

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
4 “Hiring Incentives to Restore Employment Act”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
6 wise expressly provided, whenever in this Act an amend-  
7 ment or repeal is expressed in terms of an amendment  
8 to, or repeal of, a section or other provision, the reference  
9 shall be considered to be made to a section or other provi-  
10 sion of the Internal Revenue Code of 1986.

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

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

**TITLE I—INCENTIVES FOR HIRING AND RETAINING  
UNEMPLOYED WORKERS**

Sec. 101. Payroll tax forgiveness for hiring unemployed workers.

Sec. 102. Business credit for retention of certain newly hired individuals in  
2010.

**TITLE II—EXPENSING**

Sec. 201. Increase in expensing of certain depreciable business assets.

**TITLE III—QUALIFIED TAX CREDIT BONDS**

Sec. 301. Issuer allowed refundable credit for certain qualified tax credit bonds.

**TITLE IV—EXTENSION OF CURRENT SURFACE TRANSPORTATION  
PROGRAMS**

Sec. 401. Short title.

**Subtitle A—Federal-aid Highways**

Sec. 411. In general.

Sec. 412. Administrative expenses.

Sec. 413. Rescission of unobligated balances.

Sec. 414. Reconciliation of funds.

## 2

## Subtitle B—National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs

- Sec. 421. Extension of National Highway Traffic Safety Administration Highway Safety Programs.
- Sec. 422. Extension of Federal Motor Carrier Safety Administration Programs.
- Sec. 423. Additional programs.

## Subtitle C—Public Transportation Programs

- Sec. 431. Allocation of funds for planning programs.
- Sec. 432. Special rule for urbanized area formula grants.
- Sec. 433. Allocating amounts for capital investment grants.
- Sec. 434. Apportionment of formula grants for other than urbanized areas.
- Sec. 435. Apportionment based on fixed guideway factors.
- Sec. 436. Authorizations for public transportation.
- Sec. 437. Amendments to SAFETEA-LU.

## Subtitle D—Revenue Provisions

- Sec. 441. Repeal of provision prohibiting the crediting of interest to the Highway Trust Fund.
- Sec. 442. Restoration of certain foregone interest to Highway Trust Fund.
- Sec. 443. Treatment of certain amounts appropriated to Highway Trust Fund.
- Sec. 444. Termination of transfers from highway trust fund for certain repayments and credits.
- Sec. 445. Extension of authority for expenditures.
- Sec. 446. Level of obligation limitations.

## TITLE V—EXTENSION OF EXPIRING PROVISIONS

## Subtitle A—Energy

- Sec. 501. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.
- Sec. 502. Incentives for biodiesel and renewable diesel.
- Sec. 503. Credit for electricity produced at certain open-loop biomass facilities.
- Sec. 504. Credit for refined coal facilities.
- Sec. 505. Credit for production of low sulfur diesel fuel.
- Sec. 506. Credit for producing fuel from coke or coke gas.
- Sec. 507. New energy efficient home credit.
- Sec. 508. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
- Sec. 509. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 510. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

## Subtitle B—Individual Tax Relief

## PART I—MISCELLANEOUS PROVISIONS

- Sec. 511. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 512. Additional standard deduction for State and local real property taxes.
- Sec. 513. Deduction of State and local sales taxes.
- Sec. 514. Contributions of capital gain real property made for conservation purposes.

## 3

- Sec. 515. Above-the-line deduction for qualified tuition and related expenses.
- Sec. 516. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 517. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

## PART II—LOW-INCOME HOUSING CREDITS

- Sec. 521. Election for refundable low-income housing credit for 2010.

## Subtitle C—Business Tax Relief

- Sec. 531. Research credit.
- Sec. 532. Indian employment tax credit.
- Sec. 533. New markets tax credit.
- Sec. 534. Railroad track maintenance credit.
- Sec. 535. Mine rescue team training credit.
- Sec. 536. Employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 537. 5-year depreciation for farming business machinery and equipment.
- Sec. 538. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 539. 7-year recovery period for motorsports entertainment complexes.
- Sec. 540. Accelerated depreciation for business property on an Indian reservation.
- Sec. 541. Enhanced charitable deduction for contributions of food inventory.
- Sec. 542. Enhanced charitable deduction for contributions of book inventories to public schools.
- Sec. 543. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
- Sec. 544. Election to expense mine safety equipment.
- Sec. 545. Special expensing rules for certain film and television productions.
- Sec. 546. Expensing of environmental remediation costs.
- Sec. 547. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 548. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 549. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
- Sec. 550. Timber REIT modernization.
- Sec. 551. Treatment of certain dividends and assets of regulated investment companies.
- Sec. 552. RIC qualified investment entity treatment under FIRPTA.
- Sec. 553. Exceptions for active financing income.
- Sec. 554. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 555. Temporary reduction in corporate rate for qualified timber gain.
- Sec. 556. Basis adjustment to stock of S corps making charitable contributions of property.
- Sec. 557. Empowerment zone tax incentives.
- Sec. 558. Tax incentives for investment in the District of Columbia.
- Sec. 559. Renewal community tax incentives.
- Sec. 560. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 561. American Samoa economic development credit.

## 4

## Subtitle D—Temporary Disaster Relief Provisions

## PART I—NATIONAL DISASTER RELIEF

- Sec. 571. Waiver of certain mortgage revenue bond requirements.
- Sec. 572. Losses attributable to federally declared disasters.
- Sec. 573. Special depreciation allowance for qualified disaster property.
- Sec. 574. Net operating losses attributable to federally declared disasters.
- Sec. 575. Expensing of qualified disaster expenses.

## PART II—REGIONAL PROVISIONS

## SUBPART A—NEW YORK LIBERTY ZONE

- Sec. 581. Special depreciation allowance for nonresidential and residential real property.
- Sec. 582. Tax-exempt bond financing.

## SUBPART B—GO ZONE

- Sec. 583. Special depreciation allowance.
- Sec. 584. Increase in rehabilitation credit.

## SUBPART C—MIDWESTERN DISASTER AREAS

- Sec. 585. Special rules for use of retirement funds.
- Sec. 586. Exclusion of cancellation of mortgage indebtedness.

## TITLE VI—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

## Subtitle A—Unemployment Insurance

- Sec. 601. Extension of unemployment insurance provisions.

## Subtitle B—Health Provisions

- Sec. 611. Extension and improvement of premium assistance for COBRA benefits.
- Sec. 612. Increase in the Medicare physician payment update.
- Sec. 613. Extension of therapy caps exceptions process.
- Sec. 614. Treatment of pharmacies under durable medical equipment accreditation requirements.
- Sec. 615. Enhanced payment for mental health services.
- Sec. 616. Extension of ambulance add-ons.
- Sec. 617. Extension of geographic floor for work.
- Sec. 618. Extension of payment for technical component of certain physician pathology services.
- Sec. 619. Extension of outpatient hold harmless provision.
- Sec. 620. EHR Clarification.
- Sec. 621. Extension of reimbursement for all Medicare part B services furnished by certain indian hospitals and clinics.
- Sec. 622. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.
- Sec. 623. Extension of the Medicare rural hospital flexibility program.
- Sec. 624. Extension of section 508 hospital reclassifications.
- Sec. 625. Technical correction related to critical access hospital services.

## 5

- Sec. 626. Extension for specialized MA plans for special needs individuals.
- Sec. 627. Extension of reasonable cost contracts.
- Sec. 628. Extension of particular waiver policy for employer group plans.
- Sec. 629. Extension of continuing care retirement community program.
- Sec. 630. Funding outreach and assistance for low-income programs.
- Sec. 631. Family-to-family health information centers.
- Sec. 632. Implementation funding.

## Subtitle C—Other Provisions

- Sec. 641. Extension of use of 2009 poverty guidelines.
- Sec. 642. Refunds disregarded in the administration of Federal programs and federally assisted programs.
- Sec. 643. State court improvement program.
- Sec. 644. Extension of national flood insurance program.
- Sec. 645. Extension of intelligence authority sunsets.
- Sec. 646. Emergency disaster assistance.
- Sec. 647. Small business loan guarantee enhancement extensions.

## TITLE VII—PENSION FUNDING RELIEF

## Subtitle A—Single Employer Plans

- Sec. 701. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.
- Sec. 702. Application of extended amortization period to plans subject to prior law funding rules.
- Sec. 703. Lookback for benefit accrual restriction.

## Subtitle B—Multiemployer Plans

- Sec. 711. Adjustments to funding standard account rules.

## TITLE VIII—OFFSET PROVISIONS

## Subtitle A—Foreign Account Tax Compliance

## PART I—INCREASED DISCLOSURE OF BENEFICIAL OWNERS

- Sec. 801. Reporting on certain foreign accounts.
- Sec. 802. Repeal of certain foreign exceptions to registered bond requirements.

## PART II—UNDER REPORTING WITH RESPECT TO FOREIGN ASSETS

- Sec. 811. Disclosure of information with respect to foreign financial assets.
- Sec. 812. Penalties for underpayments attributable to undisclosed foreign financial assets.
- Sec. 813. Modification of statute of limitations for significant omission of income in connection with foreign assets.

## PART III—OTHER DISCLOSURE PROVISIONS

- Sec. 821. Reporting of activities with respect to passive foreign investment companies.
- Sec. 822. Secretary permitted to require financial institutions to file certain returns related to withholding on foreign transfers electronically.

## PART IV—PROVISIONS RELATED TO FOREIGN TRUSTS

## 6

- Sec. 831. Clarifications with respect to foreign trusts which are treated as having a United States beneficiary.
- Sec. 832. Presumption that foreign trust has United States beneficiary.
- Sec. 833. Uncompensated use of trust property.
- Sec. 834. Reporting requirement of United States owners of foreign trusts.
- Sec. 835. Minimum penalty with respect to failure to report on certain foreign trusts.

