this Act or proposed in the statement
23 of administrative action submitted under section
24 101(a)(2) to implement the Agreement shall, to the max-
25 imum extent feasible, be issued within 1 year after the

1 date on which the Agreement enters into force. In the case
2 of any implementing action that takes effect on a date
3 after the date on which the Agreement enters into force,
4 initial regulations to carry out that action shall, to the
5 maximum extent feasible, be issued within 1 year after
6 such effective date.

7 **SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR,**
8 **AND EFFECTIVE DATE OF, PROCLAIMED AC-**
9 **TIONS.**

10 If a provision of this Act provides that the implemen-
11 tation of an action by the President by proclamation is
12 subject to the consultation and layover requirements of
13 this section, such action may be proclaimed only if—

14 (1) the President has obtained advice regarding
15 the proposed action from—

16 (A) the appropriate advisory committees
17 established under section 135 of the Trade Act
18 of 1974 (19 U.S.C. 2155); and

19 (B) the Commission;

20 (2) the President has submitted to the Com-
21 mittee on Finance of the Senate and the Committee
22 on Ways and Means of the House of Representatives
23 a report that sets forth—

24 (A) the action proposed to be proclaimed
25 and the reasons therefor; and

1 (B) the advice obtained under paragraph
2 (1);

3 (3) a period of 60 calendar days, beginning on
4 the first day on which the requirements set forth in
5 paragraphs (1) and (2) have been met, has expired;
6 and

7 (4) the President has consulted with the com-
8 mittees referred to in paragraph (2) regarding the
9 proposed action during the period referred to in
10 paragraph (3).

11 **SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PRO-**
12 **CEEDINGS.**

13 (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—
14 The President is authorized to establish or designate with-
15 in the Department of Commerce an office that shall be
16 responsible for providing administrative assistance to pan-
17 els established under chapter 22 of the Agreement. The
18 office shall not be considered to be an agency for purposes
19 of section 552 of title 5, United States Code.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated for each fiscal year after
22 fiscal year 2011 to the Department of Commerce up to
23 \$750,000 for the establishment and operations of the of-
24 fice established or designated under subsection (a) and for

1 the payment of the United States share of the expenses
2 of panels established under chapter 22 of the Agreement.

3 **SEC. 106. ARBITRATION OF CLAIMS.**

4 The United States is authorized to resolve any claim
5 against the United States covered by article
6 11.16.1(a)(i)(C) or article 11.16.1(b)(i)(C) of the Agree-
7 ment, pursuant to the Investor-State Dispute Settlement
8 procedures set forth in section B of chapter 11 of the
9 Agreement.

10 **SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.**

11 (a) EFFECTIVE DATES.—Except as provided in sub-
12 section (b) and titles V and VI, this Act and the amend-
13 ments made by this Act take effect on the date on which
14 the Agreement enters into force.

15 (b) EXCEPTIONS.—

16 (1) IN GENERAL.—Sections 1 through 3, sec-
17 tion 207(g), and this title take effect on the date of
18 the enactment of this Act.

19 (2) CERTAIN AMENDATORY PROVISIONS.—The
20 amendments made by sections 203, 204, 206, and
21 401 of this Act take effect on the date of the enact-
22 ment of this Act and apply with respect to South
23 Korea on the date on which the Agreement enters
24 into force.

1 (c) TERMINATION OF THE AGREEMENT.—On the
2 date on which the Agreement terminates, this Act (other
3 than this subsection and title V) and the amendments
4 made by this Act (other than the amendments made by
5 title V and title VI) shall cease to have effect.

6 **TITLE II—CUSTOMS PROVISIONS**

7 **SEC. 201. TARIFF MODIFICATIONS.**

8 (a) TARIFF MODIFICATIONS PROVIDED FOR IN THE
9 AGREEMENT.—The President may proclaim—

10 (1) such modifications or continuation of any
11 duty,

12 (2) such continuation of duty-free or excise
13 treatment, or

14 (3) such additional duties,
15 as the President determines to be necessary or appropriate
16 to carry out or apply articles 2.3, 2.5, and 2.6, and Annex
17 2-B, Annex 4-B, and Annex 22-A, of the Agreement.

18 (b) OTHER TARIFF MODIFICATIONS.—Subject to the
19 consultation and layover provisions of section 104, the
20 President may proclaim—

21 (1) such modifications or continuation of any
22 duty,

23 (2) such modifications as the United States
24 may agree to with South Korea regarding the stag-

1 ing of any duty treatment set forth in Annex 2-B of
2 the Agreement,

3 (3) such continuation of duty-free or excise
4 treatment, or

5 (4) such additional duties,

6 as the President determines to be necessary or appropriate
7 to maintain the general level of reciprocal and mutually
8 advantageous concessions with respect to South Korea
9 provided for by the Agreement.

10 (c) CONVERSION TO AD VALOREM RATES.—For pur-
11 poses of subsections (a) and (b), with respect to any good
12 for which the base rate in the Schedule of the United
13 States to Annex 2-B of the Agreement is a specific or com-
14 pound rate of duty, the President may substitute for the
15 base rate an ad valorem rate that the President deter-
16 mines to be equivalent to the base rate.

17 (d) TARIFF TREATMENT OF MOTOR VEHICLES.—
18 The President may proclaim the following tariff treatment
19 with respect to the following motor vehicles of South
20 Korea:

21 (1) CERTAIN PASSENGER CARS.—In the case of
22 originating goods of South Korea classifiable under
23 subheading 8703.10.10, 8703.10.50, 8703.21.00,
24 8703.22.00, 8703.23.00, 8703.24.00, 8703.31.00,
25 8703.32.00, or 8703.33.00 of the HTS that are en-

1 tered, or withdrawn from warehouse for consump-
2 tion—

3 (A) the rate of duty for such goods shall
4 be 2.5 percent for year 1 of the Agreement
5 through year 4 of the Agreement; and

6 (B) such goods shall be free of duty for
7 each year thereafter.

8 (2) ELECTRIC MOTOR VEHICLES.—In the case
9 of originating goods of South Korea classifiable
10 under subheading 8703.90.00 of the HTS that are
11 entered, or withdrawn from warehouse for consump-
12 tion—

13 (A) the rate of duty for such goods shall
14 be—

15 (i) 2.0 percent for year 1 of the
16 Agreement;

17 (ii) 1.5 percent for year 2 of the
18 Agreement;

19 (iii) 1.0 percent for year 3 of the
20 Agreement; and

21 (iv) 0.5 percent for year 4 of the
22 Agreement; and

23 (B) such goods shall be free of duty for
24 each year thereafter.

1 (3) CERTAIN TRUCKS.—In the case of origi-
2 nating goods of South Korea classifiable under sub-
3 heading 8704.21.00, 8704.22.50, 8704.23.00,
4 8704.31.00, 8704.32.00, or 8704.90.00 of the HTS
5 that are entered, or withdrawn from warehouse for
6 consumption—

7 (A) the rate of duty for such goods shall
8 be—

9 (i) 25 percent for year 1 of the Agree-
10 ment through year 7 of the Agreement;

11 (ii) 16.7 percent for year 8 of the
12 Agreement; and

13 (iii) 8.4 percent for year 9 of the
14 Agreement; and

15 (B) such goods shall be free of duty for
16 each year thereafter.

17 (4) DEFINITIONS.—In this subsection—

18 (A) the term “year 1 of the Agreement”
19 means the period beginning on the date, in a
20 calendar year, on which the Agreement enters
21 into force and ending on December 31 of that
22 calendar year; and

23 (B) the terms “year 2 of the Agreement”,
24 “year 3 of the Agreement”, “year 4 of the
25 Agreement”, “year 5 of the Agreement”, “year

1 6 of the Agreement”, “year 7 of the Agree-
2 ment”, “year 8 of the Agreement”, and “year
3 9 of the Agreement” mean the second, third,
4 fourth, fifth, sixth, seventh, eighth, and ninth
5 calendar years, respectively, in which the Agree-
6 ment is in force.

7 **SEC. 202. RULES OF ORIGIN.**

8 (a) APPLICATION AND INTERPRETATION.—In this
9 section:

10 (1) TARIFF CLASSIFICATION.—The basis for
11 any tariff classification is the HTS.

12 (2) REFERENCE TO HTS.—Whenever in this
13 section there is a reference to a chapter, heading, or
14 subheading, such reference shall be a reference to a
15 chapter, heading, or subheading of the HTS.

16 (3) COST OR VALUE.—Any cost or value re-
17 ferred to in this section shall be recorded and main-
18 tained in accordance with the generally accepted ac-
19 counting principles applicable in the territory of the
20 country in which the good is produced (whether
21 South Korea or the United States).

22 (b) ORIGINATING GOODS.—For purposes of this Act
23 and for purposes of implementing the preferential tariff
24 treatment provided for under the Agreement, except as

1 otherwise provided in this section, a good is an originating
2 good if—

3 (1) the good is a good wholly obtained or pro-
4 duced entirely in the territory of South Korea, the
5 United States, or both;

6 (2) the good—

7 (A) is produced entirely in the territory of
8 South Korea, the United States, or both, and—

9 (i) each of the nonoriginating mate-
10 rials used in the production of the good
11 undergoes an applicable change in tariff
12 classification specified in Annex 4-A or
13 Annex 6-A of the Agreement; or

14 (ii) the good otherwise satisfies any
15 applicable regional value-content or other
16 requirements specified in Annex 4-A or
17 Annex 6-A of the Agreement; and

18 (B) satisfies all other applicable require-
19 ments of this section; or

20 (3) the good is produced entirely in the terri-
21 tory of South Korea, the United States, or both, ex-
22 clusively from materials described in paragraph (1)
23 or (2).

24 (c) REGIONAL VALUE-CONTENT.—

1 (1) IN GENERAL.—For purposes of subsection
2 (b)(2), the regional value-content of a good referred
3 to in Annex 6-A of the Agreement, except for goods
4 to which paragraph (4) applies, shall be calculated
5 by the importer, exporter, or producer of the good,
6 on the basis of the build-down method described in
7 paragraph (2) or the build-up method described in
8 paragraph (3).

9 (2) BUILD-DOWN METHOD.—

10 (A) IN GENERAL.—The regional value-con-
11 tent of a good may be calculated on the basis
12 of the following build-down method:

$$\text{RVC} = \frac{\text{AV} - \text{VNM}}{\text{AV}} \times 100$$

13 (B) DEFINITIONS.—In subparagraph (A):

14 (i) RVC.—The term “RVC” means
15 the regional value-content of the good, ex-
16 pressed as a percentage.

17 (ii) AV.—The term “AV” means the
18 adjusted value of the good.

19 (iii) VNM.—The term “VNM” means
20 the value of nonoriginating materials, other
21 than indirect materials, that are acquired
22 and used by the producer in the production
23 of the good, but does not include the value
24 of a material that is self-produced.

1 (3) BUILD-UP METHOD.—

2 (A) IN GENERAL.—The regional value-con-
3 tent of a good may be calculated on the basis
4 of the following build-up method:

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

5 (B) DEFINITIONS.—In subparagraph (A):

6 (i) RVC.—The term “RVC” means
7 the regional value-content of the good, ex-
8 pressed as a percentage.

9 (ii) AV.—The term “AV” means the
10 adjusted value of the good.

11 (iii) VOM.—The term “VOM” means
12 the value of originating materials, other
13 than indirect materials, that are acquired
14 or self-produced, and used by the producer
15 in the production of the good.

16 (4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE
17 GOODS.—

18 (A) IN GENERAL.—For purposes of sub-
19 section (b)(2), the regional value-content of an
20 automotive good referred to in Annex 6-A of
21 the Agreement may be calculated by the im-
22 porter, exporter, or producer of the good on the
23 basis of the build-down method described in

1 paragraph (2), the build-up method described in
2 paragraph (3), or the following net cost method:

$$\text{RVC} = \frac{\text{NC} - \text{VNM}}{\text{NC}} \times 100$$

3 (B) DEFINITIONS.—In subparagraph (A):

4 (i) AUTOMOTIVE GOOD.—The term
5 “automotive good” means a good provided
6 for in any of subheadings 8407.31 through
7 8407.34, subheading 8408.20, heading
8 8409, or any of headings 8701 through
9 8708.

10 (ii) RVC.—The term “RVC” means
11 the regional value-content of the auto-
12 motive good, expressed as a percentage.

13 (iii) NC.—The term “NC” means the
14 net cost of the automotive good.

15 (iv) VNM.—The term “VNM” means
16 the value of nonoriginating materials, other
17 than indirect materials, that are acquired
18 and used by the producer in the production
19 of the automotive good, but does not in-
20 clude the value of a material that is self-
21 produced.

22 (C) MOTOR VEHICLES.—

23 (i) BASIS OF CALCULATION.—For
24 purposes of determining the regional value-

1 content under subparagraph (A) for an
2 automotive good that is a motor vehicle
3 provided for in any of headings 8701
4 through 8705, an importer, exporter, or
5 producer may average the amounts cal-
6 culated under the net cost formula con-
7 tained in subparagraph (A), over the pro-
8 ducer's fiscal year—

9 (I) with respect to all motor vehi-
10 cles in any one of the categories de-
11 scribed in clause (ii); or

12 (II) with respect to all motor ve-
13 hicles in any such category that are
14 exported to the territory of South
15 Korea or the United States.

16 (ii) CATEGORIES.—A category is de-
17 scribed in this clause if it—

18 (I) is the same model line of
19 motor vehicles, is in the same class of
20 motor vehicles, and is produced in the
21 same plant in the territory of South
22 Korea or the United States, as the
23 good described in clause (i) for which
24 regional value-content is being cal-
25 culated;

23

1 (II) is the same class of motor
2 vehicles, and is produced in the same
3 plant in the territory of South Korea
4 or the United States, as the good de-
5 scribed in clause (i) for which regional
6 value-content is being calculated; or

7 (III) is the same model line of
8 motor vehicles produced in the terri-
9 tory of South Korea or the United
10 States as the good described in clause
11 (i) for which regional value-content is
12 being calculated.

13 (D) OTHER AUTOMOTIVE GOODS.—For
14 purposes of determining the regional value-con-
15 tent under subparagraph (A) for automotive
16 materials provided for in any of subheadings
17 8407.31 through 8407.34, in subheading
18 8408.20, or in heading 8409, 8706, 8707, or
19 8708, that are produced in the same plant, an
20 importer, exporter, or producer may—

21 (i) average the amounts calculated
22 under the net cost formula contained in
23 subparagraph (A) over—

24

1 (I) the fiscal year of the motor
2 vehicle producer to whom the auto-
3 motive goods are sold,

4 (II) any quarter or month, or

5 (III) the fiscal year of the pro-
6 ducer of such goods,

7 if the goods were produced during the fis-
8 cal year, quarter, or month that is the
9 basis for the calculation;

10 (ii) determine the average referred to
11 in clause (i) separately for such goods sold
12 to 1 or more motor vehicle producers; or

13 (iii) make a separate determination
14 under clause (i) or (ii) for such goods that
15 are exported to the territory of South
16 Korea or the United States.

17 (E) CALCULATING NET COST.—The im-
18 porter, exporter, or producer of an automotive
19 good shall, consistent with the provisions re-
20 garding allocation of costs provided for in gen-
21 erally accepted accounting principles, determine
22 the net cost of the automotive good under sub-
23 paragraph (B) by—

24 (i) calculating the total cost incurred
25 with respect to all goods produced by the

1 producer of the automotive good, sub-
2 tracting any sales promotion, marketing,
3 and after-sales service costs, royalties,
4 shipping and packing costs, and nonallow-
5 able interest costs that are included in the
6 total cost of all such goods, and then rea-
7 sonably allocating the resulting net cost of
8 those goods to the automotive good;

9 (ii) calculating the total cost incurred
10 with respect to all goods produced by that
11 producer, reasonably allocating the total
12 cost to the automotive good, and then sub-
13 tracting any sales promotion, marketing,
14 and after-sales service costs, royalties,
15 shipping and packing costs, and nonallow-
16 able interest costs that are included in the
17 portion of the total cost allocated to the
18 automotive good; or

19 (iii) reasonably allocating each cost
20 that forms part of the total cost incurred
21 with respect to the automotive good so that
22 the aggregate of these costs does not in-
23 clude any sales promotion, marketing, and
24 after-sales service costs, royalties, shipping

1 and packing costs, or nonallowable interest
2 costs.

3 (d) VALUE OF MATERIALS.—

4 (1) IN GENERAL.—For the purpose of calcu-
5 lating the regional value-content of a good under
6 subsection (c), and for purposes of applying the de
7 minimis rules under subsection (f), the value of a
8 material is—

9 (A) in the case of a material that is im-
10 ported by the producer of the good, the ad-
11 justed value of the material;

12 (B) in the case of a material acquired in
13 the territory in which the good is produced, the
14 value, determined in accordance with Articles 1
15 through 8, Article 15, and the corresponding in-
16 terpretive notes, of the Agreement on Imple-
17 mentation of Article VII of the General Agree-
18 ment on Tariffs and Trade 1994 referred to in
19 section 101(d)(8) of the Uruguay Round Agree-
20 ments Act (19 U.S.C. 3511(d)(8)), as set forth
21 in regulations promulgated by the Secretary of
22 the Treasury providing for the application of
23 such Articles in the absence of an importation
24 by the producer; or

1 (C) in the case of a material that is self-
2 produced, the sum of—

3 (i) all expenses incurred in the pro-
4 duction of the material, including general
5 expenses; and

6 (ii) an amount for profit equivalent to
7 the profit added in the normal course of
8 trade.

9 (2) FURTHER ADJUSTMENTS TO THE VALUE OF
10 MATERIALS.—

11 (A) ORIGINATING MATERIAL.—The fol-
12 lowing expenses, if not included in the value of
13 an originating material calculated under para-
14 graph (1), may be added to the value of the
15 originating material:

16 (i) The costs of freight, insurance,
17 packing, and all other costs incurred in
18 transporting the material within or be-
19 tween the territory of South Korea, the
20 United States, or both, to the location of
21 the producer.

22 (ii) Duties, taxes, and customs broker-
23 age fees on the material paid in the terri-
24 tory of South Korea, the United States, or
25 both, other than duties or taxes that are

1 waived, refunded, refundable, or otherwise
2 recoverable, including credit against duty
3 or tax paid or payable.

4 (iii) The cost of waste and spoilage re-
5 sulting from the use of the material in the
6 production of the good, less the value of
7 renewable scrap or byproducts.

8 (B) NONORIGINATING MATERIAL.—The
9 following expenses, if included in the value of a
10 nonoriginating material calculated under para-
11 graph (1), may be deducted from the value of
12 the nonoriginating material:

13 (i) The costs of freight, insurance,
14 packing, and all other costs incurred in
15 transporting the material within or be-
16 tween the territory of South Korea, the
17 United States, or both, to the location of
18 the producer.

19 (ii) Duties, taxes, and customs broker-
20 age fees on the material paid in the terri-
21 tory of South Korea, the United States, or
22 both, other than duties or taxes that are
23 waived, refunded, refundable, or otherwise
24 recoverable, including credit against duty
25 or tax paid or payable.

1 (iii) The cost of waste and spoilage re-
2 sulting from the use of the material in the
3 production of the good, less the value of
4 renewable scrap or byproducts.

5 (iv) The cost of originating materials
6 used in the production of the nonorigi-
7 nating material in the territory of South
8 Korea, the United States, or both.

9 (e) ACCUMULATION.—

10 (1) ORIGINATING MATERIALS USED IN PRODUC-
11 TION OF GOODS OF THE OTHER COUNTRY.—Orig-
12 inating materials from the territory of South Korea
13 or the United States that are used in the production
14 of a good in the territory of the other country shall
15 be considered to originate in the territory of such
16 other country.

17 (2) MULTIPLE PRODUCERS.—A good that is
18 produced in the territory of South Korea, the United
19 States, or both, by 1 or more producers, is an origi-
20 nating good if the good satisfies the requirements of
21 subsection (b) and all other applicable requirements
22 of this section.

23 (f) DE MINIMIS AMOUNTS OF NONORIGINATING MA-
24 TERIALS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graphs (2) and (3), a good that does not undergo a
3 change in tariff classification pursuant to Annex 6-
4 A of the Agreement is an originating good if—

5 (A) the value of all nonoriginating mate-
6 rials used in the production of the good that do
7 not undergo the applicable change in tariff clas-
8 sification (set forth in Annex 6-A of the Agree-
9 ment) does not exceed 10 percent of the ad-
10 justed value of the good;

11 (B) the good meets all other applicable re-
12 quirements of this section; and

13 (C) the value of such nonoriginating mate-
14 rials is included in the value of nonoriginating
15 materials for any applicable regional value-con-
16 tent requirement for the good.

17 (2) EXCEPTIONS.—Paragraph (1) does not
18 apply to the following:

19 (A) A nonoriginating material provided for
20 in chapter 3 that is used in the production of
21 a good provided for in chapter 3.

22 (B) A nonoriginating material provided for
23 in chapter 4, or a nonoriginating dairy prepara-
24 tion containing over 10 percent by weight of
25 milk solids provided for in subheading 1901.90

1 or 2106.90, that is used in the production of a
2 good provided for in chapter 4.

3 (C) A nonoriginating material provided for
4 in chapter 4, or a nonoriginating dairy prepara-
5 tion containing over 10 percent by weight of
6 milk solids provided for in subheading 1901.90,
7 that is used in the production of any of the fol-
8 lowing goods:

9 (i) Infant preparations containing
10 over 10 percent by weight of milk solids
11 provided for in subheading 1901.10.

12 (ii) Mixes and doughs, containing over
13 25 percent by weight of butterfat, not put
14 up for retail sale, provided for in sub-
15 heading 1901.20.

16 (iii) Dairy preparations containing
17 over 10 percent by weight of milk solids
18 provided for in subheading 1901.90 or
19 2106.90.

20 (iv) Goods provided for in heading
21 2105.

22 (v) Beverages containing milk pro-
23 vided for in subheading 2202.90.

1 (vi) Animal feeds containing over 10
2 percent by weight of milk solids provided
3 for in subheading 2309.90.

4 (D) A nonoriginating material provided for
5 in chapter 7 that is used in the production of
6 a good provided for in subheading 0703.10,
7 0703.20, 0709.59, 0709.60, 0711.90, 0712.20,
8 0714.20, or any of subheadings 0710.21
9 through 0710.80 or 0712.39 through 0713.10.

10 (E) A nonoriginating material provided for
11 in heading 1006, or a nonoriginating rice prod-
12 uct provided for in chapter 11 that is used in
13 the production of a good provided for in head-
14 ing 1006, 1102, 1103, 1104, or subheading
15 1901.20 or 1901.90.

16 (F) A nonoriginating material provided for
17 in heading 0805, or any of subheadings
18 2009.11 through 2009.39, that is used in the
19 production of a good provided for in any of sub-
20 headings 2009.11 through 2009.39, or in fruit
21 or vegetable juice of any single fruit or vege-
22 table, fortified with minerals or vitamins, con-
23 centrated or unconcentrated, provided for in
24 subheading 2106.90 or 2202.90.

1 (G) Nonoriginating peaches, pears, or apri-
2 cots provided for in chapter 8 or 20 that are
3 used in the production of a good provided for
4 in heading 2008.

5 (H) A nonoriginating material provided for
6 in chapter 15 that is used in the production of
7 a good provided for in any of headings 1501
8 through 1508, or heading 1512, 1514, or 1515.

9 (I) A nonoriginating material provided for
10 in heading 1701 that is used in the production
11 of a good provided for in any of headings 1701
12 through 1703.

13 (J) A nonoriginating material provided for
14 in chapter 17 that is used in the production of
15 a good provided for in subheading 1806.10.

16 (K) Except as provided in subparagraphs
17 (A) through (J) and Annex 6-A of the Agree-
18 ment, a nonoriginating material used in the
19 production of a good provided for in any of
20 chapters 1 through 24, unless the nonorigi-
21 nating material is provided for in a different
22 subheading than the good for which origin is
23 being determined under this section.

24 (3) TEXTILE OR APPAREL GOODS.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), a textile or apparel good
3 that is not an originating good because certain
4 fibers or yarns used in the production of the
5 component of the good that determines the tariff
6 classification of the good do not undergo an
7 applicable change in tariff classification, set
8 forth in Annex 4-A of the Agreement, shall be
9 considered to be an originating good if the total
10 weight of all such fibers or yarns in that component
11 is not more than 7 percent of the total
12 weight of that component.

13 (B) CERTAIN TEXTILE OR APPAREL
14 GOODS.—A textile or apparel good containing
15 elastomeric yarns in the component of the good
16 that determines the tariff classification of the
17 good shall be considered to be an originating
18 good only if such yarns are wholly formed and
19 finished in the territory of South Korea, the
20 United States, or both.

21 (C) YARN, FABRIC, OR FIBER.—For purposes
22 of this paragraph, in the case of a good
23 that is a yarn, fabric, or fiber, the term “component
24 of the good that determines the tariff

1 classification of the good” means all of the fi-
2 bers in the good.

3 (g) FUNGIBLE GOODS AND MATERIALS.—

4 (1) IN GENERAL.—

5 (A) CLAIM FOR PREFERENTIAL TARIFF
6 TREATMENT.—A person claiming that a fun-
7 gible good or fungible material is an originating
8 good may base the claim either on the physical
9 segregation of the fungible good or fungible ma-
10 terial or by using an inventory management
11 method with respect to the fungible good or
12 fungible material.

13 (B) INVENTORY MANAGEMENT METHOD.—

14 In this subsection, the term “inventory manage-
15 ment method” means—

- 16 (i) averaging;
17 (ii) “last-in, first-out”;
18 (iii) “first-in, first-out”; or
19 (iv) any other method—

20 (I) recognized in the generally
21 accepted accounting principles of the
22 country in which the production is
23 performed (whether South Korea or
24 the United States); or

1 (II) otherwise accepted by that
2 country.

3 (2) ELECTION OF INVENTORY METHOD.—A
4 person selecting an inventory management method
5 under paragraph (1) for a particular fungible good
6 or fungible material shall continue to use that meth-
7 od for that fungible good or fungible material
8 throughout the fiscal year of such person.

9 (h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

10 (1) IN GENERAL.—Subject to paragraphs (2)
11 and (3), accessories, spare parts, or tools delivered
12 with a good that form part of the good's standard
13 accessories, spare parts, or tools shall—

14 (A) be treated as originating goods if the
15 good is an originating good; and

16 (B) be disregarded in determining whether
17 all the nonoriginating materials used in the pro-
18 duction of the good undergo the applicable
19 change in tariff classification set forth in Annex
20 6-A of the Agreement.

21 (2) CONDITIONS.—Paragraph (1) shall apply
22 only if—

23 (A) the accessories, spare parts, or tools
24 are classified with and not invoiced separately
25 from the good; and

1 (B) the quantities and value of the acces-
2 sories, spare parts, or tools are customary for
3 the good.

4 (3) REGIONAL VALUE CONTENT.—If the good is
5 subject to a regional value-content requirement, the
6 value of the accessories, spare parts, or tools shall
7 be taken into account as originating or nonorigi-
8 nating materials, as the case may be, in calculating
9 the regional value-content of the good.

10 (i) PACKAGING MATERIALS AND CONTAINERS FOR
11 RETAIL SALE.—Packaging materials and containers in
12 which a good is packaged for retail sale, if classified with
13 the good, shall be disregarded in determining whether all
14 the nonoriginating materials used in the production of the
15 good undergo the applicable change in tariff classification
16 set forth in Annex 4-A or Annex 6-A of the Agreement,
17 and, if the good is subject to a regional value-content re-
18 quirement, the value of such packaging materials and con-
19 tainers shall be taken into account as originating or non-
20 originating materials, as the case may be, in calculating
21 the regional value-content of the good.

22 (j) PACKING MATERIALS AND CONTAINERS FOR
23 SHIPMENT.—Packing materials and containers for ship-
24 ment shall be disregarded in determining whether a good
25 is an originating good.

1 (k) INDIRECT MATERIALS.—An indirect material
2 shall be disregarded in determining whether a good is an
3 originating good.

4 (l) TRANSIT AND TRANSHIPMENT.—A good that has
5 undergone production necessary to qualify as an origi-
6 nating good under subsection (b) shall not be considered
7 to be an originating good if, subsequent to that produc-
8 tion, the good—

9 (1) undergoes further production or any other
10 operation outside the territory of South Korea or the
11 United States, other than unloading, reloading, or
12 any other operation necessary to preserve the good
13 in good condition or to transport the good to the ter-
14 ritory of South Korea or the United States; or

15 (2) does not remain under the control of cus-
16 toms authorities in the territory of a country other
17 than South Korea or the United States.

18 (m) GOODS CLASSIFIABLE AS GOODS PUT UP IN
19 SETS.—Notwithstanding the rules set forth in Annex 4-
20 A and Annex 6-A of the Agreement, goods classifiable as
21 goods put up in sets for retail sale as provided for in Gen-
22 eral Rule of Interpretation 3 of the HTS shall not be con-
23 sidered to be originating goods unless—

24 (1) each of the goods in the set is an origi-
25 nating good; or

1 (2) the total value of the nonoriginating goods
2 in the set does not exceed—

3 (A) in the case of textile or apparel goods,
4 10 percent of the adjusted value of the set; or

5 (B) in the case of goods, other than textile
6 or apparel goods, 15 percent of the adjusted
7 value of the set.

8 (n) DEFINITIONS.—In this section:

9 (1) ADJUSTED VALUE.—The term “adjusted
10 value” means the value determined in accordance
11 with Articles 1 through 8, Article 15, and the cor-
12 responding interpretive notes, of the Agreement on
13 Implementation of Article VII of the General Agree-
14 ment on Tariffs and Trade 1994 referred to in sec-
15 tion 101(d)(8) of the Uruguay Round Agreements
16 Act (19 U.S.C. 3511(d)(8)), adjusted, if necessary,
17 to exclude any costs, charges, or expenses incurred
18 for transportation, insurance, and related services
19 incident to the international shipment of the mer-
20 chandise from the country of exportation to the
21 place of importation.

22 (2) CLASS OF MOTOR VEHICLES.—The term
23 “class of motor vehicles” means any one of the fol-
24 lowing categories of motor vehicles:

1 (A) Motor vehicles provided for in sub-
2 heading 8701.20, 8704.10, 8704.22, 8704.23,
3 8704.32, or 8704.90, or heading 8705 or 8706,
4 or motor vehicles for the transport of 16 or
5 more persons provided for in subheading
6 8702.10 or 8702.90.

7 (B) Motor vehicles provided for in sub-
8 heading 8701.10 or any of subheadings
9 8701.30 through 8701.90.

10 (C) Motor vehicles for the transport of 15
11 or fewer persons provided for in subheading
12 8702.10 or 8702.90, or motor vehicles provided
13 for in subheading 8704.21 or 8704.31.

14 (D) Motor vehicles provided for in any of
15 subheadings 8703.21 through 8703.90.

16 (3) FUNGIBLE GOOD OR FUNGIBLE MATE-
17 RIAL.—The term “fungible good” or “fungible mate-
18 rial” means a good or material, as the case may be,
19 that is interchangeable with another good or mate-
20 rial for commercial purposes and the properties of
21 which are essentially identical to such other good or
22 material.

23 (4) GENERALLY ACCEPTED ACCOUNTING PRIN-
24 CIPLES.—The term “generally accepted accounting
25 principles”—

1 (A) means the recognized consensus or
2 substantial authoritative support given in the
3 territory of South Korea or the United States,
4 as the case may be, with respect to the record-
5 ing of revenues, expenses, costs, assets, and li-
6 abilities, the disclosure of information, and the
7 preparation of financial statements; and

8 (B) may encompass broad guidelines for
9 general application as well as detailed stand-
10 ards, practices, and procedures.

11 (5) GOOD WHOLLY OBTAINED OR PRODUCED
12 ENTIRELY IN THE TERRITORY OF SOUTH KOREA,
13 THE UNITED STATES, OR BOTH.—The term “good
14 wholly obtained or produced entirely in the territory
15 of South Korea, the United States, or both” means
16 any of the following:

17 (A) Plants and plant products grown, and
18 harvested or gathered, in the territory of South
19 Korea, the United States, or both.

20 (B) Live animals born and raised in the
21 territory of South Korea, the United States, or
22 both.

23 (C) Goods obtained in the territory of
24 South Korea, the United States, or both from
25 live animals.

1 (D) Goods obtained from hunting, trap-
2 ping, fishing, or aquaculture conducted in the
3 territory of South Korea, the United States, or
4 both.

5 (E) Minerals and other natural resources
6 not included in subparagraphs (A) through (D)
7 that are extracted or taken from the territory
8 of South Korea, the United States, or both.

9 (F) Fish, shellfish, and other marine life
10 taken from the sea, seabed, or subsoil outside
11 the territory of South Korea or the United
12 States by—

13 (i) a vessel that is registered or re-
14 corded with South Korea and flying the
15 flag of South Korea; or

16 (ii) a vessel that is documented under
17 the laws of the United States.

18 (G) Goods produced on board a factory
19 ship from goods referred to in subparagraph
20 (F), if such factory ship—

21 (i) is registered or recorded with
22 South Korea and flies the flag of South
23 Korea; or

24 (ii) is a vessel that is documented
25 under the laws of the United States.

1 (H)(i) Goods taken by South Korea or a
2 person of South Korea from the seabed or sub-
3 soil outside the territory of South Korea, the
4 United States, or both, if South Korea has
5 rights to exploit such seabed or subsoil; or

6 (ii) Goods taken by the United States or a
7 person of the United States from the seabed or
8 subsoil outside the territory of the United
9 States, South Korea, or both, if the United
10 States has rights to exploit such seabed or sub-
11 soil.

12 (I) Goods taken from outer space, if the
13 goods are obtained by South Korea or the
14 United States or a person of South Korea or
15 the United States and not processed in the ter-
16 ritory of a country other than South Korea or
17 the United States.

18 (J) Waste and scrap derived from—

19 (i) manufacturing or processing oper-
20 ations in the territory of South Korea, the
21 United States, or both; or

22 (ii) used goods collected in the terri-
23 tory of South Korea, the United States, or
24 both, if such goods are fit only for the re-
25 covery of raw materials.

1 (K) Recovered goods derived in the terri-
2 tory of South Korea, the United States, or
3 both, from used goods, and used in the territory
4 of South Korea, the United States, or both, in
5 the production of remanufactured goods.