PART V—SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVALENT PAYMENTS  
RECEIVED BY FOREIGN PERSONS TREATED AS DIVIDENDS

- Sec. 841. Substitute dividends and dividend equivalent payments received by foreign persons treated as dividends.

Subtitle B—Black Liquor

- Sec. 851. Exclusion of unprocessed fuels from the cellulosic biofuel producer credit.
- Sec. 852. Prohibition on alternative fuel credit and alternative fuel mixture credit for black liquor.

Subtitle C—Homebuyer Credit

- Sec. 861. Technical modifications to homebuyer credit.

Subtitle D—Economic Substance

- Sec. 871. Codification of economic substance doctrine; penalties.

Subtitle E—Additional Provisions

- Sec. 881. Revision to the Medicare Improvement Fund.

TITLE IX—SATELLITE TELEVISION EXTENSION

- Sec. 901. Short title.

Subtitle A—Statutory Licenses

- Sec. 901. Reference.
- Sec. 902. Modifications to statutory license for satellite carriers.
- Sec. 903. Modifications to statutory license for satellite carriers in local markets.
- Sec. 904. Modifications to cable system secondary transmission rights under section 111.
- Sec. 905. Certain waivers granted to providers of local-into-local service for all DMAs.
- Sec. 906. Copyright Office fees.
- Sec. 907. Termination of license.
- Sec. 908. Construction.

Subtitle B—Communications Provisions

- Sec. 921. Reference.
- Sec. 922. Extension of authority.
- Sec. 923. Significantly viewed stations.
- Sec. 924. Digital television transition conforming amendments.
- Sec. 925. Application pending completion of rulemakings.
- Sec. 926. Process for issuing qualified carrier certification.

- Sec. 927. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.
- Sec. 928. Savings clause regarding definitions.
- Sec. 929. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision

- Sec. 931. Definition.
- Sec. 932. Report on market based alternatives to statutory licensing.
- Sec. 933. Report on communications implications of statutory licensing modifications.
- Sec. 934. Report on in-state broadcast programming.
- Sec. 935. Local network channel broadcast reports.
- Sec. 936. Savings provision regarding use of negotiated licenses.

Subtitle D—Severability

- Sec. 941. Severability.

TITLE X—DETERMINATION OF BUDGETARY EFFECTS

- Sec. 1001. Determination of budgetary effects.

1 **TITLE I—INCENTIVES FOR HIR-**  
 2 **ING AND RETAINING UNEM-**  
 3 **EMPLOYED WORKERS**

4 **SEC. 101. PAYROLL TAX FORGIVENESS FOR HIRING UNEM-**  
 5 **EMPLOYED WORKERS.**

6 (a) IN GENERAL.—Section 3111 is amended by add-  
 7 ing at the end the following new subsection:

8 “(d) SPECIAL EXEMPTION FOR CERTAIN INDIVID-  
 9 UALS HIRED IN 2010.—

10 “(1) IN GENERAL.—Subsection (a) shall not  
 11 apply to wages paid by a qualified employer with re-  
 12 spect to employment during the period beginning on  
 13 the day after the date of the enactment of this sub-  
 14 section and ending on December 31, 2010, of any  
 15 qualified individual for services performed—

1           “(A) in a trade or business of such quali-  
2           fied employer, or

3           “(B) in the case of a qualified employer ex-  
4           empt from tax under section 501(a), in further-  
5           ance of the activities related to the purpose or  
6           function constituting the basis of the employer’s  
7           exemption under section 501.

8           “(2) QUALIFIED EMPLOYER.—For purposes of  
9           this subsection—

10           “(A) IN GENERAL.—The term ‘qualified  
11           employer’ means any employer other than the  
12           United States, any State, or any political sub-  
13           division thereof, or any instrumentality of the  
14           foregoing.

15           “(B) TREATMENT OF EMPLOYEES OF  
16           POST-SECONDARY EDUCATIONAL INSTITU-  
17           TIONS.—Notwithstanding subparagraph (A),  
18           the term ‘qualified employer’ includes any em-  
19           ployer which is a public institution of higher  
20           education (as defined in section 101(b) of the  
21           Higher Education Act of 1965).

22           “(3) QUALIFIED INDIVIDUAL.—For purposes of  
23           this subsection, the term ‘qualified individual’ means  
24           any individual who—

1           “(A) begins employment with a qualified  
2 employer after February 3, 2010, and before  
3 January 1, 2011,

4           “(B) certifies by signed affidavit, under  
5 penalties of perjury, that such individual has  
6 not been employed for more than 40 hours dur-  
7 ing the 60-day period ending on the date such  
8 individual begins such employment,

9           “(C) is not employed by the qualified em-  
10 ployer to replace another employee of such em-  
11 ployer unless such other employee separated  
12 from employment voluntarily or for cause, and

13           “(D) is not an individual described in sec-  
14 tion 51(i)(1) (applied by substituting ‘qualified  
15 employer’ for ‘taxpayer’ each place it appears).

16           “(4) ELECTION.—A qualified employer may  
17 elect to have this subsection not apply. Such election  
18 shall be made in such manner as the Secretary may  
19 require.”.

20           (b) COORDINATION WITH WORK OPPORTUNITY  
21 CREDIT.—Section 51(c) is amended by adding at the end  
22 the following new paragraph:

23           “(5) COORDINATION WITH PAYROLL TAX FOR-  
24 GIVENESS.—The term ‘wages’ shall not include any  
25 amount paid or incurred to a qualified individual (as

1 defined in section 3111(d)(3)) during the 1-year pe-  
2 riod beginning on the hiring date of such individual  
3 by a qualified employer (as defined in section  
4 3111(d)) unless such qualified employer makes an  
5 election not to have section 3111(d) apply.”.

6 (c) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
7 VIVORS INSURANCE TRUST FUND.—There are hereby ap-  
8 propriated to the Federal Old-Age and Survivors Trust  
9 Fund and the Federal Disability Insurance Trust Fund  
10 established under section 201 of the Social Security Act  
11 (42 U.S.C. 401) amounts equal to the reduction in reve-  
12 nues to the Treasury by reason of the amendments made  
13 by subsection (a). Amounts appropriated by the preceding  
14 sentence shall be transferred from the general fund at  
15 such times and in such manner as to replicate to the ex-  
16 tent possible the transfers which would have occurred to  
17 such Trust Fund had such amendments not been enacted.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to wages paid after the date of  
20 the enactment of this Act.

21 **SEC. 102. BUSINESS CREDIT FOR RETENTION OF CERTAIN**

22 **NEWLY HIRED INDIVIDUALS IN 2010.**

23 (a) IN GENERAL.—In the case of any taxable year  
24 ending after the date of the enactment of this Act, the  
25 current year business credit determined under section

1 38(b) of the Internal Revenue Code of 1986 for such tax-  
2 able year shall be increased by an amount equal to the  
3 product of—

4 (1) \$1,000, and

5 (2) the number of retained workers with respect  
6 to which subsection (b)(2) is first satisfied during  
7 such taxable year.

8 (b) **RETAINED WORKER.**—For purposes of this sec-  
9 tion, the term “retained worker” means any qualified indi-  
10 vidual (as defined in section 3111(d)(3) of the Internal  
11 Revenue Code of 1986)—

12 (1) who was employed by the taxpayer on any  
13 date during the taxable year,

14 (2) who was so employed by the taxpayer for a  
15 period of not less than 52 consecutive weeks, and

16 (3) whose wages for such employment during  
17 the last 26 weeks of such period equaled at least 80  
18 percent of such wages for the first 26 weeks of such  
19 period.

20 (c) **LIMITATION ON CARRYBACKS.**—No portion of the  
21 unused business credit under section 38 of the Internal  
22 Revenue Code of 1986 for any taxable year which is attrib-  
23 utable to the increase in the current year business credit  
24 under this section may be carried to a taxable year begin-  
25 ning before the date of the enactment of this section.

1                   **TITLE II—EXPENSING**

2   **SEC. 201. INCREASE IN EXPENSING OF CERTAIN DEPRE-**  
3                   **CIABLE BUSINESS ASSETS.**

4           (a) IN GENERAL.—Subsection (b) of section 179 is  
5 amended—

6               (1) by striking “(\$125,000 in the case of tax-  
7               able years beginning after 2006 and before 2011)”  
8               in paragraph (1) and inserting “(\$250,000 in the  
9               case of taxable years beginning after 2007 and be-  
10              fore 2011)”,

11              (2) by striking “(\$500,000 in the case of tax-  
12              able years beginning after 2006 and before 2011)”  
13              in paragraph (2) and inserting “(\$800,000 in the  
14              case of taxable years beginning after 2007 and be-  
15              fore 2011)”,

16              (3) by striking paragraphs (5) and (7), and

17              (4) by redesignating paragraph (6) as para-  
18              graph (5).