6 (L) Goods, at any stage of production, pro-
7 duced in the territory of South Korea, the
8 United States, or both, exclusively from—

9 (i) goods referred to in any of sub-
10 paragraphs (A) through (J); or

11 (ii) the derivatives of goods referred
12 to in clause (i).

13 (6) IDENTICAL GOODS.—The term “identical
14 goods” means goods that are the same in all re-
15 spects relevant to the rule of origin that qualifies the
16 goods as originating goods.

17 (7) INDIRECT MATERIAL.—The term “indirect
18 material” means a good used in the production, test-
19 ing, or inspection of another good but not physically
20 incorporated into that other good, or a good used in
21 the maintenance of buildings or the operation of
22 equipment associated with the production of another
23 good, including—

24 (A) fuel and energy;

25 (B) tools, dies, and molds;

1 (C) spare parts and materials used in the
2 maintenance of equipment or buildings;

3 (D) lubricants, greases, compounding ma-
4 terials, and other materials used in production
5 or used to operate equipment or buildings;

6 (E) gloves, glasses, footwear, clothing,
7 safety equipment, and supplies;

8 (F) equipment, devices, and supplies used
9 for testing or inspecting the good;

10 (G) catalysts and solvents; and

11 (H) any other good that is not incor-
12 porated into the other good but the use of
13 which in the production of the other good can
14 reasonably be demonstrated to be a part of that
15 production.

16 (8) MATERIAL.—The term “material” means a
17 good that is used in the production of another good,
18 including a part or an ingredient.

19 (9) MATERIAL THAT IS SELF-PRODUCED.—The
20 term “material that is self-produced” means an orig-
21 inating material that is produced by a producer of
22 a good and used in the production of that good.

23 (10) MODEL LINE OF MOTOR VEHICLES.—The
24 term “model line of motor vehicles” means a group

1 of motor vehicles having the same platform or model
2 name.

3 (11) NET COST.—The term “net cost” means
4 total cost minus sales promotion, marketing, and
5 after-sales service costs, royalties, shipping and
6 packing costs, and non-allowable interest costs that
7 are included in the total cost.

8 (12) NONALLOWABLE INTEREST COSTS.—The
9 term “nonallowable interest costs” means interest
10 costs incurred by a producer that exceed 700 basis
11 points above the applicable official interest rate for
12 comparable maturities of the country in which the
13 producer is located.

14 (13) NONORIGINATING GOOD OR NONORIGI-
15 NATING MATERIAL.—The term “nonoriginating
16 good” or “nonoriginating material” means a good or
17 material, as the case may be, that does not qualify
18 as originating under this section.

19 (14) PACKING MATERIALS AND CONTAINERS
20 FOR SHIPMENT.—The term “packing materials and
21 containers for shipment” means goods used to pro-
22 tect another good during its transportation and does
23 not include the packaging materials and containers
24 in which the other good is packaged for retail sale.

1 (15) PREFERENTIAL TARIFF TREATMENT.—

2 The term “preferential tariff treatment” means the
3 customs duty rate, and the treatment under article
4 2.10.4 of the Agreement, that are applicable to an
5 originating good pursuant to the Agreement.

6 (16) PRODUCER.—The term “producer” means
7 a person who engages in the production of a good
8 in the territory of South Korea or the United States.

9 (17) PRODUCTION.—The term “production”
10 means growing, mining, harvesting, fishing, breed-
11 ing, raising, trapping, hunting, manufacturing, proc-
12 essing, assembling, or disassembling a good.

13 (18) REASONABLY ALLOCATE.—The term “rea-
14 sonably allocate” means to apportion in a manner
15 that would be appropriate under generally accepted
16 accounting principles.

17 (19) RECOVERED GOODS.—The term “recov-
18 ered goods” means materials in the form of indi-
19 vidual parts that are the result of—

20 (A) the disassembly of used goods into in-
21 dividual parts; and

22 (B) the cleaning, inspecting, testing, or
23 other processing that is necessary for improve-
24 ment to sound working condition of such indi-
25 vidual parts.

1 (20) REMANUFACTURED GOOD.—The term “re-
2 manufactured good” means a good that is classified
3 under chapter 84, 85, 87, or 90 or heading 9402,
4 and that—

5 (A) is entirely or partially comprised of re-
6 covered goods; and

7 (B) has a similar life expectancy and en-
8 joys a factory warranty similar to such a good
9 that is new.

10 (21) TOTAL COST.—

11 (A) IN GENERAL.—The term “total
12 cost”—

13 (i) means all product costs, period
14 costs, and other costs for a good incurred
15 in the territory of South Korea, the United
16 States, or both; and

17 (ii) does not include profits that are
18 earned by the producer, regardless of
19 whether they are retained by the producer
20 or paid out to other persons as dividends,
21 or taxes paid on those profits, including
22 capital gains taxes.

23 (B) OTHER DEFINITIONS.—In this para-
24 graph:

1 (i) PRODUCT COSTS.—The term
2 “product costs” means costs that are asso-
3 ciated with the production of a good and
4 include the value of materials, direct labor
5 costs, and direct overhead.

6 (ii) PERIOD COSTS.—The term “pe-
7 riod costs” means costs, other than prod-
8 uct costs, that are expensed in the period
9 in which they are incurred, such as selling
10 expenses and general and administrative
11 expenses.

12 (iii) OTHER COSTS.—The term “other
13 costs” means all costs recorded on the
14 books of the producer that are not product
15 costs or period costs, such as interest.

16 (22) USED.—The term “used” means utilized
17 or consumed in the production of goods.

18 (o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

19 (1) IN GENERAL.—The President is authorized
20 to proclaim, as part of the HTS—

21 (A) the provisions set forth in Annex 4-A
22 and Annex 6-A of the Agreement; and

23 (B) any additional subordinate category
24 that is necessary to carry out this title con-
25 sistent with the Agreement.

1 (2) MODIFICATIONS.—

2 (A) IN GENERAL.—Subject to the consulta-
3 tion and layover provisions of section 104, the
4 President may proclaim modifications to the
5 provisions proclaimed under the authority of
6 paragraph (1)(A), other than provisions of
7 chapters 50 through 63 (as included in Annex
8 4-A of the Agreement).

9 (B) ADDITIONAL PROCLAMATIONS.—Not-
10 withstanding subparagraph (A), and subject to
11 the consultation and layover provisions of sec-
12 tion 104, the President may proclaim—

13 (i) such modifications to the provi-
14 sions proclaimed under the authority of
15 paragraph (1)(A) as are necessary to im-
16 plement an agreement with South Korea
17 pursuant to article 4.2.5 of the Agreement;
18 and

19 (ii) before the end of the 1-year period
20 beginning on the date on which the Agree-
21 ment enters into force, modifications to
22 correct any typographical, clerical, or other
23 nonsubstantive technical error regarding
24 the provisions of chapters 50 through 63

1 (as included in Annex 4-A of the Agree-
2 ment).

3 (3) FIBERS, YARNS, OR FABRICS NOT AVAIL-
4 ABLE IN COMMERCIAL QUANTITIES IN THE UNITED
5 STATES.—

6 (A) IN GENERAL.—Notwithstanding para-
7 graph (2)(A), the list of fibers, yarns, and fab-
8 rics set forth in the list of the United States in
9 Appendix 4-B-1 of the Agreement may be modi-
10 fied as provided for in this paragraph.

11 (B) DEFINITIONS.—In this paragraph:

12 (i) INTERESTED ENTITY.—The term
13 “interested entity” means the Government
14 of South Korea, a potential or actual pur-
15 chaser of a textile or apparel good, or a po-
16 tential or actual supplier of a textile or ap-
17 parel good.

18 (ii) DAY; DAYS.—All references to
19 “day” and “days” exclude Saturdays, Sun-
20 days, and legal holidays observed by the
21 Government of the United States.

22 (C) REQUESTS TO ADD FIBERS, YARNS, OR
23 FABRICS.—

24 (i) IN GENERAL.—An interested entity
25 may request the President to determine

1 that a fiber, yarn, or fabric is not available
2 in commercial quantities in a timely man-
3 ner in the United States and to add that
4 fiber, yarn, or fabric to the list of the
5 United States in Appendix 4-B-1 of the
6 Agreement.

7 (ii) DETERMINATION.—After receiving
8 a request under clause (i), the President
9 may determine whether—

10 (I) the fiber, yarn, or fabric is
11 available in commercial quantities in a
12 timely manner in the United States;
13 or

14 (II) any interested entity objects
15 to the request.

16 (iii) PROCLAMATION AUTHORITY.—
17 The President may, within the time peri-
18 ods specified in clause (iv), proclaim that
19 the fiber, yarn, or fabric that is the subject
20 of the request is added to the list of the
21 United States in Appendix 4-B-1 of the
22 Agreement, if the President has deter-
23 mined under clause (ii) that—

24 (I) the fiber, yarn, or fabric is
25 not available in commercial quantities

1 in a timely manner in the United
2 States; or

3 (II) no interested entity has ob-
4 jected to the request.

5 (iv) TIME PERIODS.—The time peri-
6 ods within which the President may issue
7 a proclamation under clause (iii) are—

8 (I) not later than 30 days after
9 the date on which a request is sub-
10 mitted under clause (i); or

11 (II) not later than 60 days after
12 the request is submitted, if the Presi-
13 dent determines, within 30 days after
14 the date on which the request is sub-
15 mitted, that the President does not
16 have sufficient information to make a
17 determination under clause (ii).

18 (v) EFFECTIVE DATE.—Notwith-
19 standing section 103(a)(2), a proclamation
20 made under clause (iii) shall take effect on
21 the date on which the text of the proclama-
22 tion is published in the Federal Register.

23 (D) DEEMED DENIAL OF REQUEST.—If,
24 after an interested entity submits a request
25 under subparagraph (C)(i), the President does

1 not, within 30 days of the expiration of the ap-
2 plicable time period specified in subparagraph
3 (C)(iv), make a determination under subpara-
4 graph (C)(ii) regarding the request, the request
5 shall be considered to be denied.

6 (E) REQUESTS TO REMOVE FIBERS,
7 YARNS, OR FABRICS.—

8 (i) IN GENERAL.—An interested entity
9 may request the President to remove from
10 the list of the United States in Appendix
11 4-B-1 of the Agreement, any fiber, yarn, or
12 fabric that has been added to that list pur-
13 suant to subparagraph (C)(iii).

14 (ii) PROCLAMATION AUTHORITY.—Not
15 later than 30 days after the date on which
16 a request under clause (i) is submitted, the
17 President may proclaim that the fiber,
18 yarn, or fabric that is the subject of the re-
19 quest is removed from the list of the
20 United States in Appendix 4-B-1 of the
21 Agreement if the President determines
22 that the fiber, yarn, or fabric is available
23 in commercial quantities in a timely man-
24 ner in the United States.

1 (iii) EFFECTIVE DATE.—A proclama-
2 tion issued under clause (ii) may not take
3 effect earlier than the date that is 6
4 months after the date on which the text of
5 the proclamation is published in the Fed-
6 eral Register.

7 (F) PROCEDURES.—The President shall
8 establish procedures—

9 (i) governing the submission of a re-
10 quest under subparagraphs (C) and (E);
11 and

12 (ii) providing an opportunity for inter-
13 ested entities to submit comments and sup-
14 porting evidence before the President
15 makes a determination under subpara-
16 graph (C)(ii) or (E)(ii).

17 **SEC. 203. CUSTOMS USER FEES.**

18 Section 13031(b) of the Consolidated Omnibus Budg-
19 et Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is
20 amended by adding after paragraph (18) the following:

21 “(19) No fee may be charged under subsection (a)
22 (9) or (10) with respect to goods that qualify as origi-
23 nating goods under section 202 of the United States—
24 South Korea Free Trade Agreement Implementation Act.
25 Any service for which an exemption from such fee is pro-

1 vided by reason of this paragraph may not be funded with
2 money contained in the Customs User Fee Account.”.

3 **SEC. 204. DISCLOSURE OF INCORRECT INFORMATION;**
4 **FALSE CERTIFICATIONS OF ORIGIN; DENIAL**
5 **OF PREFERENTIAL TARIFF TREATMENT.**

6 (a) DISCLOSURE OF INCORRECT INFORMATION.—
7 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)
8 is amended—

9 (1) in subsection (c)—

10 (A) by redesignating paragraph (11) as
11 paragraph (12); and

12 (B) by inserting after paragraph (10) the
13 following new paragraph:

14 “(11) PRIOR DISCLOSURE REGARDING CLAIMS
15 UNDER THE UNITED STATES–SOUTH KOREA FREE
16 TRADE AGREEMENT.—An importer shall not be sub-
17 ject to penalties under subsection (a) for making an
18 incorrect claim that a good qualifies as an origi-
19 nating good under section 202 of the United States–
20 South Korea Free Trade Agreement Implementation
21 Act if the importer, in accordance with regulations
22 issued by the Secretary of the Treasury, promptly
23 and voluntarily makes a corrected declaration and
24 pays any duties owing with respect to that good.”;
25 and

1 (2) by adding at the end the following new sub-
2 section:

3 “(j) FALSE CERTIFICATIONS OF ORIGIN UNDER THE
4 UNITED STATES–SOUTH KOREA FREE TRADE AGREE-
5 MENT.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 it is unlawful for any person to certify falsely, by
8 fraud, gross negligence, or negligence, in a KFTA
9 certification of origin (as defined in section 508 of
10 this Act) that a good exported from the United
11 States qualifies as an originating good under the
12 rules of origin provided for in section 202 of the
13 United States–South Korea Free Trade Agreement
14 Implementation Act. The procedures and penalties
15 of this section that apply to a violation of subsection
16 (a) also apply to a violation of this subsection.

17 “(2) PROMPT AND VOLUNTARY DISCLOSURE OF
18 INCORRECT INFORMATION.—No penalty shall be im-
19 posed under this subsection if, promptly after an ex-
20 porter or producer that issued a KFTA certification
21 of origin has reason to believe that such certification
22 contains or is based on incorrect information, the ex-
23 porter or producer voluntarily provides written no-
24 tice of such incorrect information to every person to
25 whom the certification was issued.

1 “(3) EXCEPTION.—A person shall not be con-
2 sidered to have violated paragraph (1) if—

3 “(A) the information was correct at the
4 time it was provided in a KFTA certification of
5 origin but was later rendered incorrect due to
6 a change in circumstances; and

7 “(B) the person promptly and voluntarily
8 provides written notice of the change in cir-
9 cumstances to all persons to whom the person
10 provided the certification.”.

11 (b) DENIAL OF PREFERENTIAL TARIFF TREAT-
12 MENT.—Section 514 of the Tariff Act of 1930 (19 U.S.C.
13 1514) is amended by adding at the end the following new
14 subsection:

15 “(j) DENIAL OF PREFERENTIAL TARIFF TREAT-
16 MENT UNDER THE UNITED STATES–SOUTH KOREA FREE
17 TRADE AGREEMENT.—If U.S. Customs and Border Pro-
18 tection or U.S. Immigration and Customs Enforcement of
19 the Department of Homeland Security finds indications
20 of a pattern of conduct by an importer, exporter, or pro-
21 ducer of false or unsupported representations that goods
22 qualify under the rules of origin provided for in section
23 202 of the United States–South Korea Free Trade Agree-
24 ment Implementation Act, U.S. Customs and Border Pro-
25 tection, in accordance with regulations issued by the Sec-

1 retary of the Treasury, may suspend preferential tariff
2 treatment under the United States–South Korea Free
3 Trade Agreement Implementation Act to entries of iden-
4 tical goods covered by subsequent representations by that
5 importer, exporter, or producer until U.S. Customs and
6 Border Protection determines that representations of that
7 person are in conformity with such section 202.”.

8 **SEC. 205. RELIQUIDATION OF ENTRIES.**

9 Section 520(d) of the Tariff Act of 1930 (19 U.S.C.
10 520(d)) is amended in the matter preceding paragraph
11 (1)—

12 (1) by striking “or”; and

13 (2) by striking “for which” and inserting “, or
14 section 202 of the United States–South Korea Free
15 Trade Agreement Implementation Act for which”.

16 **SEC. 206. RECORDKEEPING REQUIREMENTS.**

17 Section 508 of the Tariff Act of 1930 (19 U.S.C.
18 1508) is amended—

19 (1) by redesignating subsection (i) as subsection
20 (j);

21 (2) by inserting after subsection (h) the fol-
22 lowing new subsection:

23 “(i) CERTIFICATIONS OF ORIGIN FOR GOODS EX-
24 PORTED UNDER THE UNITED STATES–SOUTH KOREA
25 FREE TRADE AGREEMENT.—

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

2 “(A) RECORDS AND SUPPORTING DOCU-
3 MENTS.—The term ‘records and supporting
4 documents’ means, with respect to an exported
5 good under paragraph (2), records and docu-
6 ments related to the origin of the good, includ-
7 ing—

8 “(i) the purchase, cost, and value of,
9 and payment for, the good;

10 “(ii) the purchase, cost, and value of,
11 and payment for, all materials, including
12 indirect materials, used in the production
13 of the good; and

14 “(iii) the production of the good in
15 the form in which it was exported.