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

1           **TITLE III—QUALIFIED TAX**  
2                           **CREDIT BONDS**

3   **SEC. 301. ISSUER ALLOWED REFUNDABLE CREDIT FOR**  
4                           **CERTAIN QUALIFIED TAX CREDIT BONDS.**

5           (a) CREDIT ALLOWED.—Section 6431 is amended by  
6 adding at the end the following new subsection:

7           “(f) APPLICATION OF SECTION TO CERTAIN QUALI-  
8 FIED TAX CREDIT BONDS.—

9                   “(1) IN GENERAL.—In the case of any specified  
10 tax credit bond—

11                           “(A) such bond shall be treated as a quali-  
12 fied bond for purposes of this section,

13                           “(B) subsection (a) shall be applied with-  
14 out regard to the requirement that the qualified  
15 bond be issued before January 1, 2011,

16                           “(C) the amount of the payment deter-  
17 mined under subsection (b) with respect to any  
18 interest payment date under such bond shall  
19 be—

20                                   “(i) in the case of a bond issued by a  
21 qualified small issuer, 65 percent of the  
22 amount of interest payable on such bond  
23 by such issuer with respect to such date,  
24 and

1                   “(ii) in the case of a bond issued by  
2                   any other person, 45 percent of the  
3                   amount of interest payable on such bond  
4                   by such issuer with respect to such date,

5                   “(D) interest on any such bond shall be in-  
6                   cludible in gross income for purposes of this  
7                   title,

8                   “(E) no credit shall be allowed under sec-  
9                   tion 54A with respect to such bond,

10                   “(F) any payment made under subsection  
11                   (b) shall not be includible as income for pur-  
12                   poses of this title, and

13                   “(G) the deduction otherwise allowed  
14                   under this title to the issuer of such bond with  
15                   respect to interest paid under such bond shall  
16                   be reduced by the amount of the payment made  
17                   under this section with respect to such interest.

18                   “(2) DEFINITIONS.—For purposes of this sub-  
19                   section—

20                   “(A) SPECIFIED TAX CREDIT BOND.—The  
21                   term ‘specified tax credit bond’ means any  
22                   qualified tax credit bond (as defined in section  
23                   54A(d)) if—

24                   “(i) such bond is—

15

1 “(I) a new clean renewable en-  
2 ergy bond (as defined in section 54C),

3 “(II) a qualified energy conserva-  
4 tion bond (as defined in section 54D),

5 “(III) a qualified zone academy  
6 bond (as defined in section 54E), or

7 “(IV) a qualified school construc-  
8 tion bond (as defined in section 54F),

9 and

10 “(ii) the issuer of such bond makes an  
11 irrevocable election to have this subsection  
12 apply

13 “(B) QUALIFIED SMALL ISSUER.—The  
14 term ‘qualified small issuer’ means, with respect  
15 to any calendar year, any issuer who is not rea-  
16 sonably expected to issue tax-exempt bonds  
17 (other than private activity bonds) and specified  
18 tax credit bonds (determined without regard to  
19 whether an election is made under this sub-  
20 section) during such calendar year in an aggre-  
21 gate face amount exceeding \$30,000,000.”.

22 (b) TECHNICAL CORRECTIONS RELATING TO QUALI-  
23 FIED SCHOOL CONSTRUCTION BONDS.—

24 (1) The second sentence of section 54F(d)(1) is  
25 amended by striking “by the State” and inserting

1 “by the State education agency (or such other agen-  
2 cy as is authorized under State law to make such al-  
3 location)”.

4 (2) The second sentence of section 54F(e) is  
5 amended by striking “subsection (d)(4)” and insert-  
6 ing “paragraphs (2) and (4) of subsection (d)”.

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendment made by  
9 subsection (a) shall apply to bonds issued after the  
10 date of the enactment of this Act.

11 (2) TECHNICAL CORRECTIONS.—The amend-  
12 ments made by subsection (b) shall take effect as if  
13 included in section 1521 of the American Recovery  
14 and Reinvestment Tax Act of 2009.

15 **TITLE IV—EXTENSION OF CUR-**  
16 **RENT SURFACE TRANSPOR-**  
17 **TATION PROGRAMS**

18 **SEC. 401. SHORT TITLE.**

19 This title may be cited as the “Surface Transpor-  
20 tation Extension Act of 2010”

21 **Subtitle A—Federal-aid Highways**

22 **SEC. 411. IN GENERAL.**

23 (a) IN GENERAL.—Except as provided in this Act,  
24 requirements, authorities, conditions, eligibilities, limita-  
25 tions, and other provisions authorized under titles I, V,

1 and VI of the SAFETEA-LU (119 Stat. 1144), the  
2 SAFETEA-LU Technical Corrections Act of 2008 (122  
3 Stat. 1572), titles I and VI of the Intermodal Surface  
4 Transportation Act of 1991 (105 Stat. 1914), titles I and  
5 V of the Transportation Equity Act for the 21st Century  
6 (112 Stat. 107), and title 23, United States Code (exclud-  
7 ing chapter 4 of that title), which would otherwise expire  
8 on or cease to apply after September 30, 2009, or the date  
9 specified in section 106(3) of the Continuing Appropria-  
10 tions Resolution, 2010 (Public Law 111-68), are incor-  
11 porated by reference and shall continue in effect until De-  
12 cember 31, 2010.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Except  
14 as provided in section 412, there are authorized to be ap-  
15 propriated out of the Highway Trust Fund (other than  
16 the Mass Transit Account)—

17 (1) for fiscal year 2010, a sum equal to the  
18 total amount authorized to be appropriated out of  
19 the Highway Trust Fund for programs, projects,  
20 and activities for fiscal year 2009 under titles I, V,  
21 and VI of the SAFETEA-LU (119 Stat. 1144), and  
22 title 23, United States Code (excluding chapter 4 of  
23 that title); and

24 (2) for the period beginning on October 1,  
25 2010, and ending on December 31, 2010, a sum

1 equal to 1/4 of the total amount authorized to be  
2 appropriated out of the Highway Trust Fund for  
3 programs, projects, and activities for fiscal year  
4 2009 under titles I, V, and VI of the SAFETEA-  
5 LU (119 Stat. 1144), and title 23, United States  
6 Code (excluding chapter 4 of that title).

7 (c) USE OF FUNDS.—

8 (1) FISCAL YEAR 2010.—Except as otherwise  
9 expressly provided in this Act, funds authorized to  
10 be appropriated under subsection (b)(1) for fiscal  
11 year 2010 shall be distributed, administered, limited,  
12 and made available for obligation in the same man-  
13 ner and at the same level as funds authorized to be  
14 appropriated out of the Highway Trust Fund for fis-  
15 cal year 2009 to carry out programs, projects, activi-  
16 ties, eligibilities, and requirements under the  
17 SAFETEA-LU (119 Stat. 1144), the SAFETEA-  
18 LU Technical Corrections Act of 2008 (122 Stat.  
19 1572), titles I and VI of the Intermodal Surface  
20 Transportation Act of 1991 (105 Stat. 1914), titles  
21 I and V of the Transportation Equity Act for the  
22 21st Century (112 Stat. 107), and title 23, United  
23 States Code (excluding chapter 4 of that title).

24 (2) FISCAL YEAR 2011.—Except as otherwise  
25 expressly provided in this Act, funds authorized to

1 be appropriated under subsection (b)(2) for the pe-  
2 riod beginning on October 1, 2010, and ending on  
3 December 31, 2010, shall be distributed, adminis-  
4 tered, limited, and made available for obligation in  
5 the same manner and at the same level as  $\frac{1}{4}$  of  
6 the total amount of funds authorized to be appro-  
7 priated out of the Highway Trust Fund for fiscal  
8 year 2009 to carry out programs, projects, activities,  
9 eligibilities, and requirements under the SAFETEA-  
10 LU (119 Stat. 1144), the SAFETEA-LU Technical  
11 Corrections Act of 2008 (122 Stat. 1572), titles I  
12 and VI of the Intermodal Surface Transportation  
13 Act of 1991 (105 Stat. 1914), titles I and V of the  
14 Transportation Equity Act for the 21st Century  
15 (112 Stat. 107), and title 23, United States Code  
16 (excluding chapter 4 of that title).

17 (3) CALCULATION.—The amounts authorized to  
18 be appropriated under subsection (b) shall be cal-  
19 culated without regard to any rescission or cancella-  
20 tion of funds or contract authority for fiscal year  
21 2009 under the SAFETEA-LU (119 Stat. 1144) or  
22 any other law.

23 (4) CONTRACT AUTHORITY.—

24 (A) IN GENERAL.—Except as provided in  
25 subparagraph (B), funds authorized to be ap-

1           appropriated under this section shall be available  
2           for obligation and shall be administered in the  
3           same manner as if such funds were apportioned  
4           under chapter 1 of title 23, United States Code,  
5           and—

6                       (i) for fiscal year 2010, shall be sub-  
7                       ject to a limitation on obligations for Fed-  
8                       eral-aid highways and highway safety con-  
9                       struction programs included in an Act  
10                      making appropriations for fiscal year 2010  
11                      or a portion of that fiscal year; and

12                     (ii) for the period beginning on Octo-  
13                     ber 1, 2010, and ending on December 31,  
14                     2010, shall be subject to a limitation on  
15                     obligations included in an Act making ap-  
16                     propriations for fiscal year 2011 or a por-  
17                     tion of that fiscal year, except that during  
18                     such period obligations subject to such lim-  
19                     itation shall not exceed  $\frac{1}{4}$  of the limita-  
20                     tion on obligations included in an Act mak-  
21                     ing appropriations for fiscal year 2011.

22                     (B) EXCEPTIONS.—A limitation on obliga-  
23                     tions described in clause (i) or (ii) of subpara-  
24                     graph (A) shall not apply to any obligation  
25                     under—

## 21

1 (i) section 125 of title 23, United  
2 States Code; or

3 (ii) section 105 of title 23, United  
4 States Code—

5 (I) for fiscal year 2010, only in  
6 an amount equal to \$639,000,000;  
7 and

8 (II) for the period beginning on  
9 October 1, 2010, and ending on De-  
10 cember 31, 2010, only in an amount  
11 equal to \$159,750,000.