16 “(B) KFTA CERTIFICATION OF ORIGIN.—
17 The term ‘KFTA certification of origin’ means
18 the certification established under article 6.15
19 of the United States–South Korea Free Trade
20 Agreement that a good qualifies as an origi-
21 nating good under such Agreement.

22 “(2) EXPORTS TO SOUTH KOREA.—Any person
23 who completes and issues a KFTA certification of
24 origin for a good exported from the United States
25 shall make, keep, and, pursuant to rules and regula-

1 tions promulgated by the Secretary of the Treasury,
2 render for examination and inspection all records
3 and supporting documents related to the origin of
4 the good (including the certification or copies there-
5 of).

6 “(3) RETENTION PERIOD.—The person who
7 issues a KFTA certification of origin shall keep the
8 records and supporting documents relating to that
9 certification of origin for a period of at least 5 years
10 after the date on which the certification is issued.”;
11 and

12 (3) in subsection (j), as so redesignated, by
13 striking “(g), or (h)” and inserting “(g), (h), or (i)”.

14 **SEC. 207. ENFORCEMENT RELATING TO TRADE IN TEXTILE**
15 **OR APPAREL GOODS.**

16 (a) ACTION DURING VERIFICATION.—

17 (1) IN GENERAL.—If the Secretary of the
18 Treasury requests the Government of South Korea
19 to conduct a verification pursuant to article 4.3 of
20 the Agreement for purposes of making a determina-
21 tion under paragraph (2), the President may direct
22 the Secretary to take appropriate action described in
23 subsection (b) while the verification is being con-
24 ducted.

1 (2) DETERMINATION.—A determination under
2 this paragraph is a determination of the Secretary
3 that—

4 (A) an exporter or producer in South
5 Korea is complying with applicable customs
6 laws, regulations, procedures, requirements, and
7 practices affecting trade in textile or apparel
8 goods; or

9 (B) a claim that a textile or apparel good
10 exported or produced by such exporter or pro-
11 ducer—

12 (i) qualifies as an originating good
13 under section 202, or

14 (ii) is a good of South Korea,
15 is accurate.

16 (b) APPROPRIATE ACTION DESCRIBED.—Appropriate
17 action under subsection (a)(1) includes—

18 (1) suspension of liquidation of the entry of any
19 textile or apparel good exported or produced by the
20 person that is the subject of a verification under
21 subsection (a)(1) regarding compliance described in
22 subsection (a)(2)(A), in a case in which the request
23 for verification was based on a reasonable suspicion
24 of unlawful activity related to such goods; and

1 (2) suspension of liquidation of the entry of a
2 textile or apparel good for which a claim has been
3 made that is the subject of a verification under sub-
4 section (a)(1) regarding a claim described in sub-
5 section (a)(2)(B).

6 (c) ACTION WHEN INFORMATION IS INSUFFI-
7 CIENT.—If the Secretary of the Treasury determines that
8 the information obtained within 12 months after making
9 a request for a verification under subsection (a)(1) is in-
10 sufficient to make a determination under subsection
11 (a)(2), the President may direct the Secretary to take ap-
12 propriate action described in subsection (d) until such
13 time as the Secretary receives information sufficient to
14 make the determination under subsection (a)(2) or until
15 such earlier date as the President may direct.

16 (d) APPROPRIATE ACTION DESCRIBED.—Appro-
17 priate action under subsection (c) includes—

18 (1) denial of preferential tariff treatment under
19 the Agreement with respect to—

20 (A) any textile or apparel good exported or
21 produced by the person that is the subject of a
22 verification under subsection (a)(1) regarding
23 compliance described in subsection (a)(2)(A); or

24 (B) the textile or apparel good for which a
25 claim has been made that is the subject of a

1 verification under subsection (a)(1) regarding a
2 claim described in subsection (a)(2)(B); and
3 (2) denial of entry into the United States of—
4 (A) any textile or apparel good exported or
5 produced by the person that is the subject of a
6 verification under subsection (a)(1) regarding
7 compliance described in subsection (a)(2)(A); or
8 (B) a textile or apparel good for which a
9 claim has been made that is the subject of a
10 verification under subsection (a)(1) regarding a
11 claim described in subsection (a)(2)(B).

12 (e) PUBLICATION OF NAME OF PERSON.—In accord-
13 ance with article 4.3.11 of the Agreement, the Secretary
14 of the Treasury may publish the name of any person that
15 the Secretary has determined—

16 (1) is engaged in circumvention of applicable
17 laws, regulations, or procedures affecting trade in
18 textile or apparel goods; or

19 (2) has failed to demonstrate that it produces,
20 or is capable of producing, textile or apparel goods.

21 (f) CERTIFICATE OF ELIGIBILITY.—The Commis-
22 sioner responsible for U.S. Customs and Border Protec-
23 tion of the Department of Homeland Security may require
24 an importer to submit at the time the importer files a
25 claim for preferential tariff treatment under Annex 4-B

1 of the Agreement a certificate of eligibility, properly com-
2 pleted and signed by an authorized official of the Govern-
3 ment of South Korea.

4 (g) VERIFICATIONS IN THE UNITED STATES.—If the
5 government of a country that is a party to a free trade
6 agreement with the United States makes a request for a
7 verification pursuant to that agreement, the Secretary of
8 the Treasury may request a verification of the production
9 of any textile or apparel good in order to assist that gov-
10 ernment in determining whether—

11 (1) a claim of origin under the agreement for
12 a textile or apparel good is accurate; or

13 (2) an exporter, producer, or other enterprise
14 located in the United States involved in the move-
15 ment of textile or apparel goods from the United
16 States to the territory of the requesting government
17 is complying with applicable customs laws, regula-
18 tions, and procedures regarding trade in textile or
19 apparel goods.

20 **SEC. 208. REGULATIONS.**

21 The Secretary of the Treasury shall prescribe such
22 regulations as may be necessary to carry out—

23 (1) subsections (a) through (n) of section 202;

24 (2) the amendment made by section 203; and

1 (3) any proclamation issued under section
2 202(o).

3 **TITLE III—RELIEF FROM**
4 **IMPORTS**

5 **SEC. 301. DEFINITIONS.**

6 In this title:

7 (1) SOUTH KOREAN ARTICLE.—The term
8 “South Korean article” means an article that quali-
9 fies as an originating good under section 202(b).

10 (2) SOUTH KOREAN MOTOR VEHICLE ARTI-
11 CLE.—The term “South Korean motor vehicle arti-
12 cle” means a good provided for in heading 8703 or
13 8704 of the HTS that qualifies as an originating
14 good under section 202(b).

15 (3) SOUTH KOREAN TEXTILE OR APPAREL AR-
16 TICLE.—The term “South Korean textile or apparel
17 article” means a textile or apparel good (as defined
18 in section 3(5)) that is a South Korean article.

19 **Subtitle A—Relief From Imports**
20 **Benefitting From the Agreement**

21 **SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

22 (a) FILING OF PETITION.—

23 (1) IN GENERAL.—A petition requesting action
24 under this subtitle for the purpose of adjusting to
25 the obligations of the United States under the

1 Agreement may be filed with the Commission by an
2 entity, including a trade association, firm, certified
3 or recognized union, or group of workers, that is
4 representative of an industry. The Commission shall
5 transmit a copy of any petition filed under this sub-
6 section to the United States Trade Representative.

7 (2) PROVISIONAL RELIEF.—An entity filing a
8 petition under this subsection may request that pro-
9 visional relief be provided as if the petition had been
10 filed under section 202(a) of the Trade Act of 1974
11 (19 U.S.C. 2252(a)).

12 (3) CRITICAL CIRCUMSTANCES.—Any allegation
13 that critical circumstances exist shall be included in
14 the petition.

15 (b) INVESTIGATION AND DETERMINATION.—Upon
16 the filing of a petition under subsection (a), the Commis-
17 sion, unless subsection (d) applies, shall promptly initiate
18 an investigation to determine whether, as a result of the
19 reduction or elimination of a duty provided for under the
20 Agreement, a South Korean article is being imported into
21 the United States in such increased quantities, in absolute
22 terms or relative to domestic production, and under such
23 conditions that imports of the South Korean article con-
24 stitute a substantial cause of serious injury or threat

1 thereof to the domestic industry producing an article that
2 is like, or directly competitive with, the imported article.

3 (c) APPLICABLE PROVISIONS.—The following provi-
4 sions of section 202 of the Trade Act of 1974 (19 U.S.C.
5 2252) apply with respect to any investigation initiated
6 under subsection (b):

7 (1) Paragraphs (1)(B) and (3) of subsection
8 (b).

9 (2) Subsection (c).

10 (3) Subsection (d).

11 (4) Subsection (i).

12 (d) ARTICLES EXEMPT FROM INVESTIGATION.—No
13 investigation may be initiated under this section with re-
14 spect to any South Korean article if, after the date on
15 which the Agreement enters into force, import relief has
16 been provided with respect to that South Korean article
17 under this subtitle.

18 **SEC. 312. COMMISSION ACTION ON PETITION.**

19 (a) DETERMINATION.—Not later than 120 days (180
20 days if critical circumstances have been alleged) after the
21 date on which an investigation is initiated under section
22 311(b) with respect to a petition, the Commission shall
23 make the determination required under that section.

24 (b) APPLICABLE PROVISIONS.—For purposes of this
25 subtitle, the provisions of paragraphs (1), (2), and (3) of

1 section 330(d) of the Tariff Act of 1930 (19 U.S.C.
2 1330(d) (1), (2), and (3)) shall be applied with respect
3 to determinations and findings made under this section
4 as if such determinations and findings were made under
5 section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

6 (c) ADDITIONAL FINDING AND RECOMMENDATION IF
7 DETERMINATION AFFIRMATIVE.—

8 (1) IN GENERAL.—If the determination made
9 by the Commission under subsection (a) with respect
10 to imports of an article is affirmative, or if the
11 President may consider a determination of the Com-
12 mission to be an affirmative determination as pro-
13 vided for under paragraph (1) of section 330(d) of
14 the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the
15 Commission shall find, and recommend to the Presi-
16 dent in the report required under subsection (d), the
17 amount of import relief that is necessary to remedy
18 or prevent the injury found by the Commission in
19 the determination and to facilitate the efforts of the
20 domestic industry to make a positive adjustment to
21 import competition.

22 (2) LIMITATION ON RELIEF.—The import relief
23 recommended by the Commission under this sub-
24 section shall be limited to the relief described in sec-
25 tion 313(c).

1 (3) VOTING; SEPARATE VIEWS.—Only those
2 members of the Commission who voted in the af-
3 firmative under subsection (a) are eligible to vote on
4 the proposed action to remedy or prevent the injury
5 found by the Commission. Members of the Commis-
6 sion who did not vote in the affirmative may submit,
7 in the report required under subsection (d), separate
8 views regarding what action, if any, should be taken
9 to remedy or prevent the injury.

10 (d) REPORT TO PRESIDENT.—Not later than the
11 date that is 30 days after the date on which a determina-
12 tion is made under subsection (a) with respect to an inves-
13 tigation, the Commission shall submit to the President a
14 report that includes—

15 (1) the determination made under subsection
16 (a) and an explanation of the basis for the deter-
17 mination;

18 (2) if the determination under subsection (a) is
19 affirmative, any findings and recommendations for
20 import relief made under subsection (c) and an ex-
21 planation of the basis for each recommendation; and

22 (3) any dissenting or separate views by mem-
23 bers of the Commission regarding the determination
24 referred to in paragraph (1) and any finding or rec-
25 ommendation referred to in paragraph (2).

1 (e) PUBLIC NOTICE.—Upon submitting a report to
2 the President under subsection (d), the Commission shall
3 promptly make public the report (with the exception of
4 information which the Commission determines to be con-
5 fidential) and shall publish a summary of the report in
6 the Federal Register.

7 **SEC. 313. PROVISION OF RELIEF.**

8 (a) IN GENERAL.—Not later than the date that is
9 30 days after the date on which the President receives a
10 report of the Commission in which the Commission's de-
11 termination under section 312(a) is affirmative, or which
12 contains a determination under section 312(a) that the
13 President considers to be affirmative under paragraph (1)
14 of section 330(d) of the Tariff Act of 1930 (19 U.S.C.
15 1330(d)(1)), the President, subject to subsection (b), shall
16 provide relief from imports of the article that is the subject
17 of such determination to the extent that the President de-
18 termines necessary to remedy or prevent the injury found
19 by the Commission and to facilitate the efforts of the do-
20 mestic industry to make a positive adjustment to import
21 competition.

22 (b) EXCEPTION.—The President is not required to
23 provide import relief under this section if the President
24 determines that the provision of the import relief will not
25 provide greater economic and social benefits than costs.

1 (c) NATURE OF RELIEF.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the import relief that the President is au-
4 thorized to provide under this section with respect to
5 imports of an article is as follows:

6 (A) The suspension of any further reduc-
7 tion provided for under Annex 2-B of the
8 Agreement in the duty imposed on the article.

9 (B) An increase in the rate of duty im-
10 posed on the article to a level that does not ex-
11 ceed the lesser of—

12 (i) the column 1 general rate of duty
13 imposed under the HTS on like articles at
14 the time the import relief is provided; or

15 (ii) the column 1 general rate of duty
16 imposed under the HTS on like articles on
17 the day before the date on which the
18 Agreement enters into force.

19 (2) DUTIES APPLIED ON A SEASONAL BASIS.—

20 In the case of imports of an article to which a duty
21 is applied on a seasonal basis, the import relief that
22 the President is authorized to provide under this
23 section is as follows:

1 (A) The suspension of any further reduc-
2 tion provided for under Annex 2-B of the
3 Agreement in the duty imposed on the article.

4 (B) An increase in the rate of duty im-
5 posed on the article to a level that does not ex-
6 ceed the lesser of—

7 (i) the column 1 general rate of duty
8 imposed under the HTS on like articles for
9 the corresponding season immediately pre-
10 ceding the date the import relief is pro-
11 vided; or

12 (ii) the column 1 general rate of duty
13 imposed under the HTS for the cor-
14 responding season immediately preceding
15 the date on which the Agreement enters
16 into force.

17 (3) PROGRESSIVE LIBERALIZATION.—If the pe-
18 riod for which import relief is provided under this
19 section is greater than 1 year, the President shall
20 provide for the progressive liberalization (described
21 in article 10.2.7 of the Agreement) of such relief at
22 regular intervals during the period of its application.

23 (d) PERIOD OF RELIEF.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 any import relief that the President provides under

1 this section may not be in effect for more than 2
2 years.

3 (2) EXTENSION.—

4 (A) IN GENERAL.—Subject to subpara-
5 graph (C), the President, after receiving a de-
6 termination from the Commission under sub-
7 paragraph (B) that is affirmative, or which the
8 President considers to be affirmative under
9 paragraph (1) of section 330(d) of the Tariff
10 Act of 1930 (19 U.S.C. 1330(d)(1)), may ex-
11 tend the effective period of any import relief
12 provided under this section by up to 1 year, if
13 the President determines that—

14 (i) the import relief continues to be
15 necessary to remedy or prevent serious in-
16 jury and to facilitate adjustment by the do-
17 mestic industry to import competition; and

18 (ii) there is evidence that the industry
19 is making a positive adjustment to import
20 competition.

21 (B) ACTION BY COMMISSION.—

22 (i) INVESTIGATION.—Upon a petition
23 on behalf of the industry concerned that is
24 filed with the Commission not earlier than
25 the date that is 9 months, and not later

1 than the date that is 6 months, before the
2 date on which any action taken under sub-
3 section (a) is to terminate, the Commission
4 shall conduct an investigation to determine
5 whether action under this section continues
6 to be necessary to remedy or prevent seri-
7 ous injury and whether there is evidence
8 that the industry is making a positive ad-
9 justment to import competition.

10 (ii) NOTICE AND HEARING.—The
11 Commission shall publish notice of the
12 commencement of any proceeding under
13 this subparagraph in the Federal Register
14 and shall, within a reasonable time there-
15 after, hold a public hearing at which the
16 Commission shall afford interested parties
17 and consumers an opportunity to be
18 present, to present evidence, and to re-
19 spond to the presentations of other parties
20 and consumers, and otherwise to be heard.

21 (iii) REPORT.—The Commission shall
22 submit to the President a report on its in-
23 vestigation and determination under this
24 subparagraph not later than 60 days be-
25 fore the action under subsection (a) is to

1 terminate, unless the President specifies a
2 different date.

3 (C) PERIOD OF IMPORT RELIEF.—Any im-
4 port relief provided under this section, including
5 any extensions thereof, may not, in the aggre-
6 gate, be in effect for more than 3 years.

7 (e) RATE AFTER TERMINATION OF IMPORT RE-
8 LIEF.—Beginning on the date on which import relief
9 under this section is terminated with respect to an article,
10 the rate of duty on that article shall be the rate that would
11 have been in effect but for the provision of such relief.

12 (f) ARTICLES EXEMPT FROM RELIEF.—No import
13 relief may be provided under this section on any article
14 that is subject to import relief under—

15 (1) subtitle B or C; or

16 (2) chapter 1 of title II of the Trade Act of
17 1974 (19 U.S.C. 2251 et seq.).

18 **SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

19 (a) GENERAL RULE.—Subject to subsection (b), no
20 import relief may be provided under this subtitle after the
21 date that is 10 years after the date on which the Agree-
22 ment enters into force.