12 (5) CALCULATIONS FOR DISTRIBUTION OF OB-  
13 LIGATION LIMITATION.—Upon enactment of an Act  
14 making appropriations for the Department of Trans-  
15 portation for fiscal year 2011 (other than an Act or  
16 resolution making continuing appropriations), the  
17 Secretary shall—

18 (A) as necessary for purposes of making  
19 the calculations for the distribution of any obli-  
20 gation limitation under such Act, annualize the  
21 amount of contract authority provided under  
22 this Act for Federal-aid highways and highway  
23 safety construction programs; and

1 (B) multiply the resulting distribution of  
2 any obligation limitation under such Act by  $\frac{1}{4}$ .  
3

4 (d) EXTENSION AND FLEXIBILITY FOR CERTAIN AL-  
5 LOCATED PROGRAMS.—

6 (1) FISCAL YEAR 2010.—Notwithstanding any  
7 other provision of law, for fiscal year 2010, the por-  
8 tion of the share of funds of a State under sub-  
9 section (b)(1) determined by the amount that the  
10 State received or was authorized to receive for fiscal  
11 year 2009 to carry out sections 1301, 1302, 1307,  
12 1702, and 1934 of the SAFETEA-LU (119 Stat.  
13 1198, 1204, 1217, 1256, and 1485), and section  
14 144(f)(1) of title 23, United States Code, shall be—

15 (A) made available to the State for pro-  
16 grams apportioned under sections 104(b) and  
17 144 of title 23, United States Code, and in the  
18 same proportion for each such program that—

19 (i) the amount apportioned to the  
20 State for that program for fiscal year  
21 2009; bears to

22 (ii) the amount apportioned to the  
23 State for fiscal year 2009 for all programs  
24 apportioned under such sections of such  
25 Code; and

1 (B) administered in the same manner and  
2 with the same period of availability as such  
3 funding is administered under programs identi-  
4 fied in subparagraph (A), except that no funds  
5 may be used to carry out the project described  
6 in section 1307(d)(1) of the SAFETEA-LU  
7 (119 Stat. 1217; 122 Stat. 1577).

8 (2) FISCAL YEAR 2011.—Notwithstanding any  
9 other provision of law, for the period beginning on  
10 October 1, 2010, and ending on December 31, 2010,  
11 the portion of the share of funds of a State under  
12 subsection (b)(2) determined by  $\frac{1}{4}$  of the amount  
13 that the State received or was authorized to receive  
14 for fiscal year 2009 to carry out sections 1301,  
15 1302, 1307, 1702, and 1934 of the SAFETEA-LU  
16 (119 Stat. 1198, 1204, 1217, 1256, and 1485) and  
17 section 144(f)(1) of title 23, United States Code,  
18 shall be—

19 (A) made available to the State for pro-  
20 grams apportioned under sections 104(b) and  
21 144 of title 23, United States Code, and in the  
22 same proportion for each such program that—

23 (i) the amount apportioned to the  
24 State for that program for fiscal year  
25 2009; bears to



1 under section 215 of title 23, United  
2 States Code; and

3 (ii) for Puerto Rico, made available  
4 and administered in the same manner as  
5 funding is made available and administered  
6 under section 165 of title 23, United  
7 States Code.

8 (B) FISCAL YEAR 2011.—Notwithstanding  
9 any other provision of law, for the period begin-  
10 ning on October 1, 2010, and ending on De-  
11 cember 31, 2010, the portion of the share of  
12 funds of a territory or Puerto Rico under para-  
13 graph (b)(2) determined by  $\frac{1}{4}$  of the amount  
14 that the territory or Puerto Rico received or  
15 was authorized to receive for fiscal year 2009 to  
16 carry out section 1934 of SAFETEA-LU (119  
17 Stat. 1485), shall be—

18 (i) for a territory, made available and  
19 administered in the same manner as fund-  
20 ing is made available and administered  
21 under section 215 of title 23, United  
22 States Code; and

23 (ii) for Puerto Rico, made available  
24 and administered in the same manner as  
25 funding is made available and administered

1           under section 165 of title 23, United  
2           States Code.

3           (C) TERRITORY DEFINED.—In this para-  
4           graph, the term “territory” means any of the  
5           following territories of the United States: Amer-  
6           ican Samoa, the Commonwealth of the North-  
7           ern Mariana Islands, Guam, or the United  
8           States Virgin Islands.

9           (4) ADDITIONAL FUNDS.—

10           (A) IN GENERAL.—No additional funds  
11           shall be provided for any project or activity  
12           under subsection (c), or paragraph (1) or (2) of  
13           this subsection, that the Secretary of Transpor-  
14           tation determines was sufficiently funded before  
15           or during fiscal year 2009 to achieve the au-  
16           thorized purpose of the project or activity.

17           (B) RESERVATION AND REDISTRIBUTION  
18           OF FUNDS.—Funds made available in accord-  
19           ance with paragraph (1) or (2) of subsection (c)  
20           or paragraph (1) or (2) of this subsection for  
21           a project or activity described in subparagraph  
22           (A) shall be—

23                   (i) reserved by the Secretary of  
24           Transportation; and

1 (ii) distributed to each State in ac-  
2 cordance with paragraph (1) or (2) of sub-  
3 section (c), or paragraph (1) or (2) of this  
4 subsection, as appropriate, for use in car-  
5 rying out other highway projects and ac-  
6 tivities extended by subsection (c) or this  
7 subsection, in the proportion that—

8 (I) the total amount of funds  
9 made available for fiscal year 2009 for  
10 projects and activities described in  
11 subparagraph (A) in the State; bears  
12 to

13 (II) the total amount of funds  
14 made available for fiscal year 2009 for  
15 those projects and activities in all  
16 States.

17 (e) EXTENSION OF AUTHORIZATIONS UNDER TITLE  
18 V OF SAFETEA-LU.—

19 (1) IN GENERAL.—The programs authorized  
20 under paragraphs (1) through (5) of section 5101(a)  
21 of the SAFETEA-LU (119 Stat. 1779) shall be  
22 continued—

23 (A) for fiscal year 2010, at the funding  
24 levels authorized for those programs for fiscal  
25 year 2009; and

1 (B) for the period beginning on October 1,  
2 2010, and ending on December 31, 2010, at \1/  
3 4\ the funding levels authorized for those pro-  
4 grams for fiscal year 2009.

5 (2) DISTRIBUTION OF FUNDS.—Funds for pro-  
6 grams continued under paragraph (1) shall be dis-  
7 tributed to major program areas under those pro-  
8 grams in the same proportions as funds were allo-  
9 cated for those program areas for fiscal year 2009,  
10 except that designations for specific activities shall  
11 not be required to be continued for—

12 (A) fiscal year 2010; or

13 (B) the period beginning on October 1,  
14 2010, and ending on December 31, 2010.

15 (3) ADDITIONAL FUNDS.—

16 (A) IN GENERAL.—No additional funds  
17 shall be provided for any project or activity  
18 under this subsection that the Secretary of  
19 Transportation determines was sufficiently  
20 funded before or during fiscal year 2009 to  
21 achieve the authorized purpose of the project or  
22 activity.

23 (B) DISTRIBUTION.—Funds that would  
24 have been made available under paragraph (1)  
25 for a project or activity but for the prohibition

1 under subparagraph (A) shall be distributed in  
2 accordance with paragraph (2).

3 **SEC. 412. ADMINISTRATIVE EXPENSES.**

4 (a) AUTHORIZATION OF CONTRACT AUTHORITY.—

5 Notwithstanding any other provision of this Act or any  
6 other law, there are authorized to be appropriated from  
7 the Highway Trust Fund (other than the Mass Transit  
8 Account), from amounts provided under section 411, for  
9 administrative expenses of the Federal-aid highway pro-  
10 gram—

11 (1) \$422,425,000 for fiscal year 2010; and

12 (2) \$105,606,250 for the period beginning on  
13 October 1, 2010, and ending on December 31, 2010.

14 (b) CONTRACT AUTHORITY.—Funds authorized to be  
15 appropriated by this section shall be—

16 (1) available for obligation, and shall be admin-  
17 istered, in the same manner as if such funds were  
18 apportioned under chapter 1 of title 23, United  
19 States Code; and

20 (2) subject to a limitation on obligations for  
21 Federal-aid highways and highway safety construc-  
22 tion programs, except that such funds shall remain  
23 available until expended.

1 **SEC. 413. RESCISSION OF UNOBLIGATED BALANCES.**

2 (a) IN GENERAL.—The Secretary of Transportation  
3 shall restore funds rescinded pursuant to section 10212  
4 of the SAFETEA-LU (Public Law 109-59; 119 Stat.  
5 1937) to the States and to the programs from which the  
6 funds were rescinded.

7 (b) ADMINISTRATION OF FUNDS.—The restored  
8 amounts shall be administered in the same manner as the  
9 funds originally rescinded, except those funds may only  
10 be used with an obligation limitation provided in an Act  
11 making appropriations for Federal-aid highways and high-  
12 way safety construction programs enacted after implemen-  
13 tation of the rescission under section 10212 of the  
14 SAFETEA-LU (Public Law 109-59; 119 Stat. 1937).

15 (c) FUNDING.—

16 (1) IN GENERAL.—There is authorized to be  
17 appropriated from the Highway Trust Fund (other  
18 than the Mass Transit Account) for fiscal year 2010  
19 to carry out this section an amount equal to the  
20 amount of funds rescinded under section 10212 of  
21 the SAFETEA-LU (Public Law 109-59; 119 Stat.  
22 1937).