23 (b) EXCEPTION.—If an article for which relief is pro-
24 vided under this subtitle is an article for which the period
25 for tariff elimination, set forth in the Schedule of the

1 United States to Annex 2-B of the Agreement, is greater
2 than 10 years, no relief under this subtitle may be pro-
3 vided for that article after the date on which that period
4 ends.

5 (c) **PRESIDENTIAL DETERMINATION.**—Import relief
6 may be provided under this subtitle in the case of a South
7 Korean article after the date on which such relief would,
8 but for this subsection, terminate under subsection (a) and
9 (b), if the President determines that South Korea has con-
10 sented to such relief.

11 **SEC. 315. COMPENSATION AUTHORITY.**

12 For purposes of section 123 of the Trade Act of 1974
13 (19 U.S.C. 2133), any import relief provided by the Presi-
14 dent under section 313 shall be treated as action taken
15 under chapter 1 of title II of such Act (19 U.S.C. 2251
16 et seq.).

17 **SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

18 Section 202(a)(8) of the Trade Act of 1974 (19
19 U.S.C. 2252(a)(8)) is amended in the first sentence—

20 (1) by striking “and”; and

21 (2) by inserting before the period at the end “,
22 and title III of the United States–South Korea Free
23 Trade Agreement Implementation Act”.

1 **Subtitle B—Motor Vehicle**
2 **Safeguard Measures**

3 **SEC. 321. MOTOR VEHICLE SAFEGUARD MEASURES.**

4 The provisions of subtitle A shall apply with respect
5 to a South Korean motor vehicle article to the same extent
6 that such provisions apply to South Korean articles, ex-
7 cept as follows:

8 (1) Section 311(d) and paragraphs (2) and (3)
9 of 313(c) shall not apply.

10 (2) Section 313(d)(2)(A) shall be applied and
11 administered by substituting “2 years” for “1 year”.

12 (3) Section 313(d)(2)(C) shall be applied and
13 administered by substituting “4 years” for “3
14 years”.

15 (4) Section 313(f)(1) shall be applied and ad-
16 ministered by substituting “subtitle A” for “subtitle
17 B or C”.

18 (5) Section 314(b) shall be applied and admin-
19 istered as if such section read as follows:

20 “(b) EXCEPTION.—Import relief may be provided
21 under this subtitle with respect to a South Korean motor
22 vehicle article during any period before the date that is
23 10 years after the date on which duties on the article are
24 eliminated, as set forth in section 201(d), or, if the article

1 is not referred to in section 201(d), the Schedule of the
2 United States to Annex 2-B of the Agreement.”.

3 **Subtitle C—Textile and Apparel**
4 **Safeguard Measures**

5 **SEC. 331. COMMENCEMENT OF ACTION FOR RELIEF.**

6 (a) IN GENERAL.—A request for action under this
7 subtitle for the purpose of adjusting to the obligations of
8 the United States under the Agreement may be filed with
9 the President by an interested party. Upon the filing of
10 a request, the President shall review the request to deter-
11 mine, from information presented in the request, whether
12 to commence consideration of the request.

13 (b) PUBLICATION OF REQUEST.—If the President de-
14 termines that the request under subsection (a) provides
15 the information necessary for the request to be considered,
16 the President shall publish in the Federal Register a no-
17 tice of commencement of consideration of the request, and
18 notice seeking public comments regarding the request. The
19 notice shall include a summary of the request and the
20 dates by which comments and rebuttals must be received.

21 **SEC. 332. DETERMINATION AND PROVISION OF RELIEF.**

22 (a) DETERMINATION.—

23 (1) IN GENERAL.—If a positive determination is
24 made under section 331(b), the President shall de-
25 termine whether, as a result of the reduction or

1 elimination of a duty under the Agreement, a South
2 Korean textile or apparel article is being imported
3 into the United States in such increased quantities,
4 in absolute terms or relative to the domestic market
5 for that article, and under such conditions as to
6 cause serious damage, or actual threat thereof, to a
7 domestic industry producing an article that is like,
8 or directly competitive with, the imported article.

9 (2) SERIOUS DAMAGE.—In making a deter-
10 mination under paragraph (1), the President—

11 (A) shall examine the effect of increased
12 imports on the domestic industry, as reflected
13 in changes in such relevant economic factors as
14 output, productivity, utilization of capacity, in-
15 ventories, market share, exports, wages, em-
16 ployment, domestic prices, profits, and invest-
17 ment, no one of which is necessarily decisive;
18 and

19 (B) shall not consider changes in tech-
20 nology or consumer preference as factors sup-
21 porting a determination of serious damage or
22 actual threat thereof.

23 (b) PROVISION OF RELIEF.—

24 (1) IN GENERAL.—If a determination under
25 subsection (a) is affirmative, the President may pro-

1 vide relief from imports of the article that is the
2 subject of such determination, as provided in para-
3 graph (2), to the extent that the President deter-
4 mines necessary to remedy or prevent the serious
5 damage and to facilitate adjustment by the domestic
6 industry.

7 (2) NATURE OF RELIEF.—The relief that the
8 President is authorized to provide under this sub-
9 section with respect to imports of an article is—

10 (A) the suspension of any further reduc-
11 tion provided for under Annex 2-B of the
12 Agreement in the duty imposed on the article;
13 or

14 (B) an increase in the rate of duty im-
15 posed on the article to a level that does not ex-
16 ceed the lesser of—

17 (i) the column 1 general rate of duty
18 imposed under the HTS on like articles at
19 the time the import relief is provided; or

20 (ii) the column 1 general rate of duty
21 imposed under the HTS on like articles on
22 the day before the date on which the
23 Agreement enters into force.

1 **SEC. 333. PERIOD OF RELIEF.**

2 (a) IN GENERAL.—Subject to subsection (b), the im-
3 port relief that the President provides under section
4 332(b) may not be in effect for more than 2 years.

5 (b) EXTENSION.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 the President may extend the effective period of any
8 import relief provided under this subtitle for a pe-
9 riod of not more than 2 years, if the President de-
10 termines that—

11 (A) the import relief continues to be nec-
12 essary to remedy or prevent serious damage
13 and to facilitate adjustment by the domestic in-
14 dustry to import competition; and

15 (B) there is evidence that the industry is
16 making a positive adjustment to import com-
17 petition.

18 (2) LIMITATION.—Any relief provided under
19 this subtitle, including any extensions thereof, may
20 not, in the aggregate, be in effect for more than 4
21 years.

22 **SEC. 334. ARTICLES EXEMPT FROM RELIEF.**

23 The President may not provide import relief under
24 this subtitle with respect to an article if—

25 (1) import relief previously has been provided
26 under this subtitle with respect to that article; or

1 (2) the article is subject to import relief
2 under—

3 (A) subtitle A; or

4 (B) chapter 1 of title II of the Trade Act
5 of 1974 (19 U.S.C. 2251 et seq.).

6 **SEC. 335. RATE AFTER TERMINATION OF IMPORT RELIEF.**

7 On the date on which import relief under this subtitle
8 is terminated with respect to an article, the rate of duty
9 on that article shall be the rate that would have been in
10 effect but for the provision of such relief.

11 **SEC. 336. TERMINATION OF RELIEF AUTHORITY.**

12 No import relief may be provided under this subtitle
13 with respect to any article after the date that is 10 years
14 after the date on which duties on the article are eliminated
15 pursuant to the Agreement.

16 **SEC. 337. COMPENSATION AUTHORITY.**

17 For purposes of section 123 of the Trade Act of 1974
18 (19 U.S.C. 2133), any import relief provided by the Presi-
19 dent under this subtitle shall be treated as action taken
20 under chapter 1 of title II of such Act (19 U.S.C. 2251
21 et seq.).

22 **SEC. 338. CONFIDENTIAL BUSINESS INFORMATION.**

23 The President may not release information received
24 in connection with an investigation or determination under
25 this subtitle which the President considers to be confiden-

1 tial business information unless the party submitting the
2 confidential business information had notice, at the time
3 of submission, that such information would be released by
4 the President, or such party subsequently consents to the
5 release of the information. To the extent a party submits
6 confidential business information, the party shall also pro-
7 vide a nonconfidential version of the information in which
8 the confidential business information is summarized or, if
9 necessary, deleted.

10 **Subtitle D—Cases Under Title II of**
11 **the Trade Act of 1974**

12 **SEC. 341. FINDINGS AND ACTION ON SOUTH KOREAN ARTI-**
13 **CLES.**

14 (a) EFFECT OF IMPORTS.—If, in any investigation
15 initiated under chapter 1 of title II of the Trade Act of
16 1974 (19 U.S.C. 2251 et seq.), the Commission makes an
17 affirmative determination (or a determination which the
18 President may treat as an affirmative determination under
19 such chapter by reason of section 330(d) of the Tariff Act
20 of 1930 (19 U.S.C. 1330(d))), the Commission shall also
21 find (and report to the President at the time such injury
22 determination is submitted to the President) whether im-
23 ports of the South Korean article are a substantial cause
24 of serious injury or threat thereof.

1 (b) PRESIDENTIAL DETERMINATION REGARDING
2 SOUTH KOREAN ARTICLES.—In determining the nature
3 and extent of action to be taken under chapter 1 of title
4 II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.),
5 the President may exclude from the action South Korean
6 articles with respect to which the Commission has made
7 a negative finding under subsection (a).

8 **TITLE IV—PROCUREMENT**

9 **SEC. 401. ELIGIBLE PRODUCTS.**

10 Section 308(4)(A) of the Trade Agreements Act of
11 1979 (19 U.S.C. 2518(4)(A)) is amended—

12 (1) by striking “or” at the end of clause (vi);

13 (2) by striking the period at the end of clause
14 (vii) and inserting “; or”; and

15 (3) by adding at the end the following new
16 clause:

17 “(viii) a party to the United States—
18 South Korea Free Trade Agreement, a
19 product or service of that country or in-
20 strumentality which is covered under that
21 agreement for procurement by the United
22 States.”.

1 **TITLE V—TRADE ADJUSTMENT**
2 **ASSISTANCE**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Trade Adjustment As-
5 sistance Extension Act of 2011”.

6 **Subtitle A—Extension of Trade**
7 **Adjustment Assistance**

8 **PART I—APPLICATION OF PROVISIONS**

9 **RELATING TO TRADE ADJUSTMENT ASSISTANCE**

10 **SEC. 511. APPLICATION OF PROVISIONS RELATING TO**
11 **TRADE ADJUSTMENT ASSISTANCE.**

12 (a) **REPEAL OF SNAPBACK.**—Section 1893 of the
13 Trade and Globalization Adjustment Assistance Act of
14 2009 (Public Law 111–5; 123 Stat. 422) is repealed.

15 (b) **APPLICABILITY OF CERTAIN PROVISIONS.**—Ex-
16 cept as otherwise provided in this subtitle, the provisions
17 of chapters 2 through 6 of title II of the Trade Act of
18 1974, as in effect on February 12, 2011, and as amended
19 by this subtitle, shall—

20 (1) take effect on the date of the enactment of
21 this Act; and

22 (2) apply to petitions for certification filed
23 under chapters 2, 3, or 6 of title II of the Trade Act
24 of 1974 on or after such date of enactment.

(c) REFERENCES.—Except as otherwise provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision of chapters 2 through 6 of title II of the Trade Act of 1974, the reference shall be considered to be made to a provision of any such chapter, as in effect on February 12, 2011.

PART II—TRADE ADJUSTMENT ASSISTANCE FOR

WORKERS

10 SEC. 521. GROUP ELIGIBILITY REQUIREMENTS.

11 (a) IN GENERAL.—Section 222 of the Trade Act of
12 1974 (19 U.S.C. 2272) is amended—

13 (1) by striking subsection (b);

14 (2) by redesignating subsections (c) through (f)
15 as subsections (b) through (e), respectively;

(3) in paragraph (2) of subsection (b), as redesignated, by striking “(d)” and inserting “(c)”;

(4) in subsection (c), as redesignated, by striking paragraph (5); and

(5) in paragraph (2) of subsection (d), as redesignated, by striking “, (b), or (c)” and inserting “or (b)”.

(b) CONFORMING AMENDMENTS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

25 (1) in paragraph (3)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “Subject to section 222(d)(5),
3 the term” and inserting “The term”; and
4 (B) in subparagraph (A), by striking “,
5 service sector firm, or public agency” and in-
6 serting “or service sector firm”;
7 (2) by striking paragraph (7); and
8 (3) by redesignating paragraphs (8) through
9 (19) as paragraphs (7) through (18), respectively.

10 **SEC. 522. REDUCTIONS IN WAIVERS FROM TRAINING.**

11 (a) IN GENERAL.—Section 231(c) of the Trade Act
12 of 1974 (19 U.S.C. 2291(c)) is amended—

13 (1) in paragraph (1)—

14 (A) by striking subparagraphs (A), (B),
15 and (C); and

16 (B) by redesignating subparagraphs (D),
17 (E), and (F) as subparagraphs (A), (B), and
18 (C), respectively; and

19 (2) in paragraph (3)(B), by striking “(D), (E),
20 or (F)” and inserting “or (C)”.

21 (b) GOOD CAUSE EXCEPTION.—Section 234(b) of the
22 Trade Act of 1974 (19 U.S.C. 2294(b)) is amended to
23 read as follows:

24 “(b) SPECIAL RULE ON GOOD CAUSE FOR WAIVER
25 OF TIME LIMITS OR LATE FILING OF CLAIMS.—The Sec-

1 retary shall establish procedures and criteria that allow
2 for a waiver for good cause of the time limitations with
3 respect to an application for a trade readjustment allow-
4 ance or enrollment in training under this chapter.”.

5 **SEC. 523. LIMITATIONS ON TRADE READJUSTMENT ALLOW-**
6 **ANCES.**

7 Section 233 of the Trade Act of 1974 (19 U.S.C.
8 2293) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), in the matter pre-
11 ceding subparagraph (A), by striking “(or” and
12 all that follows through “period)”; and

13 (B) in paragraph (3)—

14 (i) in the matter preceding subpara-
15 graph (A), by striking “78” and inserting
16 “65”; and

17 (ii) by striking “91-week period” each
18 place it appears and inserting “78-week
19 period”; and

20 (2) by amending subsection (f) to read as fol-
21 lows:

22 “(f) PAYMENT OF TRADE READJUSTMENT ALLOW-
23 ANCES TO COMPLETE TRAINING.—Notwithstanding any
24 other provision of this section, in order to assist an ad-
25 versely affected worker to complete training approved for

1 the worker under section 236 that leads to the completion
2 of a degree or industry-recognized credential, payments
3 may be made as trade readjustment allowances for not
4 more than 13 weeks within such period of eligibility as
5 the Secretary may prescribe to account for a break in
6 training or for justifiable cause that follows the last week
7 for which the worker is otherwise entitled to a trade read-
8 justment allowance under this chapter if—

9 “(1) payment of the trade readjustment allow-
10 ance for not more than 13 weeks is necessary for the
11 worker to complete the training;

12 “(2) the worker participates in training in each
13 such week; and

14 “(3) the worker—

15 “(A) has substantially met the perform-
16 ance benchmarks established as part of the
17 training approved for the worker;

18 “(B) is expected to continue to make
19 progress toward the completion of the training;
20 and

21 “(C) will complete the training during that
22 period of eligibility.”.

1 **SEC. 524. FUNDING OF TRAINING, EMPLOYMENT AND CASE**
2 **MANAGEMENT SERVICES, AND JOB SEARCH**
3 **AND RELOCATION ALLOWANCES.**

4 (a) IN GENERAL.—Section 236(a)(2) of the Trade
5 Act of 1974 (19 U.S.C. 2296(a)(2)) is amended—

6 (1) by inserting “and sections 235, 237, and
7 238” after “to carry out this section” each place it
8 appears;

9 (2) in subparagraph (A)—

10 (A) in the matter preceding clause (i), by
11 striking “of payments that may be made under
12 paragraph (1)” and inserting “of funds avail-
13 able to carry out this section and sections 235,
14 237, and 238”; and

15 (B) by striking clauses (i) and (ii) and in-
16 serting the following:

17 “(i) \$575,000,000 for each of fiscal years
18 2012 and 2013; and

19 “(ii) \$143,750,000 for the 3-month period
20 beginning on October 1, 2013, and ending on
21 December 31, 2013.”;

22 (3) in subparagraph (C)(ii)(V), by striking “re-
23 lating to the provision of training under this sec-
24 tion” and inserting “to carry out this section and
25 sections 235, 237, and 238”; and

1 (4) in subparagraph (E), by striking “to pay
2 the costs of training approved under this section”
3 and inserting “to carry out this section and sections
4 235, 237, and 238”.

5 (b) LIMITATIONS ON ADMINISTRATIVE EXPENSES
6 AND EMPLOYMENT AND CASE MANAGEMENT SERV-
7 ICES.—

8 (1) IN GENERAL.—Section 235A of the Trade
9 Act of 1974 (19 U.S.C. 2295a) is amended—

10 (A) in the section heading, by striking
11 “**FUNDING FOR**” and inserting “**LIMITA-**
12 **TIONS ON**”; and

13 (B) by striking subsections (a) and (b) and
14 inserting the following:

15 “Of the funds made available to a State to carry out
16 sections 235 through 238 for a fiscal year, the State shall
17 use—

18 “(1) not more than 10 percent for the adminis-
19 tration of the trade adjustment assistance for work-
20 ers program under this chapter, including for—

21 “(A) processing waivers of training re-
22 quirements under section 231;

23 “(B) collecting, validating, and reporting
24 data required under this chapter; and

1 “(C) providing reemployment trade adjust-
2 ment assistance under section 246; and

3 “(2) not less than 5 percent for employment
4 and case management services under section 235.”.