23 (2) AVAILABILITY FOR OBLIGATION.—Funds  
24 authorized to be appropriated by this section shall  
25 be—

1 (A) made available under this section and  
2 available for obligation in the same manner as  
3 if the funds were apportioned under chapter 1  
4 of title 23, United States Code, except that the  
5 funds shall retain the characteristics of the  
6 funds originally rescinded; and

7 (B) subject to a limitation on obligations  
8 for Federal-aid highways and highway safety  
9 construction programs included in an Act mak-  
10 ing appropriations for fiscal year 2010 or a por-  
11 tion of the fiscal year.

12 (d) LIMITATION.—No funds authorized to be restored  
13 under this section shall be restored after the end of fiscal  
14 year 2010.

15 **SEC. 414. RECONCILIATION OF FUNDS.**

16 The Secretary shall reduce the amount apportioned  
17 or allocated for a program, project, or activity under this  
18 title by amounts apportioned or allocated pursuant to the  
19 Continuing Appropriations Resolution, 2010 (Public Law  
20 111–68).

1 **Subtitle B—National Highway Traf-**  
2 **fic Safety Administration, Fed-**  
3 **eral Motor Carrier Safety Ad-**  
4 **ministration, and Additional**  
5 **Programs**

6 **SEC. 421. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**  
7 **SAFETY ADMINISTRATION HIGHWAY SAFETY**  
8 **PROGRAMS.**

9 (a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Sec-  
10 tion 2001(a)(1) of the SAFETEA-LU (119 Stat. 1519)  
11 is amended—

12 (1) by striking “and”; and

13 (2) by striking “2009.” and inserting “2009,  
14 \$235,000,000 for fiscal year 2010, and \$58,750,000  
15 for the period beginning on October 1, 2010, and  
16 ending on December 31, 2010.”.

17 (b) HIGHWAY SAFETY RESEARCH AND DEVELOP-  
18 MENT.—Section 2001(a)(2) of the SAFETEA-LU (119  
19 Stat. 1519) is amended—

20 (1) by striking “and”; and

21 (2) by striking “2009.” and inserting “2009,  
22 \$107,329,000 for fiscal year 2010, and \$27,061,000  
23 for the period beginning on October 1, 2010, and  
24 ending on December 31, 2010.”.

25 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—

1           (1) EXTENSION OF PROGRAM.—Section 405(a)  
2 of title 23, United States Code, is amended—

3           (A) in paragraph (3), by striking “6” and  
4 inserting “8”; and

5           (B) in paragraph (4)(C), by striking “fifth  
6 and sixth” and inserting “fifth through eighth”.

7           (2) AUTHORIZATION OF APPROPRIATIONS.—  
8 Section 2001(a)(3) of the SAFETEA–LU (119 Stat.  
9 1519) is amended—

10           (A) by striking “and”; and

11           (B) by striking “2009.” and inserting  
12 “2009, \$25,000,000 for fiscal year 2010, and  
13 \$6,250,000 for the period beginning on October  
14 1, 2010, and ending on December 31, 2010.”.

15           (d) SAFETY BELT PERFORMANCE GRANTS.—Section  
16 2001(a)(4) of the SAFETEA–LU (119 Stat. 1519) is  
17 amended—

18           (1) by striking “and”; and

19           (2) by striking “2009.” and inserting “2009,  
20 \$124,500,000 for fiscal year 2010, and \$31,125,000  
21 for the period beginning on October 1, 2010, and  
22 ending on December 31, 2010.”.

23           (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM  
24 IMPROVEMENTS.—Section 2001(a)(5) of the SAFETEA–  
25 LU (119 Stat. 1519) is amended—

1 (1) by striking “and”; and

2 (2) by striking “2009.” and inserting “2009,  
3 \$34,500,000 for fiscal year 2010, and \$8,625,000  
4 for the period beginning on October 1, 2010, and  
5 ending on December 31, 2010.”.

6 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-  
7 MEASURES INCENTIVE GRANT PROGRAM.—

8 (1) EXTENSION OF PROGRAM.—Section 410 of  
9 title 23, United States Code, is amended—

10 (A) in subsection (a)(3)(C), by striking  
11 “fifth, sixth,, seventh, and eighth” and insert-  
12 ing “fifth through tenth”; and

13 (B) in subsection (b)(2)(C), by striking  
14 “2008 and 2009” and inserting “2008, 2009,  
15 2010, and 2011”.

16 (2) AUTHORIZATION OF APPROPRIATIONS.—  
17 Section 2001(a)(6) of the SAFETEA-LU (119 Stat.  
18 1519) is amended—

19 (A) by striking “and”; and

20 (B) by striking “2009.” and inserting  
21 “2009, \$139,000,000 for fiscal year 2010, and  
22 \$34,750,000 for the period beginning on Octo-  
23 ber 1, 2010, and ending on December 31,  
24 2010.”.

1 (g) NATIONAL DRIVER REGISTER.—Section  
2 2001(a)(7) of the SAFETEA–LU (119 Stat. 1520) is  
3 amended—

4 (1) by striking “and”; and

5 (2) by striking “2009.” and inserting “2009,  
6 \$4,078,000 for fiscal year 2010, and \$1,029,000 for  
7 the period beginning on October 1, 2010, and ending  
8 on December 31, 2010.”.

9 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

10 (1) EXTENSION OF PROGRAM.—Section 2009(a)  
11 of the SAFETEA–LU (23 U.S.C. 402 note) is  
12 amended by striking “2009” and inserting “2011”.

13 (2) AUTHORIZATION OF APPROPRIATIONS.—  
14 Section 2001(a)(8) of the SAFETEA–LU (119 Stat.  
15 1520) is amended—

16 (A) by striking “and”; and

17 (B) by striking “2009.” and inserting  
18 “2009, \$29,000,000 for fiscal year 2010, and  
19 \$7,250,000 for the period beginning on October  
20 1, 2010, and ending on December 31, 2010.”.

21 (i) MOTORCYCLIST SAFETY.—

22 (1) EXTENSION OF PROGRAM.—Section  
23 2010(d)(1)(B) of the SAFETEA–LU (23 U.S.C.  
24 402 note) is amended by striking “and fourth” and  
25 inserting “fourth, fifth, and sixth”.

1           (2) AUTHORIZATION OF APPROPRIATIONS.—  
2           Section 2001(a)(9) of the SAFETEA–LU (119 Stat.  
3           1520) is amended—

4                   (A) by striking “and”; and

5                   (B) by striking “2009.” and inserting  
6           “2009, \$7,000,000 for fiscal year 2010, and  
7           \$1,750,000 for the period beginning on October  
8           1, 2010, and ending on December 31, 2010.”.

9           (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFE-  
10   TY INCENTIVE GRANTS.—

11           (1) EXTENSION OF PROGRAM.—Section  
12           2011(c)(2) of the SAFETEA–LU (23 U.S.C. 405  
13           note) is amended by striking “fourth fiscal year”  
14           and inserting “fourth, fifth, and sixth fiscal years”.

15           (2) AUTHORIZATION OF APPROPRIATIONS.—  
16           Section 2001(a)(10) of the SAFETEA–LU (119  
17           Stat. 1520) is amended—

18                   (A) by striking “and”; and

19                   (B) by striking “2009.” and inserting  
20           “2009, \$7,000,000 for fiscal year 2010, and  
21           \$1,750,000 for the period beginning on October  
22           1, 2010, and ending on December 31, 2010.”.

23           (k) ADMINISTRATIVE EXPENSES.—Section  
24           2001(a)(11) of the SAFETEA–LU (119 Stat. 1520) is  
25           amended—

1 (1) by striking “and” the last place it appears;  
2 and

3 (2) by striking “2009.” and inserting “2009,  
4 \$25,047,000 for fiscal year 2010, and \$6,332,000  
5 for the period beginning on October 1, 2010, and  
6 ending on December 31, 2010.”.

7 (l) APPLICABILITY OF TITLE 23.—Section 2001(c) of  
8 the SAFETEA–LU (119 Stat. 1520) is amended by strik-  
9 ing “2009” and inserting “2011”.

10 (m) DRUG-IMPAIRED DRIVING ENFORCEMENT.—  
11 Section 2013(f) of the SAFETEA–LU (23 U.S.C. 403  
12 note) is amended by striking “2009” and inserting  
13 “2011”.

14 (n) OLDER DRIVER SAFETY; LAW ENFORCEMENT  
15 TRAINING.—Section 2017 of the SAFETEA–LU is  
16 amended—

17 (1) in subsection (a)(1) (119 Stat. 1541), by  
18 striking “2009” and inserting “2011”; and

19 (2) in subsection (b)(2) (23 U.S.C. 402 note),  
20 by striking “2009” and inserting “2011”.

21 **SEC. 422. EXTENSION OF FEDERAL MOTOR CARRIER SAFE-**  
22 **TY ADMINISTRATION PROGRAMS.**

23 (a) MOTOR CARRIER SAFETY GRANTS.—Section  
24 31104(a) of title 49, United States Code, is amended—

1 (1) in paragraph (4), by striking “and” at the  
2 end;

3 (2) in paragraph (5), by striking the period at  
4 the end and inserting “; and”; and

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

6 “(6) \$209,000,000 for fiscal year 2010; and

7 “(7) \$52,679,000 for the period beginning on  
8 October 1, 2010, and ending on December 31,  
9 2010.”.

10 (b) ADMINISTRATIVE EXPENSES.—Section  
11 31104(i)(1) of title 49, United States Code, is amended—

12 (1) in subparagraph (D), by striking “and”;

13 (2) in subparagraph (E), by striking the period  
14 at the end and inserting “; and”; and

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

16 “(F) “(F) \$239,828,000 for fiscal year  
17 2010; and

18 “(G) “(G) \$61,036,000 for the period be-  
19 ginning on October 1, 2010, and ending on De-  
20 cember 31, 2010.”.