(2) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235A and inserting the following:

“Sec. 235A. Limitations on administrative expenses and employment and case management services.”.

9 (c) REALLOTMENT OF FUNDS.—Section 245 of the
10 Trade Act of 1974 (19 U.S.C. 2317) is amended by add-
11 ing at the end the following:

12 “(c) REALLOTMENT OF FUNDS.—

13 “(1) IN GENERAL.—The Secretary may—

“(A) reallocate funds that were allotted to any State to carry out sections 235 through 238 and that remain unobligated by the State during the second or third fiscal year after the fiscal year in which the funds were provided to the State; and

20 “(B) provide such reallocated funds to States
21 to carry out sections 235 through 238 in ac-
22 cordance with procedures established by the
23 Secretary.

“(2) REQUESTS BY STATES.—In establishing procedures under paragraph (1)(B), the Secretary shall include procedures that provide for the distribution of reallocated funds under that paragraph pursuant to requests submitted by States in need of such funds.

7 “(3) AVAILABILITY OF AMOUNTS.—The realloc-
8 ment of funds under paragraph (1) shall not extend
9 the period for which such funds are available for ex-
10 penditure.”.

11 (d) JOB SEARCH ALLOWANCES.—Section 237 of the
12 Trade Act of 1974 (19 U.S.C. 2297) is amended—

13 (1) in subsection (a)(1)—

(A) by striking “An adversely affected worker” and inserting “Each State may use funds made available to the State to carry out sections 235 through 238 to allow an adversely affected worker”; and

19 (B) by striking “may” and inserting “to”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

(i) by striking “An” and inserting
“Any”; and

24 (ii) by striking “all necessary job
25 search expenses” and inserting “not more

1 than 90 percent of the necessary job
2 search expenses of the worker”; and

3 (B) in paragraph (2), by striking “\$1,500”
4 and inserting “\$1,250”; and

5 (3) in subsection (c), by striking “the Secretary
6 shall” and inserting “a State may”.

7 (e) RELOCATION ALLOWANCES.—Section 238 of the
8 Trade Act of 1974 (19 U.S.C. 2298) is amended—

9 (1) in subsection (a)(1)—

10 (A) by striking “Any adversely affected
11 worker” and inserting “Each State may use
12 funds made available to the State to carry out
13 sections 235 through 238 to allow an adversely
14 affected worker”; and

15 (B) by striking “may file” and inserting
16 “to file”; and

17 (2) in subsection (b)—

18 (A) in the matter preceding paragraph

19 (1)—

20 (i) by striking “The” and inserting
21 “Any”; and

22 (ii) by striking “includes” and insert-
23 ing “shall include”;

1 (B) in paragraph (1), by striking “all” and
2 inserting “not more than 90 percent of the”;
3 and

4 (C) in paragraph (2), by striking “\$1,500”
5 and inserting “\$1,250”.

6 (f) CONFORMING AMENDMENTS.—Section 236 of the
7 Trade Act of 1974 (19 U.S.C. 2296) is amended—

8 (1) in subsection (b), in the first sentence, by
9 striking “appropriate” and inserting “appropriate”;
10 and

11 (2) by striking subsection (g) and redesignating
12 subsection (h) as subsection (g).

13 **SEC. 525. REEMPLOYMENT TRADE ADJUSTMENT ASSIST-**
14 **ANCE.**

15 (a) IN GENERAL.—Section 246(a) of the Trade Act
16 of 1974 (19 U.S.C. 2318(a)) is amended—

17 (1) in paragraph (3)(B)(ii), by striking
18 “\$55,000” and inserting “\$50,000”; and

19 (2) in paragraph (5)—

20 (A) in subparagraph (A)(i), by striking
21 “\$12,000” and inserting “\$10,000”; and

22 (B) in subparagraph (B)(i), by striking
23 “\$12,000” and inserting “\$10,000”.

24 (b) EXTENSION.—Section 246(b)(1) of the Trade Act
25 of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking

1 “February 12, 2011” and inserting “December 31,
2 2013”.

3 **SEC. 526. PROGRAM ACCOUNTABILITY.**

4 (a) CORE INDICATORS OF PERFORMANCE.—

5 (1) IN GENERAL.—Section 239(j)(2)(A) of the
6 Trade Act of 1974 (19 U.S.C. 2311(j)(2)(A)) is
7 amended to read as follows:

8 “(A) IN GENERAL.—The core indicators of
9 performance described in this paragraph are—

10 “(i) the percentage of workers receiv-
11 ing benefits under this chapter who are
12 employed during the first or second cal-
13 endar quarter following the calendar quar-
14 ter in which the workers cease receiving
15 such benefits;

16 “(ii) the percentage of such workers
17 who are employed during the 2 calendar
18 quarters following the earliest calendar
19 quarter during which the worker was em-
20 ployed as described in clause (i);

21 “(iii) the average earnings of such
22 workers who are employed during the 2
23 calendar quarters described in clause (ii);
24 and

1 “(iv) the percentage of such workers
2 who obtain a recognized postsecondary cre-
3 dential, including an industry-recognized
4 credential, or a secondary school diploma
5 or its recognized equivalent if combined
6 with employment under clause (i), while re-
7 ceiving benefits or during the 1-year period
8 after such workers cease receiving benefits
9 under this chapter.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall—

12 (A) take effect on October 1, 2011; and

13 (B) apply with respect to agreements
14 under section 239 of the Trade Act of 1974 (19
15 U.S.C. 2311) entered into before, on, or after
16 October 1, 2011.

17 (b) COLLECTION AND PUBLICATION OF DATA.—

18 (1) IN GENERAL.—Section 249B(b) of the
19 Trade Act of 1974 (19 U.S.C. 2323(b)) is amend-
20 ed—

21 (A) in paragraph (2)—

22 (i) in subparagraph (B), by inserting
23 “(including such allowances classified by
24 payments under paragraphs (1) and (3) of
25 section 233(a), and section 233(f), respec-

1 tively) and payments under section 246”
2 after “readjustment allowances”; and

(ii) by adding at the end the fol-

lowing:

5 “(D) The average number of weeks trade
6 readjustment allowances were paid to workers.

“(E) The number of workers who report that they have received benefits under a prior certification issued under this chapter in any of the 10 fiscal years preceding the fiscal year for which the data is collected under this section.”;

12 (B) in paragraph (3)—

13 (i) in subparagraph (A), by inserting
14 “training leading to an associate’s degree,
15 remedial training, prerequisite training,”
16 after “distance learning,”;

17 (ii) by amending subparagraph (B) to
18 read as follows:

19 “(B) The number of workers who complete
20 training approved under section 236 who were
21 enrolled in pre-layoff training or part-time
22 training at any time during that training.”;

(iii) in subparagraph (C), by inserting
 “, and the average duration of training

1 that does not include remedial or pre-
2 requisite training” after “training”;

3 (iv) in subparagraph (E), by striking
4 “duration” and inserting “average dura-
5 tion”; and

6 (v) in subparagraph (F), by inserting
7 “and the average duration of such train-
8 ing” after “training”; and

9 (C) in paragraph (4)—

10 (i) by redesignating subparagraph (B)
11 as subparagraph (D); and

12 (ii) by inserting after subparagraph
13 (A) the following:

14 “(B) A summary of the data on workers in
15 the quarterly reports required under section
16 239(j) classified by the age, pre-program edu-
17 cational level, and post-program credential at-
18 tainment of the workers.

19 “(C) The average earnings of workers de-
20 scribed in section 239(j)(2)(A)(i) in the second,
21 third, and fourth calendar quarters following
22 the calendar quarter in which such workers
23 cease receiving benefits under this chapter, ex-
24 pressed as a percentage of the average earnings
25 of such workers in the 3 calendar quarters be-

1 fore the calendar quarter in which such workers
2 began receiving benefits under this chapter.”;
3 and

4 (D) by adding at the end the following:

5 “(6) DATA ON SPENDING.—

6 “(A) The total amount of funds used to
7 pay for trade readjustment allowances, in the
8 aggregate and by each State.

9 “(B) The total amount of the payments to
10 the States to carry out sections 235 through
11 238 used for training, in the aggregate and for
12 each State.

13 “(C) The total amount of payments to the
14 States to carry out sections 235 through 238
15 used for the costs of administration, in the ag-
16 gregate and for each State.

17 “(D) The total amount of payments to the
18 States to carry out sections 235 through 238
19 used for job search and relocation allowances,
20 in the aggregate and for each State.”.

21 (2) EFFECTIVE DATE.—Not later than October
22 1, 2012, the Secretary of Labor shall update the
23 system required by section 249B(a) of the Trade Act
24 of 1974 (19 U.S.C. 2323(a)) to include the collec-

1 tion of and reporting on the data required by the
2 amendments made by paragraph (1).

3 (3) ANNUAL REPORT.—Section 249B(d) of the
4 Trade Act of 1974 (19 U.S.C. 2323(d)) is amended
5 by striking “December 15” and inserting “February
6 15”.

7 **SEC. 527. EXTENSION.**

8 Section 245(a) of the Trade Act of 1974 (19 U.S.C.
9 2317(a)) is amended by striking “February 12, 2011” and
10 inserting “December 31, 2013”.

11 **PART III—OTHER ADJUSTMENT ASSISTANCE**

12 **SEC. 531. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.**

13 (a) ANNUAL REPORT.—

14 (1) IN GENERAL.—Chapter 3 of title II of the
15 Trade Act of 1974 (19 U.S.C. 2341 et seq.) is
16 amended by inserting after section 255 the fol-
17 lowing:

18 **“SEC. 255A. ANNUAL REPORT ON TRADE ADJUSTMENT AS-**
19 **SISTANCE FOR FIRMS.**

20 “(a) IN GENERAL.—Not later than December 15,
21 2012, and annually thereafter, the Secretary shall prepare
22 a report containing data regarding the trade adjustment
23 assistance for firms program under this chapter for the
24 preceding fiscal year. The data shall include the following:

1 “(1) The number of firms that inquired about
2 the program.

3 “(2) The number of petitions filed under sec-
4 tion 251.

5 “(3) The number of petitions certified and de-
6 nied by the Secretary.

7 “(4) The average time for processing petitions
8 after the petitions are filed.

9 “(5) The number of petitions filed and firms
10 certified for each congressional district of the United
11 States.

12 “(6) Of the number of petitions filed, the num-
13 ber of firms that entered the program and received
14 benefits.

15 “(7) The number of firms that received assist-
16 ance in preparing their petitions.

17 “(8) The number of firms that received assist-
18 ance developing business recovery plans.

19 “(9) The number of business recovery plans ap-
20 proved and denied by the Secretary.

21 “(10) The average duration of benefits received
22 under the program nationally and in each region
23 served by an intermediary organization referred to in
24 section 253(b)(1).

1 “(11) Sales, employment, and productivity at
2 each firm participating in the program at the time
3 of certification.

4 “(12) Sales, employment, and productivity at
5 each firm upon completion of the program and each
6 year for the 2-year period following completion of
7 the program.

8 “(13) The number of firms in operation as of
9 the date of the report and the number of firms that
10 ceased operations after completing the program and
11 in each year during the 2-year period following com-
12 pletion of the program.

13 “(14) The financial assistance received by each
14 firm participating in the program.

15 “(15) The financial contribution made by each
16 firm participating in the program.

17 “(16) The types of technical assistance included
18 in the business recovery plans of firms participating
19 in the program.

20 “(17) The number of firms leaving the program
21 before completing the project or projects in their
22 business recovery plans and the reason the project
23 or projects were not completed.

24 “(18) The total amount spent by all inter-
25 mediary organizations referred to in section

1 253(b)(1) and each such organization to administer
2 the program.

3 “(19) The total amount expended by inter-
4 mediary organizations to provide technical assistance
5 to firms under the program nationally and in each
6 region served by such an organization.

7 “(b) CLASSIFICATION OF DATA.—To the extent pos-
8 sible, in collecting and reporting the data described in sub-
9 section (a), the Secretary shall classify the data by inter-
10 mediary organization, State, and national totals.

11 “(c) REPORT TO CONGRESS; PUBLICATION.—The
12 Secretary shall—

13 “(1) submit the report described in subsection
14 (a) to the Committee on Finance of the Senate and
15 the Committee on Ways and Means of the House of
16 Representatives; and

17 “(2) publish the report in the Federal Register
18 and on the website of the Department of Commerce.

19 “(d) PROTECTION OF CONFIDENTIAL INFORMA-
20 TION.—

21 “(1) IN GENERAL.—The Secretary may not re-
22 lease information described in subsection (a) that
23 the Secretary considers to be confidential business
24 information unless the person submitting the con-
25 fidential business information had notice, at the time

1 of submission, that such information would be re-
2 leased by the Secretary, or such person subsequently
3 consents to the release of the information.

4 “(2) RULE OF CONSTRUCTION.—Nothing in
5 this subsection shall be construed to prohibit the
6 Secretary from providing information the Secretary
7 considers to be confidential business information
8 under paragraph (1) to a court in camera or to an-
9 other party under a protective order issued by a
10 court.”.

11 (2) CLERICAL AMENDMENT.—The table of con-
12 tents for the Trade Act of 1974 is amended by in-
13 serting after the item relating to section 255 the fol-
14 lowing:

“Sec. 255A. Annual report on trade adjustment assistance for firms.”.

15 (3) CONFORMING REPEAL.—Effective on the
16 day after the date on which the Secretary of Com-
17 merce submits the report required by section 1866
18 of the Trade and Globalization Adjustment Assist-
19 ance Act of 2009 (19 U.S.C. 2356) for fiscal year
20 2011, such section is repealed.

21 (b) EXTENSION.—Section 255(a) of the Trade Act of
22 1974 (19 U.S.C. 2345(a)) is amended—

23 (1) by striking “\$50,000,000” and all that fol-
24 lows through “February 12, 2011.” and inserting
25 “\$16,000,000 for each of the fiscal years 2012 and

1 2013, and \$4,000,000 for the 3-month period begin-
2 ning on October 1, 2013, and ending on December
3 31, 2013.”; and

4 (2) by striking “shall—” and all that follows
5 through “otherwise remain” and inserting “shall re-
6 main”.

7 **SEC. 532. TRADE ADJUSTMENT ASSISTANCE FOR COMMU-**
8 **NITIES.**

9 (a) IN GENERAL.—Chapter 4 of title II of the Trade
10 Act of 1974 (19 U.S.C. 2371 et seq.) is amended—

11 (1) by striking subchapters A, C, and D;

12 (2) in subchapter B, by striking the subchapter
13 heading; and

14 (3) by redesignating sections 278 and 279 as
15 sections 271 and 272, respectively.

16 (b) ANNUAL REPORT.—

17 (1) IN GENERAL.—Subsection (e) of section
18 271 of the Trade Act of 1974, as redesignated by
19 subsection (a)(3), is amended—

20 (A) in the matter preceding paragraph (1),
21 by striking “December 15 in each of the cal-
22 endar years 2009 through” and inserting “De-
23 cember 15, 2009,”;

24 (B) in paragraph (1), by striking “and” at
25 the end;

1 (C) in paragraph (2), by striking the pe-
2 riod at the end and inserting “; and”; and

3 (D) by adding at the end the following:

4 “(3) providing the following data relating to
5 program performance and outcomes:

6 “(A) Of the grants awarded, the actual
7 amount of funds spent by grantees.

8 “(B) The average dollar amount of grants
9 awarded.

10 “(C) The average duration of grants
11 awarded.

12 “(D) The percentage of students served
13 who are receiving benefits under chapter 2.

14 “(E) The percentage and number of stu-
15 dents who are receiving benefits under chapter
16 2 who obtained a degree and the average dura-
17 tion of the participation of such students in
18 training under section 236.

19 “(F) The number of students receiving
20 benefits under chapter 2 who did not complete
21 a degree and the average duration of the par-
22 ticipation of such students in training under
23 section 236.”.

24 (2) EFFECTIVE DATE.—The amendments made
25 by paragraph (1) shall—

1 (A) take effect on October 1, 2011; and

2 (B) apply with respect to reports sub-
3 mitted under section 278(e) of the Trade Act of
4 1974 (19 U.S.C. 2372(e)) on or after October
5 1, 2012.

6 (c) CLERICAL AMENDMENT.—The table of contents
7 for the Trade Act of 1974 is amended by striking the
8 items relating to chapter 4 of title II and inserting the
9 following:

“CHAPTER 4—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

“Sec. 271. Community College and Career Training Grant Program.

“Sec. 272. Authorization of appropriations.”.

10 **SEC. 533. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.**

11 (a) ANNUAL REPORT.—

12 (1) IN GENERAL.—Section 293(d) of the Trade
13 Act of 1974 (19 U.S.C. 2401(b)) is amended to read
14 as follows:

15 “(d) ANNUAL REPORT.—Not later than January 30
16 of each year, the Secretary shall submit to the Committee
17 on Finance of the Senate and the Committee on Ways and
18 Means of the House of Representatives a report con-
19 taining the following information with respect to the trade
20 adjustment assistance for farmers program under this
21 chapter during the preceding fiscal year:

22 “(1) A list of the agricultural commodities cov-
23 ered by a certification under this chapter.