21 (c) GRANT PROGRAMS.—Section 4101(c) of the  
22 SAFETEA-LU (119 Stat.1715) is amended—

23 (1) in paragraph (1), by striking “2009.” and  
24 inserting “2009, and \$25,000,000 for fiscal year  
25 2010, and \$6,301,000 for the period beginning on

1       October 1, 2010, and ending on December 31,  
2       2010.”;

3               (2) in paragraph (2), by striking “2009.” and  
4       inserting “2009, \$32,000,000 for fiscal year 2010,  
5       and \$8,066,000 for the period beginning on October  
6       1, 2010, and ending on December 31, 2010.”;

7               (3) in paragraph (3), by striking “2009.” and  
8       inserting “2009, \$5,000,000 for fiscal year 2010,  
9       and \$1,260,000 for the period beginning on October  
10       1, 2010, and ending on December 31, 2010.”;

11              (4) in paragraph (4), by striking “2009.” and  
12       inserting “2009, \$25,000,000 for fiscal year 2010,  
13       and \$6,301,000 for the period beginning on October  
14       1, 2010, and ending on December 31, 2010.”; and

15              (5) in paragraph (5), by striking “2009.” and  
16       inserting “2009, \$3,000,000 for fiscal year 2010,  
17       and \$756,000 for the period beginning on October  
18       1, 2010, and ending on December 31, 2010.”.

19       (d) **HIGH-PRIORITY ACTIVITIES.**—Section 31104(k)  
20 of title 49, United States Code, is amended by striking  
21 “2009” in paragraph (2) and inserting “2009,  
22 \$15,000,000 for fiscal year 2010, and \$3,781,000 for the  
23 period beginning on October 1, 2010, and ending on De-  
24 cember 31, 2010”.

1 (e) NEW ENTRANT AUDITS.—Section  
2 31144(g)(5)(B) of title 49, United States Code, is amend-  
3 ed by inserting “(and up to \$7,310,000 for the period be-  
4 ginning on October 1, 2010, and ending on December 31,  
5 2010)” after “fiscal year”.

6 (f) COMMERCIAL DRIVER’S LICENSE INFORMATION  
7 SYSTEM MODERNIZATION.—Section 4123(d) of the  
8 SAFETEA–LU (119 Stat.1736) is amended—

9 (1) in paragraph (3), by striking “and” at the  
10 end;

11 (2) in paragraph (4), by striking the period at  
12 the end and inserting a semicolon; and

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

14 “(5) \$8,000,000 for fiscal year 2010; and

15 “(6) \$2,016,000 for the period beginning on  
16 October 1, 2010, and ending on December 31,  
17 2010.”.

18 (g) OUTREACH AND EDUCATION.—Section 4127(e)  
19 of the SAFETEA–LU (119 Stat.1741) is amended by  
20 striking “and 2009” and inserting “2009, and 2010, and  
21 \$252,000 to the Federal Motor Carrier Safety Adminis-  
22 tration, and \$756,000 to the National Highway Traffic  
23 Safety Administration, for the period beginning on Octo-  
24 ber 1, 2010, and ending on December 31, 2010,”.

1 (h) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-  
2 HICLE OPERATORS.—Section 4134(c) of the SAFETEA-  
3 LU (119 Stat.1744) is amended by striking “2009” and  
4 inserting “2009, 2010, and \$252,000 for the period begin-  
5 ning on October 1, 2010, and ending on December 31,  
6 2010,”.

7 (i) MOTOR CARRIER SAFETY ADVISORY COM-  
8 MITTEE.—Section 4144(d) of the SAFETEA-LU (1119  
9 Stat.1748) is amended by striking “September 30, 2010”  
10 and inserting “December 31, 2010”.

11 (j) WORKING GROUP FOR DEVELOPMENT OF PRAC-  
12 TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE  
13 RELATIONS.—Section 4213(d) of the SAFETEA-LU (49  
14 U.S.C. 14710 note) is amended by striking “September  
15 30, 2009” and inserting “December 31, 2010”.

16 **SEC. 423. ADDITIONAL PROGRAMS.**

17 (a) HAZARDOUS MATERIALS RESEARCH  
18 PROJECTS.—Section 7131(c) of the SAFETEA-LU (119  
19 Stat. 1910) is amended by striking “through 2009” and  
20 inserting “through 2010, and \$315,000 for the period be-  
21 ginning on October 1, 2010, and ending on December 31,  
22 2010,”.

23 (b) DINGELL-JOHNSON SPORT FISH RESTORATION  
24 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-  
25 toration Act (16 U.S.C. 777c) is amended—

1 (1) in subsection (a), in the matter preceding  
2 paragraph (1), by striking “2009,” and inserting  
3 “2010 and for the period beginning on October 1,  
4 2010, and ending on December 31, 2010,”; and

5 (2) in subsection (b)(1)(A), by striking “2010,”  
6 and inserting “and for the period beginning on Octo-  
7 ber 1, 2010, and ending on December 31, 2010,”.

## 8 **Subtitle C—Public Transportation** 9 **Programs**

### 10 **SEC. 431. ALLOCATION OF FUNDS FOR PLANNING PRO-** 11 **GRAMS.**

12 Section 5305(g) of title 49, United States Code, is  
13 amended by striking “2009” and inserting “2010, and for  
14 the period beginning October 1, 2010, and ending Decem-  
15 ber 31, 2010,”.

### 16 **SEC. 432. SPECIAL RULE FOR URBANIZED AREA FORMULA** 17 **GRANTS.**

18 Section 5307(b)(2) of title 49, United States Code,  
19 is amended—

20 (1) in the paragraph heading, by striking  
21 “2009” and inserting “2010, AND THE PERIOD BEGIN-  
22 NING OCTOBER 1, 2010, AND ENDING DECEMBER 31,  
23 2010”;

1           (2) in subparagraph (A), by striking “2009,”  
2           and inserting “2010, and the period beginning Octo-  
3           ber 1, 2010, and ending December 31, 2010,”; and

4           (3) in subparagraph (E)—

5           (A) in the subparagraph heading, by strik-  
6           ing “AND 2009” and inserting “THROUGH 2010  
7           AND DURING THE PERIOD BEGINNING OCTOBER  
8           1, 2010, AND ENDING DECEMBER 31, 2010”; and

9           (B) in the matter preceding clause (i), by  
10          striking “and 2009” and inserting “through  
11          2010, and during the period beginning October  
12          1, 2010, and ending December 31, 2010,”.

13 **SEC. 433. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**  
14 **MENT GRANTS.**

15          Section 5309(m) of title 49, United States Code, is  
16 amended—

17          (1) in paragraph (2)—

18           (A) in the heading, by striking “2009” and  
19           inserting “2010 AND OCTOBER 1, 2010, THROUGH  
20           DECEMBER 31, 2010”;

21           (B) in the matter preceding subparagraph  
22           (A), by striking “2009” and inserting “2010,  
23           and during the period beginning October 1,  
24           2010, and ending December 31, 2010,”; and

1 (C) in subparagraph (A)(i), by striking  
2 “2009” and inserting “2010, and \$50,000,000  
3 for the period beginning October 1, 2010, and  
4 ending December 31, 2010,”;

5 (2) in paragraph (6)—

6 (A) in subparagraph (B), by striking  
7 “2009” and inserting “2010, and \$3,750,000  
8 shall be available for the period beginning Octo-  
9 ber 1, 2010, and ending December 31, 2010,”;  
10 and

11 (B) in subparagraph (C), by striking  
12 “2009” and inserting “2010, and \$1,250,000  
13 shall be available for the period beginning Octo-  
14 ber 1, 2010 and ending December 31, 2010,”;  
15 and

16 (3) in paragraph (7)—

17 (A) in subparagraph (A)—

18 (i) by redesignating clauses (i)  
19 through (viii) as subclauses (I) through  
20 (VIII), respectively;

21 (ii) in the matter preceding subclause  
22 (I), as so redesignated, by striking  
23 “\$10,000,000” and all that follows  
24 through “2009” and inserting the fol-  
25 lowing:

1                   “(i) FISCAL YEARS 2006 THROUGH  
2                   2010.—\$10,000,000 shall be available in  
3                   each of fiscal years 2006 through 2010”;  
4                   and

5                   (iii) by inserting after subclause  
6                   (VIII), as so redesignated, the following:

7                   “(ii) SPECIAL RULE FOR OCTOBER 1,  
8                   2010, THROUGH DECEMBER 31, 2010.—  
9                   \$2,500,000 shall be available in the period  
10                  beginning October 1, 2010, and ending De-  
11                  cember 31, 2010, for ferry boats or ferry  
12                  terminal facilities. The Secretary shall set  
13                  aside a portion of such amount in accord-  
14                  ance with clause (i), except that the Sec-  
15                  retary shall set aside 25 percent of each  
16                  dollar amount specified in subclauses (I)  
17                  through (VIII).”;

18                  (B) in subparagraph (B), by inserting  
19                  after “2009.” the following:

20                  “(v) \$13,500,000 for fiscal year 2010.

21                  “(vi) \$3,375,000 for the period begin-  
22                  ning October 1, 2010, and ending Decem-  
23                  ber 31, 2010.”;

24                  (C) in subparagraph (C), by inserting “,  
25                  and during the period beginning October 1,

1 2010, and ending December 31, 2010,” after  
2 “fiscal year”;

3 (D) in subparagraph (D), by inserting “,  
4 and not less than \$8,750,000 shall be available  
5 for the period beginning October 1, 2010, and  
6 ending December 31, 2010,” after “year”; and

7 (E) in subparagraph (E), by inserting “,  
8 and \$750,000 shall be available for the period  
9 beginning October 1, 2010, and ending Decem-  
10 ber 31, 2010,” after “year”.