1 “(2) The States or regions in which agricultural
2 commodities are produced and the aggregate amount
3 of such commodities produced in each such State or
4 region.

5 “(3) The number of petitions filed.

6 “(4) The number of petitions certified and de-
7 nied by the Secretary.

8 “(5) The average time for processing petitions.

9 “(6) The number of petitions filed and agricul-
10 tural commodity producers approved for each con-
11 gressional district of the United States.

12 “(7) Of the number of producers approved, the
13 number of agricultural commodity producers that
14 entered the program and received benefits.

15 “(8) The number of agricultural commodity
16 producers that completed initial technical assistance.

17 “(9) The number of agricultural commodity
18 producers that completed intensive technical assist-
19 ance.

20 “(10) The number of initial business plans ap-
21 proved and denied by the Secretary.

22 “(11) The number of long-term business plans
23 approved and denied by the Secretary.

24 “(12) The total number of agricultural com-
25 modity producers, by congressional district, receiving

1 initial technical assistance and intensive technical
2 assistance, respectively, under this chapter.

3 “(13) The types of initial technical assistance
4 received by agricultural commodity producers par-
5 ticipating in the program.

6 “(14) The types of intensive technical assist-
7 ance received by agricultural commodity producers
8 participating in the program.

9 “(15) The number of agricultural commodity
10 producers leaving the program before completing the
11 projects in their long-term business plans and the
12 reason those projects were not completed.

13 “(16) The total number of agricultural com-
14 modity producers, by congressional district, receiving
15 benefits under this chapter.

16 “(17) The average duration of benefits received
17 under this chapter.

18 “(18) The number of agricultural commodity
19 producers in operation as of the date of the report
20 and the number of agricultural commodity producers
21 that ceased operations after completing the program
22 and in the 1-year period following completion of the
23 program.

24 “(19) The number of agricultural commodity
25 producers that report that such producers received

1 benefits under a prior certification issued under this
2 chapter in any of the 10 fiscal years preceding the
3 date of the report.”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by paragraph (1) shall—

6 (A) take effect on October 1, 2011; and

7 (B) apply with respect to reports sub-
8 mitted under section 293(d) of the Trade Act
9 of 1974 (19 U.S.C. 2401b(d)) on or after Octo-
10 ber 1, 2012.

11 (b) EXTENSION.—Section 298(a) of the Trade Act of
12 1974 (19 U.S.C. 2401g(a)) is amended—

13 (1) by striking “and there are appropriated”;
14 and

15 (2) by striking “not to exceed” and all that fol-
16 lows through “February 12, 2011” and inserting
17 “not to exceed \$90,000,000 for each of the fiscal
18 years 2012 and 2013, and \$22,500,000 for the 3-
19 month period beginning on October 1, 2013, and
20 ending on December 31, 2013”.

21 **PART IV—GENERAL PROVISIONS**

22 **SEC. 541. APPLICABILITY OF TRADE ADJUSTMENT ASSIST-**
23 **ANCE PROVISIONS.**

24 (a) TRADE ADJUSTMENT ASSISTANCE FOR WORK-
25 ERS.—

1 (1) PETITIONS FILED ON OR AFTER FEBRUARY
2 13, 2011, AND BEFORE DATE OF ENACTMENT.—

3 (A) CERTIFICATIONS OF WORKERS NOT
4 CERTIFIED BEFORE DATE OF ENACTMENT.—

5 (i) CRITERIA IF A DETERMINATION
6 HAS NOT BEEN MADE.—If, as of the date
7 of the enactment of this Act, the Secretary
8 of Labor has not made a determination
9 with respect to whether to certify a group
10 of workers as eligible to apply for adjust-
11 ment assistance under section 222 of the
12 Trade Act of 1974 pursuant to a petition
13 described in clause (iii), the Secretary shall
14 make that determination based on the re-
15 quirements of section 222 of the Trade Act
16 of 1974, as in effect on such date of enact-
17 ment.

18 (ii) RECONSIDERATION OF DENIALS
19 OF CERTIFICATIONS.—If, before the date
20 of the enactment of this Act, the Secretary
21 made a determination not to certify a
22 group of workers as eligible to apply for
23 adjustment assistance under section 222 of
24 the Trade Act of 1974 pursuant to a peti-

tion described in clause (iii), the Secretary shall—

(I) reconsider that determination;

and

(II) if the group of workers meets the requirements of section 222 of the Trade Act of 1974, as in effect on such date of enactment, certify the group of workers as eligible to apply for adjustment assistance.

(iii) PETITION DESCRIBED.—A petition described in this clause is a petition for a certification of eligibility for a group of workers filed under section 221 of the Trade Act of 1974 on or after February 13, 2011, and before the date of the enactment of this Act.

(B) ELIGIBILITY FOR BENEFITS.—

(i) IN GENERAL.—Except as provided in clause (ii), a worker certified as eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974 pursuant to a petition described in subparagraph (A)(iii) shall be eligible, on and after the date that is 60 days after the date of

1 the enactment of this Act, to receive bene-
2 fits only under the provisions of chapter 2
3 of title II of the Trade Act of 1974, as in
4 effect on such date of enactment.

5 (ii) ELECTION FOR WORKERS RECEIV-
6 ING BENEFITS ON THE 60TH DAY AFTER
7 ENACTMENT.—

8 (I) IN GENERAL.—A worker cer-
9 tified as eligible to apply for adjust-
10 ment assistance under section 222 of
11 the Trade Act of 1974 pursuant to a
12 petition described in subparagraph
13 (A)(iii) who is receiving benefits under
14 chapter 2 of title II of the Trade Act
15 of 1974 as of the date that is 60 days
16 after the date of the enactment of this
17 Act may make a one-time election, not
18 later than the date that is 150 days
19 after such date of enactment, to re-
20 ceive benefits pursuant to—

21 (aa) the provisions of chap-
22 ter 2 of title II of the Trade Act
23 of 1974, as in effect on such date
24 of enactment; or

1 (bb) the provisions of chap-
2 ter 2 of title II of the Trade Act
3 of 1974, as in effect on February
4 13, 2011.

5 (II) EFFECT OF FAILURE TO
6 MAKE ELECTION.—A worker described
7 in subclause (I) who does not make
8 the election described in that sub-
9 clause on or before the date that is
10 150 days after the date of the enact-
11 ment of this Act shall be eligible to re-
12 ceive benefits only under the provi-
13 sions of chapter 2 of title II of the
14 Trade Act of 1974, as in effect on
15 February 13, 2011.

16 (III) COMPUTATION OF MAXIMUM
17 BENEFITS.—Benefits received by a
18 worker under chapter 2 of title II of
19 the Trade Act of 1974, as in effect on
20 February 13, 2011, before the worker
21 makes the election described in sub-
22 clause (I) shall be included in any de-
23 termination of the maximum benefits
24 for which the worker is eligible under
25 the provisions of chapter 2 of title II

1 of the Trade Act of 1974, as in effect
2 on the date of the enactment of this
3 Act, or as in effect on February 13,
4 2011, whichever is applicable after the
5 election of the worker under subclause
6 (I).

7 (2) PETITIONS FILED BEFORE FEBRUARY 13,
8 2011.—A worker certified as eligible to apply for
9 trade adjustment assistance pursuant to a petition
10 filed under section 221 of the Trade Act of 1974—

11 (A) on or after May 18, 2009, and on or
12 before February 12, 2011, shall continue to be
13 eligible to apply for and receive benefits under
14 the provisions of chapter 2 of title II of such
15 Act, as in effect on February 12, 2011; or

16 (B) before May 18, 2009, shall continue to
17 be eligible to apply for and receive benefits
18 under the provisions of chapter 2 of title II of
19 such Act, as in effect on May 17, 2009.

20 (3) QUALIFYING SEPARATIONS WITH RESPECT
21 TO PETITIONS FILED WITHIN 90 DAYS OF DATE OF
22 ENACTMENT.—With respect to the certification of a
23 group of workers as eligible to apply for adjustment
24 assistance pursuant to a petition filed under section
25 221 of the Trade Act of 1974 on or after the date

1 of the enactment of this Act and on or before the
2 date that is 90 days after such date of enactment,
3 section 223(b) of the Trade Act of 1974, as in effect
4 on such date of enactment, shall be applied and ad-
5 ministered by substituting “before February 13,
6 2010” for “more than one year before the date of
7 the petition on which such certification was grant-
8 ed”.

9 (b) TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.—

10 (1) CERTIFICATION OF FIRMS NOT CERTIFIED
11 BEFORE DATE OF ENACTMENT.—

12 (A) CRITERIA IF A DETERMINATION HAS
13 NOT BEEN MADE.—If, as of the date of the en-
14 actment of this Act, the Secretary of Commerce
15 has not made a determination with respect to
16 whether to certify a firm as eligible to apply for
17 adjustment assistance under section 251 of the
18 Trade Act of 1974 pursuant to a petition de-
19 scribed in subparagraph (C), the Secretary shall
20 make that determination based on the require-
21 ments of section 251 of the Trade Act of 1974,
22 as in effect on such date of enactment.

23 (B) RECONSIDERATION OF DENIAL OF
24 CERTAIN PETITIONS.—If, before the date of the
25 enactment of this Act, the Secretary made a de-

1 termination not to certify a firm as eligible to
2 apply for adjustment assistance under section
3 251 of the Trade Act of 1974 pursuant to a pe-
4 tition described in subparagraph (C), the Sec-
5 retary shall—

6 (i) reconsider that determination; and

7 (ii) if the firm meets the requirements
8 of section 251 of the Trade Act of 1974,
9 as in effect on such date of enactment, cer-
10 tify the firm as eligible to apply for adjust-
11 ment assistance.

12 (C) PETITION DESCRIBED.—A petition de-
13 scribed in this subparagraph is a petition for a
14 certification of eligibility filed by a firm or its
15 representative under section 251 of the Trade
16 Act of 1974 on or after February 13, 2011, and
17 before the date of the enactment of this Act.

18 (2) CERTIFICATION OF FIRMS THAT DID NOT
19 SUBMIT PETITIONS BETWEEN FEBRUARY 13, 2011,
20 AND DATE OF ENACTMENT.—The Secretary of Com-
21 merce shall certify a firm as eligible to apply for ad-
22 justment assistance under section 251 of the Trade
23 Act of 1974, as in effect on the date of the enact-
24 ment of this Act, if—

1 (A) the Secretary determines that the firm
2 would have been certified as eligible to apply for
3 adjustment assistance if—

4 (i) the firm or its representative had
5 filed a petition for a certification of eligi-
6 bility under section 251 of the Trade Act
7 of 1974 on a date during the period begin-
8 ning on February 13, 2011, and ending on
9 the day before the date of the enactment
10 of this Act; and

11 (ii) the provisions of chapter 3 of title
12 II of the Trade Act of 1974, as in effect
13 on such date of enactment, had been in ef-
14 fect during the period described in clause
15 (i); and

16 (B) not later than 90 days after such date
17 of enactment, the firm or its representative files
18 a petition for a certification of eligibility under
19 section 251 of the Trade Act of 1974.

20 **SEC. 542. TERMINATION PROVISIONS.**

21 Section 285 of the Trade Act of 1974 (19 U.S.C.
22 2271 note) is amended—

23 (1) by striking “February 12, 2011” each place
24 it appears and inserting “December 31, 2013”;

25 (2) in subsection (a)(2)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “that chapter” and all that fol-
3 lows through “the worker is—” and inserting
4 “that chapter if the worker is—”; and

5 (B) in subparagraph (A), by striking “peti-
6 tions” and inserting “a petition”; and

7 (3) in subsection (b)—

8 (A) in paragraph (1)(B), in the matter
9 preceding clause (i), by inserting “pursuant to
10 a petition filed under section 251” after “chap-
11 ter 3”;

12 (B) in paragraph (2)(B), in the matter
13 preceding clause (i), by inserting “pursuant to
14 a petition filed under section 292” after “chap-
15 ter 6”; and

16 (C) by striking paragraph (3).

17 **SEC. 543. SUNSET PROVISIONS.**

18 (a) APPLICATION OF PRIOR LAW.—Subject to sub-
19 section (b), beginning on January 1, 2014, the provisions
20 of chapters 2, 3, 5, and 6 of title II of the Trade Act
21 of 1974 (19 U.S.C. 2271 et seq.), as in effect on February
22 13, 2011, shall apply, except that in applying and admin-
23 istering such chapters—

24 (1) paragraph (1) of section 231(c) of that Act
25 shall be applied and administered as if subpara-

1 graphs (A), (B), and (C) of that paragraph were not
2 in effect;

3 (2) section 233 of that Act shall be applied and
4 administered—

5 (A) in subsection (a)(2), by substituting
6 “104-week period” for “104-week period” and
7 all that follows through “130-week period”;
8 and

9 (B) by applying and administering sub-
10 section (g) as if it read as follows:

11 “(g) PAYMENT OF TRADE READJUSTMENT ALLOW-
12 ANCES TO COMPLETE TRAINING.—Notwithstanding any
13 other provision of this section, in order to assist an ad-
14 versely affected worker to complete training approved for
15 the worker under section 236 that leads to the completion
16 of a degree or industry-recognized credential, payments
17 may be made as trade readjustment allowances for not
18 more than 13 weeks within such period of eligibility as
19 the Secretary may prescribe to account for a break in
20 training or for justifiable cause that follows the last week
21 for which the worker is otherwise entitled to a trade read-
22 justment allowance under this chapter if—

23 “(1) payment of the trade readjustment allow-
24 ance for not more than 13 weeks is necessary for the
25 worker to complete the training;

1 “(2) the worker participates in training in each
2 such week; and

3 “(3) the worker—

4 “(A) has substantially met the perform-
5 ance benchmarks established as part of the
6 training approved for the worker;

7 “(B) is expected to continue to make
8 progress toward the completion of the training;
9 and

10 “(C) will complete the training during that
11 period of eligibility.”;

12 (3) section 245 of that Act shall be applied and
13 administered by substituting “2014” for “2007”;

14 (4) section 246(b)(1) of that Act shall be ap-
15 plied and administered by substituting “December
16 31, 2014” for “the date that is 5 years” and all that
17 follows through “State”;

18 (5) section 256(b) of that Act shall be applied
19 and administered by substituting “the 1-year period
20 beginning on January 1, 2014” for “each of fiscal
21 years 2003 through 2007, and \$4,000,000 for the 3-
22 month period beginning on October 1, 2007”;

23 (6) section 298(a) of that Act shall be applied
24 and administered by substituting “the 1-year period
25 beginning on January 1, 2014” for “each of the fis-

1 cal years” and all that follows through “October 1,
2 2007”; and

3 (7) section 285 of that Act shall be applied and
4 administered—

5 (A) in subsection (a), by substituting
6 “2014” for “2007” each place it appears; and

7 (B) by applying and administering sub-
8 section (b) as if it read as follows:

9 “(b) OTHER ASSISTANCE.—

10 “(1) ASSISTANCE FOR FIRMS.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), assistance may not be pro-
13 vided under chapter 3 after December 31,
14 2014.

15 “(B) EXCEPTION.—Notwithstanding sub-
16 paragraph (A), any assistance approved under
17 chapter 3 on or before December 31, 2014, may
18 be provided—

19 “(i) to the extent funds are available
20 pursuant to such chapter for such purpose;
21 and

22 “(ii) to the extent the recipient of the
23 assistance is otherwise eligible to receive
24 such assistance.

25 “(2) FARMERS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), assistance may not be pro-
3 vided under chapter 6 after December 31,
4 2014.

5 “(B) EXCEPTION.—Notwithstanding sub-
6 paragraph (A), any assistance approved under
7 chapter 6 on or before December 31, 2014, may
8 be provided—

9 “(i) to the extent funds are available
10 pursuant to such chapter for such purpose;
11 and

12 “(ii) to the extent the recipient of the
13 assistance is otherwise eligible to receive
14 such assistance.”.

15 (b) EXCEPTIONS.—The provisions of chapters 2, 3,
16 5, and 6 of title II of the Trade Act of 1974, as in effect
17 on the date of the enactment of this Act, shall continue
18 to apply on and after January 1, 2014, with respect to—

19 (1) workers certified as eligible for trade adjust-
20 ment assistance benefits under chapter 2 of title II
21 of that Act pursuant to petitions filed under section
22 221 of that Act before January 1, 2014;

23 (2) firms certified as eligible for technical as-
24 sistance or grants under chapter 3 of title II of that

1 Act pursuant to petitions filed under section 251 of
2 that Act before January 1, 2014; and

3 (3) agricultural commodity producers certified
4 as eligible for technical or financial assistance under
5 chapter 6 of title II of that Act pursuant to petitions
6 filed under section 292 of that Act before January
7 1, 2014.

8 **Subtitle B—Health Coverage**
9 **Improvement**

10 **SEC. 551. HEALTH CARE TAX CREDIT.**

11 (a) TERMINATION OF CREDIT.—Subparagraph (B) of
12 section 35(b)(1) of the Internal Revenue Code of 1986 is
13 amended by inserting “, and before January 1, 2014” be-
14 fore the period.

15 (b) EXTENSION THROUGH CREDIT TERMINATION
16 DATE OF CERTAIN EXPIRED CREDIT PROVISIONS.—

17 (1) PARTIAL EXTENSION OF INCREASED CRED-
18 IT RATE.—Section 35(a) of such Code is amended
19 by striking “65 percent (80 percent in the case of
20 eligible coverage months beginning before February
21 13, 2011)” and inserting “72.5 percent”.

22 (2) EXTENSION OF ADVANCE PAYMENT PROVI-
23 SIONS.—

24 (A) Section 7527(b) of such Code is
25 amended by striking “65 percent (80 percent in

1 the case of eligible coverage months beginning
2 before February 13, 2011)” and inserting
3 “72.5 percent”.

4 (B) Section 7527(d)(2) of such Code is
5 amended by striking “which is issued before
6 February 13, 2011”.

7 (C) Section 7527(e) of such Code is
8 amended by striking “80 percent” and inserting
9 “72.5 percent”.

10 (D) Section 7527(e) of such Code is
11 amended by striking “In the case of eligible
12 coverage months beginning before February 13,
13 2011—”.

14 (3) EXTENSION OF CERTAIN OTHER RELATED
15 PROVISIONS.—

16 (A) Section 35(c)(2)(B) of such Code is
17 amended by striking “and before February 13,
18 2011”.

19 (B) Section 35(e)(1)(K) of such Code is
20 amended by striking “In the case of eligible
21 coverage months beginning before February 13,
22 2012, coverage” and inserting “Coverage”.

23 (C) Section 35(g)(9) of such Code, as
24 added by section 1899E(a) of the American Re-
25 covery and Reinvestment Tax Act of 2009 (re-

1 lating to continued qualification of family mem-
2 bers after certain events), is amended by strik-
3 ing “In the case of eligible coverage months be-
4 ginning before February 13, 2011—”.

5 (D) Section 173(f)(8) of the Workforce In-
6 vestment Act of 1998 is amended by striking
7 “In the case of eligible coverage months begin-
8 ning before February 13, 2011—”.

9 (c) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to coverage months begin-
13 ning after February 12, 2011.

14 (2) ADVANCE PAYMENT PROVISIONS.—

15 (A) The amendment made by subsection
16 (b)(2)(B) shall apply to certificates issued after
17 the date which is 30 days after the date of the
18 enactment of this Act.

19 (B) The amendment made by subsection
20 (b)(2)(D) shall apply to coverage months begin-
21 ning after the date which is 30 days after the
22 date of the enactment of this Act.

1 **SEC. 552. TAA PRE-CERTIFICATION PERIOD RULE FOR PUR-**
2 **POSES OF DETERMINING WHETHER THERE IS**
3 **A 63-DAY LAPSE IN CREDITABLE COVERAGE.**

4 (a) IN GENERAL.—The following provisions are each
5 amended by striking “February 13, 2011” and inserting
6 “January 1, 2014”:

7 (1) Section 9801(c)(2)(D) of the Internal Rev-
8 enue Code of 1986.

9 (2) Section 701(c)(2)(C) of the Employee Re-
10 tirement Income Security Act of 1974 (29 U.S.C.
11 1181(c)(2)(C)).

12 (3) Section 2701(c)(2)(C) of the Public Health
13 Service Act (as in effect for plan years beginning be-
14 fore January 1, 2014).

15 (4) Section 2704(c)(2)(C) of the Public Health
16 Service Act (as in effect for plan years beginning on
17 or after January 1, 2014).

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to plan years beginning after
21 February 12, 2011.

22 (2) TRANSITIONAL RULES.—

23 (A) BENEFIT DETERMINATIONS.—Not-
24 withstanding the amendments made by this sec-
25 tion (and the provisions of law amended there-
26 by), a plan shall not be required to modify ben-

1 efit determinations for the period beginning on
2 February 13, 2011, and ending 30 days after
3 the date of the enactment of this Act, but a
4 plan shall not fail to be qualified health insur-
5 ance within the meaning of section 35(e) of the
6 Internal Revenue Code of 1986 during this pe-
7 riod merely due to such failure to modify ben-
8 efit determinations.

9 (B) GUIDANCE CONCERNING PERIODS BE-
10 FORE 30 DAYS AFTER ENACTMENT.—Except as
11 provided in subparagraph (A), the Secretary of
12 the Treasury (or his designee), in consultation
13 with the Secretary of Health and Human Serv-
14 ices and the Secretary of Labor, may issue reg-
15 ulations or other guidance regarding the scope
16 of the application of the amendments made by
17 this section to periods before the date which is
18 30 days after the date of the enactment of this
19 Act.

20 (C) SPECIAL RULE RELATING TO CERTAIN
21 LOSS OF COVERAGE.—In the case of a TAA-re-
22 lated loss of coverage (as defined in section
23 4980B(f)(5)(C)(iv) of the Internal Revenue
24 Code of 1986) that occurs during the period be-
25 ginning on February 13, 2011, and ending 30

1 days after the date of the enactment of this
2 Act, the 7-day period described in section
3 9801(c)(2)(D) of the Internal Revenue Code of
4 1986, section 701(c)(2)(C) of the Employee Re-
5 tirement Income Security Act of 1974, and sec-
6 tion 2701(c)(2)(C) of the Public Health Service
7 Act shall be extended until 30 days after such
8 date of enactment.

9 **SEC. 553. EXTENSION OF COBRA BENEFITS FOR CERTAIN**
10 **TAA-ELIGIBLE INDIVIDUALS AND PBGC RE-**
11 **CIPIENTS.**

12 (a) IN GENERAL.—The following provisions are each
13 amended by striking “February 12, 2011” and inserting
14 “January 1, 2014”:

15 (1) Section 602(2)(A)(v) of the Employee Re-
16 tirement Income Security Act of 1974 (29 U.S.C.
17 1162(2)(A)(v)).

18 (2) Section 602(2)(A)(vi) of such Act (29
19 U.S.C. 1162(2)(A)(vi)).

20 (3) Section 4980B(f)(2)(B)(i)(V) of the Inter-
21 nal Revenue Code of 1986.

22 (4) Section 4980B(f)(2)(B)(i)(VI) of such
23 Code.

24 (5) Section 2202(2)(A)(iv) of the Public Health
25 Service Act (42 U.S.C. 300bb–2(2)(A)(iv)).

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to periods of coverage which would
3 (without regard to the amendments made by this section)
4 end on or after the date which is 30 days after the date
5 of the enactment of this Act.

6 **Subtitle C—Offsets**

7 **PART I—UNEMPLOYMENT COMPENSATION**

8 **PROGRAM INTEGRITY**

9 **SEC. 561. MANDATORY PENALTY ASSESSMENT ON FRAUD** 10 **CLAIMS.**

11 (a) IN GENERAL.—Section 303(a) of the Social Secu-
12 rity Act (42 U.S.C. 503(a)) is amended—

13 (1) in paragraph (10), by striking the period at
14 the end of subparagraph (B) and inserting “; and”;
15 and

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

18 “(11)(A) At the time the State agency deter-
19 mines an erroneous payment from its unemployment
20 fund was made to an individual due to fraud com-
21 mitted by such individual, the assessment of a pen-
22 alty on the individual in an amount of not less than
23 15 percent of the amount of the erroneous payment;
24 and

1 “(B) The immediate deposit of all assessments
2 paid pursuant to subparagraph (A) into the unem-
3 ployment fund of the State.”.

4 (b) APPLICATION TO FEDERAL PAYMENTS.—

5 (1) IN GENERAL.—As a condition for admin-
6 istering any unemployment compensation program of
7 the United States (as defined in paragraph (2)) as
8 an agent of the United States, if the State deter-
9 mines that an erroneous payment was made by the
10 State to an individual under any such program due
11 to fraud committed by such individual, the State
12 shall assess a penalty on such individual and deposit
13 any such penalty received in the same manner as the
14 State assesses and deposits such penalties under
15 provisions of State law implementing section
16 303(a)(11) of the Social Security Act, as added by
17 subsection (a).

18 (2) DEFINITION.—For purposes of this sub-
19 section, the term “unemployment compensation pro-
20 gram of the United States” means—

21 (A) unemployment compensation for Fed-
22 eral civilian employees under subchapter I of
23 chapter 85 of title 5, United States Code;

1 (B) unemployment compensation for ex-
2 servicemembers under subchapter II of chapter
3 85 of title 5, United States Code;

4 (C) trade readjustment allowances under
5 sections 231 through 234 of the Trade Act of
6 1974 (19 U.S.C. 2291–2294);

7 (D) disaster unemployment assistance
8 under section 410(a) of the Robert T. Stafford
9 Disaster Relief and Emergency Assistance Act
10 (42 U.S.C. 5177(a));

11 (E) any Federal temporary extension of
12 unemployment compensation;

13 (F) any Federal program which increases
14 the weekly amount of unemployment compensa-
15 tion payable to individuals; and

16 (G) any other Federal program providing
17 for the payment of unemployment compensa-
18 tion.

19 (c) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to erroneous payments established after
23 the end of the 2-year period beginning on the date
24 of the enactment of this Act.

1 (2) **AUTHORITY.**—A State may amend its State
2 law to apply such amendments to erroneous pay-
3 ments established prior to the end of the period de-
4 scribed in paragraph (1).

5 **SEC. 562. PROHIBITION ON NONCHARGING DUE TO EM-**
6 **PLOYER FAULT.**

7 (a) **IN GENERAL.**—Section 3303 of the Internal Rev-
8 enue Code is amended—

9 (1) by striking subsections (f) and (g); and

10 (2) by inserting after subsection (e) the fol-
11 lowing new subsection:

12 “(f) **PROHIBITION ON NONCHARGING DUE TO EM-**
13 **PLOYER FAULT.**—

14 “(1) **IN GENERAL.**—A State law shall be treat-
15 ed as meeting the requirements of subsection (a)(1)
16 only if such law provides that an employer’s account
17 shall not be relieved of charges relating to a pay-
18 ment from the State unemployment fund if the State
19 agency determines that—

20 “(A) the payment was made because the
21 employer, or an agent of the employer, was at
22 fault for failing to respond timely or adequately
23 to the request of the agency for information re-
24 lating to the claim for compensation; and

1 “(B) the employer or agent has established
2 a pattern of failing to respond timely or ade-
3 quately to such requests.

4 “(2) STATE AUTHORITY TO IMPOSE STRICTER
5 STANDARDS.—Nothing in paragraph (1) shall limit
6 the authority of a State to provide that an employ-
7 er’s account not be relieved of charges relating to a
8 payment from the State unemployment fund for rea-
9 sons other than the reasons described in subpara-
10 graphs (A) and (B) of such paragraph, such as after
11 the first instance of a failure to respond timely or
12 adequately to requests described in paragraph
13 (1)(A).”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to erroneous payments established after
18 the end of the 2-year period beginning on the date
19 of the enactment of this Act.

20 (2) AUTHORITY.—A State may amend its State
21 law to apply such amendments to erroneous pay-
22 ments established prior to the end of the period de-
23 scribed in paragraph (1).

1 **SEC. 563. REPORTING OF REHIRED EMPLOYEES TO THE DI-**
2 **RECTORY OF NEW HIRES.**

3 (a) DEFINITION OF NEWLY HIRED EMPLOYEE.—
4 Section 453A(a)(2) of the Social Security Act (42 U.S.C.
5 653a(a)(2)) is amended by adding at the end the fol-
6 lowing:

7 “(C) NEWLY HIRED EMPLOYEE.—The
8 term ‘newly hired employee’ means an employee
9 who—

10 “(i) has not previously been employed
11 by the employer; or

12 “(ii) was previously employed by the
13 employer but has been separated from
14 such prior employment for at least 60 con-
15 secutive days.”.

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 the amendments made by this section shall take ef-
19 fect 6 months after the date of the enactment of this
20 Act.

21 (2) COMPLIANCE TRANSITION PERIOD.—If the
22 Secretary of Health and Human Services determines
23 that State legislation (other than legislation appro-
24 priating funds) is required in order for a State plan
25 under part D of title IV of the Social Security Act
26 to meet the additional requirement imposed by the

1 amendment made by subsection (a), the plan shall
2 not be regarded as failing to meet such requirement
3 before the first day of the second calendar quarter
4 beginning after the close of the first regular session
5 of the State legislature that begins after the effective
6 date of such amendment. If the State has a 2-year
7 legislative session, each year of the session is deemed
8 to be a separate regular session of the State legisla-
9 ture.

10 **PART II—ADDITIONAL OFFSETS**

11 **SEC. 571. ADJUSTMENT OF EQUIPMENT UTILIZATION RATE**
12 **FOR ADVANCED IMAGING SERVICES.**

13 (a) IN GENERAL.—Section 1848 of the Social Secu-
14 rity Act (42 U.S.C. 1395w-4) is amended—

15 (1) in subsection (b)(4)(C)—

16 (A) by striking “and subsequent years”
17 after “2011”; and

18 (B) by inserting at the end before the pe-
19 riod the following: “; and with respect to fee
20 schedules established for 2012 and subsequent
21 years, in such methodology, the Secretary shall
22 use the utilization rates otherwise established in
23 such final rule”; and

1 (2) in subsection (c)(2)(B)(v)(III), by inserting
2 “and the utilization rates applicable to 2012 and
3 subsequent years” after “applicable to 2011”.

4 (b) CMS ANALYSIS.—Section 3135(c) of Public Law
5 111–148 is amended—

6 (1) by inserting “and section 571 of the Trade
7 Adjustment Assistance Extension Act of 2011” after
8 “this section”; and

9 (2) by striking “\$3,000,000,000” and inserting
10 “\$4,000,000,000”.

11 **SEC. 572. INCREASE IN PENALTY ON PAID PREPARERS WHO**
12 **FAIL TO COMPLY WITH EARNED INCOME TAX**
13 **CREDIT DUE DILIGENCE REQUIREMENTS.**

14 (a) IN GENERAL.—Section 6695(g) of the Internal
15 Revenue Code of 1986 is amended by striking “\$100” and
16 inserting “\$500”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to returns required to be filed after
19 December 31, 2011.

20 **SEC. 573. REQUIREMENT FOR PRISONS LOCATED IN THE**
21 **UNITED STATES TO PROVIDE INFORMATION**
22 **FOR TAX ADMINISTRATION.**

23 (a) IN GENERAL.—Subchapter B of chapter 61 of the
24 Internal Revenue Code of 1986 is amended by redesign-

1 nating section 6116 as section 6117 and by inserting after
2 section 6115 the following new section:

3 **“SEC. 6116. REQUIREMENT FOR PRISONS LOCATED IN**
4 **UNITED STATES TO PROVIDE INFORMATION**
5 **FOR TAX ADMINISTRATION.**

6 “(a) IN GENERAL.—Not later than September 15,
7 2011, and annually thereafter, the head of the Federal
8 Bureau of Prisons and the head of any State agency
9 charged with the responsibility for administration of pris-
10 ons shall provide to the Secretary in electronic format a
11 list with the information described in subsection (b) of all
12 the inmates incarcerated within the prison system for any
13 part of the prior 2 calendar years or the current calendar
14 year through August 31.

15 “(b) INFORMATION.—The information with respect
16 to each inmate is—

17 “(1) first, middle, and last name,

18 “(2) date of birth,

19 “(3) institution of current incarceration or, for
20 released inmates, most recent incarceration,

21 “(4) prison assigned inmate number,

22 “(5) the date of incarceration,

23 “(6) the date of release or anticipated date of
24 release,

25 “(7) the date of work release,

1 “(8) taxpayer identification number and wheth-
2 er the prison has verified such number,

3 “(9) last known address, and

4 “(10) any additional information as the Sec-
5 retary may request.

6 “(c) **FORMAT.**—The Secretary shall determine the
7 electronic format of the information described in sub-
8 section (b).”.

9 (b) **CLERICAL AMENDMENT.**—The table of sections
10 for such subchapter is amended by striking the item relat-
11 ing to section 6116 and by adding at the end the following
12 new items:

“Sec. 6116. Requirement for prisons located in United States to provide infor-
mation for tax administration.

“Sec. 6117. Cross reference.”.

13 **TITLE VI—OFFSETS**

14 **SEC. 601. MERCHANDISE PROCESSING FEES.**

15 (a) **IN GENERAL.**—Section 13031(a)(9) of the Con-
16 solidated Omnibus Budget Reconciliation Act of 1985 (19
17 U.S.C. 58c(a)(9)) is amended—

18 (1) in subparagraph (A), by striking “0.21”
19 and inserting “0.329”; and

20 (2) in subparagraph (B)(i), by striking “0.21”
21 and inserting “0.329”.

22 (b) **EFFECTIVE DATE.**—This section and the amend-
23 ments made by this section shall apply to processing of

1 merchandise on or after the date that is 15 days after
2 the date of the enactment of this Act.

3 **SEC. 602. EXTENSION OF CUSTOMS USER FEES.**

4 (a) IN GENERAL.—Section 13031(j)(3)(A) of the
5 Consolidated Omnibus Budget Reconciliation Act of 1985
6 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “January
7 7, 2020” and inserting “December 31, 2020”.

8 (b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the
9 Consolidated Omnibus Budget Reconciliation Act of 1985
10 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking “Janu-
11 ary 14, 2020” and inserting “November 10, 2020”.