11 **SEC. 434. APPORTIONMENT OF FORMULA GRANTS FOR**  
12 **OTHER THAN URBANIZED AREAS.**

13 Section 5311(c)(1) of title 49, United States Code,  
14 is amended by adding at the end the following:

15 “(E) \$15,000,000 for fiscal year 2010.

16 “(F) \$3,750,000 for the period beginning  
17 October 1, 2010, and ending December 31,  
18 2010.”.”.

19 **SEC. 435. APPORTIONMENT BASED ON FIXED GUIDEWAY**  
20 **FACTORS.**

21 Section 5337 of title 49, United States Code, is  
22 amended—

23 (1) in subsection (a), in the matter preceding  
24 paragraph (1), by striking “2009” and inserting  
25 “2010”; and

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

2 “(g) SPECIAL RULE FOR OCTOBER 1, 2010,  
3 THROUGH DECEMBER 31, 2010.—The Secretary shall ap-  
4 portion amounts made available for fixed guideway mod-  
5 ernization under section 5309 for the period beginning Oc-  
6 tober 1, 2010, and ending December 31, 2010, in accord-  
7 ance with subsection (a), except that the Secretary shall  
8 apportion 25 percent of each dollar amount specified in  
9 subsection (a).”.

10 **SEC. 436. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**  
11 **TATION.**

12 (a) FORMULA AND BUS GRANTS.—Section 5338(b)  
13 of title 49, United States Code, is amended—

14 (1) in paragraph (1)—

15 (A) in subparagraph (C), by striking  
16 “and” at the end;

17 (B) in subparagraph (D), by striking the  
18 period at the end and inserting a semicolon;

19 and

20 (C) by adding at the end the following:

21 “(E) \$8,360,565,000 for fiscal year 2010;

22 and

23 “(F) \$2,090,141,250 for the period begin-  
24 ning October 1, 2010, and ending December

25 31, 2010.”; and

1 (2) in paragraph (2)—

2 (A) in subparagraph (A), by striking “and  
3 \$113,500,000 for fiscal year 2009” and insert-  
4 ing “\$113,500,000 for each of fiscal years 2009  
5 and 2010, and \$28,375,000 for the period be-  
6 ginning October 1, 2010, and ending December  
7 31, 2010,”;

8 (B) in subparagraph (B), by striking “and  
9 \$4,160,365,000 for fiscal year 2009” and in-  
10 sserting “\$4,160,365,000 for each of fiscal years  
11 2009 and 2010, and \$1,040,091,250 for the pe-  
12 riod beginning October 1, 2010, and ending De-  
13 cember 31, 2010,”;

14 (C) in subparagraph (C), by striking “and  
15 \$51,500,000 for fiscal year 2009” and inserting  
16 “\$51,500,000 for each of fiscal years 2009 and  
17 2010, and \$12,875,000 for the period beginning  
18 October 1, 2010, and ending December 31,  
19 2010,”;

20 (D) in subparagraph (D), by striking “and  
21 \$1,666,500,000 for fiscal year 2009” and in-  
22 sserting “\$1,666,500,000 for each of fiscal years  
23 2009 and 2010, and \$416,625,000 for the pe-  
24 riod beginning October 1, 2010 and ending De-  
25 cember 31, 2010,”;

1           (E) in subparagraph (E), by striking “and  
2           \$984,000,000 for fiscal year 2009” and insert-  
3           ing “\$984,000,000 for each of fiscal years 2009  
4           and 2010, and \$246,000,000 for the period be-  
5           ginning October 1, 2010 and ending December  
6           31, 2010,”;

7           (F) in subparagraph (F), by striking “and  
8           \$133,500,000 for fiscal year 2009” and insert-  
9           ing “\$133,500,000 for each of fiscal years 2009  
10          and 2010, and \$33,375,000 for the period be-  
11          ginning October 1, 2010 and ending December  
12          31, 2010,”;

13          (G) in subparagraph (G), by striking “and  
14          \$465,000,000 for fiscal year 2009” and insert-  
15          ing “\$465,000,000 for each of fiscal years 2009  
16          and 2010, and \$116,250,000 for the period be-  
17          ginning October 1, 2010 and ending December  
18          31, 2010,”;

19          (H) in subparagraph (H), by striking “and  
20          \$164,500,000 for fiscal year 2009” and insert-  
21          ing “\$164,500,000 for each of fiscal years 2009  
22          and 2010, and \$41,125,000 for the period be-  
23          ginning October 1, 2010 and ending December  
24          31, 2010,”;

1 (I) in subparagraph (I), by striking “and  
2 \$92,500,000 for fiscal year 2009” and inserting  
3 “\$92,500,000 for each of fiscal years 2009 and  
4 2010, and \$23,125,000 for the period beginning  
5 October 1, 2010 and ending December 31,  
6 2010,”;

7 (J) in subparagraph (J), by striking “and  
8 \$26,900,000 for fiscal year 2009” and inserting  
9 “\$26,900,000 for each of fiscal years 2009 and  
10 2010, and \$6,725,000 for the period beginning  
11 October 1, 2010 and ending December 31,  
12 2010,”;

13 (K) in subparagraph (K), by striking “and  
14 \$3,500,000 for fiscal year 2009” and inserting  
15 “\$3,500,000 for each of fiscal years 2009 and  
16 2010, and \$875,000 for the period beginning  
17 October 1, 2010 and ending December 31,  
18 2010,”;

19 (L) in subparagraph (L), by striking “and  
20 \$25,000,000 for fiscal year 2009” and inserting  
21 “\$25,000,000 for each of fiscal years 2009 and  
22 2010, and \$6,250,000 for the period beginning  
23 October 1, 2010 and ending December 31,  
24 2010,”;

1 (M) in subparagraph (M), by striking “and  
2 \$465,000,000 for fiscal year 2009” and insert-  
3 ing “\$465,000,000 for each of fiscal years 2009  
4 and 2010, and \$116,250,000 for the period be-  
5 ginning October 1, 2010 and ending December  
6 31, 2010,”; and

7 (N) in subparagraph (N), by striking “and  
8 \$8,800,000 for fiscal year 2009” and inserting  
9 “\$8,800,000 for each of fiscal years 2009 and  
10 2010, and \$2,200,000 for the period beginning  
11 October 1, 2010 and ending December 31,  
12 2010,”.

13 (b) CAPITAL INVESTMENT GRANTS.—Section  
14 5338(c) of title 49, United States Code, is amended—

15 (1) in paragraph (3), by striking “and” at the  
16 end;

17 (2) in paragraph (4), by striking the period at  
18 the end and inserting a semicolon; and

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

20 “(5) \$2,000,000,000 for fiscal year 2010; and

21 “(6) \$500,000,000 for the period of October 1,  
22 2010 through December 31, 2010.”.

23 (c) RESEARCH AND UNIVERSITY RESEARCH CEN-  
24 TERS.—Section 5338(d) of title 49, United States Code,  
25 is amended—

1           (1) in paragraph (1), in the matter preceding  
2           subparagraph (A), by striking “and \$69,750,000 for  
3           fiscal year 2009” and inserting “\$69,750,000 for  
4           each of fiscal years 2009 and 2010, and  
5           \$17,437,500 for the period beginning October 1,  
6           2010, and ending December 31, 2010”; and

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

8           “(3) ADDITIONAL AUTHORIZATIONS.—

9           “(A) IN GENERAL.—

10           “(i) FISCAL YEAR 2010.—Of amounts  
11           authorized to be appropriated for fiscal  
12           year 2010 under paragraph (1), the Sec-  
13           retary shall allocate for each of the activi-  
14           ties and projects described in subpara-  
15           graphs (A) through (F) of paragraph (1)  
16           an amount equal to the amount allocated  
17           for fiscal year 2009 under each such sub-  
18           paragraph.

19           “(ii) OCTOBER 1, 2010 THROUGH DE-  
20           CEMBER 31, 2010.—Of amounts authorized  
21           to be appropriated for the period beginning  
22           October 1, 2010, through December 31,  
23           2010, under paragraph (1), the Secretary  
24           shall allocate for each of the activities and  
25           projects described in subparagraphs (A)

1 through (F) of paragraph (1) an amount  
2 equal to 25 percent of the amount allo-  
3 cated for fiscal year 2009 under each such  
4 subparagraph.

5 “(B) UNIVERSITY CENTERS PROGRAM.—

6 “(i) FISCAL YEAR 2010.—Of the  
7 amounts allocated under subparagraph  
8 (A)(i) for the university centers program  
9 under section 5506 for fiscal year 2010,  
10 the Secretary shall allocate for each pro-  
11 gram described in clauses (i) through (iii)  
12 and (v) through (viii) of paragraph (2)(A)  
13 an amount equal to the amount allocated  
14 for fiscal year 2009 under each such  
15 clause.

16 “(ii) OCTOBER 1, 2010 THROUGH DE-  
17 CEMBER 31, 2010.—Of the amounts allo-  
18 cated under subparagraph (A)(i) for the  
19 university centers program under section  
20 5506 for the period beginning October 1,  
21 2010, and ending December 31, 2010, the  
22 Secretary shall allocate for each program  
23 described in clauses (i) through (iii) and  
24 (v) through (viii) of paragraph (2)(A) an  
25 amount equal to 25 percent of the amount

1 allocated for fiscal year 2009 under each  
2 such clause.

3 “(iii) FUNDING.—If the Secretary de-  
4 termines that a project or activity de-  
5 scribed in paragraph (2) received sufficient  
6 funds in fiscal year 2009, or a previous fis-  
7 cal year, to carry out the purpose for  
8 which the project or activity was author-  
9 ized, the Secretary may not allocate any  
10 amounts under clause (i) or (ii) for the  
11 project or activity for fiscal year 2010, or  
12 any subsequent fiscal year.”.

13 (d) ADMINISTRATION.—Section 5338(e) of title 49,  
14 United States Code, is amended—

15 (1) in paragraph (3), by striking “and” at the  
16 end;

17 (2) in paragraph (4), by striking the period at  
18 the end and inserting a semicolon; and

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

20 “(5) \$98,911,000 for fiscal year 2010; and

21 “(6) \$24,727,750 for the period beginning Oc-  
22 tober 1, 2010, and ending December 31, 2010.”.

23 **SEC. 437. AMENDMENTS TO SAFETEA-LU.**

24 (a) CONTRACTED PARATRANSIT PILOT.—Section  
25 3009(i)(1) of the SAFETEA-LU (Public Law 109-59;

1 119 Stat. 1572) is amended by striking “2009” and in-  
2 serting “2010, and for the period beginning October 1,  
3 2010, and ending December 31, 2010”.

4 (b) PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-  
5 GRAM.—Section 3011 of the SAFETEA-LU (49 U.S.C.  
6 5309 note) is amended—

7 (1) in subsection (c)(5), by striking “2009” and  
8 inserting “2010 and the period beginning October 1,  
9 2010, and ending December 31, 2010”; and

10 (2) in subsection (d), by striking “2009” and  
11 inserting “2010, and for the period beginning Octo-  
12 ber 1, 2010, and ending December 31, 2010”.

13 (c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH  
14 DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of  
15 the SAFETEA-LU (49 U.S.C. 5310 note) is amended by  
16 striking “September 30, 2009” and inserting “December  
17 31, 2010”.

18 (d) OBLIGATION CEILING.—Section 3040 of the  
19 SAFETEA-LU (Public Law 109–59; 119 Stat. 1639) is  
20 amended—

21 (1) in paragraph (4), by striking “and” at the  
22 end;

23 (2) in paragraph (5), by striking the period at  
24 the end and inserting a semicolon; and

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

1           “(6) \$10,507,752,000 for fiscal year 2010, of  
2           which not more than \$8,360,565,000 shall be from  
3           the Mass Transit Account; and

4           “(7) \$2,626,938,000 for the period beginning  
5           October 1, 2010, and ending December 31, 2010, of  
6           which not more than \$2,090,141,250 shall be from  
7           the Mass Transit Account.”.

8           (e) PROJECT AUTHORIZATIONS FOR NEW FIXED  
9           GUIDEWAY CAPITAL PROJECTS.—Section 3043 of the  
10          SAFETEA-LU (Public Law 109–59; 119 Stat. 1640) is  
11          amended—

12           (1) in subsection (b), in the matter preceding  
13          paragraph (1), by striking “2009” and inserting  
14          “2010, and for the period beginning October 1,  
15          2010, and ending December 31, 2010,”; and

16           (2) in subsection (c), in the matter preceding  
17          paragraph (1), by striking “2009” and inserting  
18          “2010, and for the period beginning October 1,  
19          2010, and ending December 31, 2010,”.

20          (f) ALLOCATIONS FOR NATIONAL RESEARCH AND  
21          TECHNOLOGY PROGRAMS.—Section 3046 of the  
22          SAFETEA-LU (49 U.S.C. 5338 note) is amended—

23           (1) in subsection (b), by inserting “or period”  
24          after “fiscal year”; and

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

1           “(c) **ADDITIONAL APPROPRIATIONS.**—The Secretary  
2 shall allocate amounts appropriated pursuant to section  
3 5338(d) of title 49, United States Code, for national re-  
4 search and technology programs under sections 5312,  
5 5314, and 5322 of such title—

6           “(1) for fiscal year 2010, in amounts equal to  
7 the amounts allocated for fiscal year 2009 under  
8 each of paragraphs (2), (3), (5), (6), and (8)  
9 through (25) of subsection (a); and

10           “(2) for the period beginning October 1, 2010,  
11 and ending December 31, 2010, in amounts equal to  
12 25 percent of the amounts allocated for fiscal year  
13 2009 under each of paragraphs (2), (3), (5), (6),  
14 and (8) through (25) of subsection (a).

15           “(d) **FUNDING.**—If the Secretary determines that a  
16 project or activity described in subsection (a) received suf-  
17 ficient funds in fiscal year 2009, or a previous fiscal year,  
18 to carry out the purpose for which the project or activity  
19 was authorized, the Secretary may not allocate any  
20 amounts under subsection (c) for the project or activity  
21 for fiscal year 2010, or any subsequent fiscal year.”.

1       **Subtitle D—Revenue Provisions**

2       **SEC. 441. REPEAL OF PROVISION PROHIBITING THE CRED-**  
3                   **ITING OF INTEREST TO THE HIGHWAY TRUST**  
4                   **FUND.**

5           (a) **IN GENERAL.**—Paragraph (1) of section 9503(f)  
6 is amended by striking subparagraph (B).

7           (b) **CONFORMING AMENDMENTS.**—Such paragraph,  
8 as amended by paragraph (1), is further amended—

9                   (1) by striking “, and” at the end of subpara-  
10 graph (A) and inserting a period; and

11                   (2) by striking “1998” in the matter preceding  
12 subparagraph (A) and all that follows through “the  
13 opening balance” and inserting “1998, the opening  
14 balance”.

15           (c) **EFFECTIVE DATE.**—The amendments made by  
16 this section shall take effect on the date of the enactment  
17 of this title.

18       **SEC. 442. RESTORATION OF CERTAIN FOREGONE INTEREST**  
19                   **TO HIGHWAY TRUST FUND.**

20           (a) **IN GENERAL.**—Paragraph (2) of section 9503(f)  
21 is amended to read as follows:

22                   “(2) **RESTORATION OF FOREGONE INTEREST.**—  
23           Out of money in the Treasury not otherwise appro-  
24           priated, there is hereby appropriated—

1           “(A) \$14,700,000,000 to the Highway Ac-  
2           count (as defined in subsection (e)(5)(B)) in  
3           the Highway Trust Fund; and

4           “(B) \$4,800,000,000 to the Mass Transit  
5           Account in the Highway Trust Fund.”.

6           (b) CONFORMING AMENDMENT.—Paragraph (1) of  
7           section 9503(e) is amended by striking “this subsection”  
8           and inserting “this section”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10          this section shall take effect on the date of the enactment  
11          of this Act.

12       **SEC. 443. TREATMENT OF CERTAIN AMOUNTS APPRO-**  
13                               **PRIATED TO HIGHWAY TRUST FUND.**

14          (a) IN GENERAL.—Section 9503(f), as amended by  
15          this Act, is amended by adding at the end the following  
16          new paragraph:

17               “(4)       TREATMENT       OF       APPROPRIATED  
18               AMOUNTS.—Any amount appropriated under this  
19               subsection to the Highway Trust Fund shall remain  
20               available without fiscal year limitation.”.

21          (b) EFFECTIVE DATE.—The amendment made by  
22          this section shall take effect on the date of the enactment  
23          of this Act.

1 **SEC. 444. TERMINATION OF TRANSFERS FROM HIGHWAY**  
2 **TRUST FUND FOR CERTAIN REPAYMENTS**  
3 **AND CREDITS.**

4 (a) IN GENERAL.—Section 9503(c) is amended by  
5 striking paragraph (2) and by redesignating paragraphs  
6 (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5),  
7 respectively.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 9502(a) is amended by striking  
10 “section 9503(c)(7)” and inserting “section  
11 9503(c)(5)”.

12 (2) Section 9503(b)(4)(D) is amended by strik-  
13 ing “paragraph (4)(D) or (5)(B)” and inserting  
14 “paragraph (3)(D) or (4)(B)”.

15 (3) Paragraph (2) of section 9503(c), as redesi-  
16 gnated by subsection (a), is amended by adding at  
17 the end the following new sentence: “The amounts  
18 payable from the Highway Trust Fund under the  
19 preceding sentence shall be determined by taking  
20 into account only the portion of the taxes which are  
21 deposited into the Highway Trust Fund.”.

22 (4) Section 9503(e)(5)(A) is amended by strik-  
23 ing “(2), (3), and (4)” and inserting “(2) and (3)”.

24 (5) Section 9504(a) is amended by striking  
25 “section 9503(c)(4), section 9503(c)(5)” and insert-  
26 ing “section 9503(c)(3), section 9503(c)(4)”.

1           (6) Section 9504(b)(2) is amended by striking  
2           “section 9503(c)(5)” and inserting “section  
3           9503(c)(4)”.

4           (7) Section 9504(e) is amended by striking  
5           “section 9503(c)(4)” and inserting section  
6           “9503(c)(3)”.

7           (c) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to transfers relating to amounts  
9 paid and credits allowed after the date of the enactment  
10 of this Act.

11 **SEC. 445. EXTENSION OF AUTHORITY FOR EXPENDITURES.**

12           (a) HIGHWAYS TRUST FUND.—

13           (1) HIGHWAY ACCOUNT.—Paragraph (1) of sec-  
14 tion 9503(c) is amended—

15           (A) by striking “September 30, 2009 (Oc-  
16 tober 1, 2009” and inserting “December 31,  
17 2010 (January 1, 2011”;

18           (B) by striking “under” and all that fol-  
19 lows and inserting “under the Surface Trans-  
20 portation Extension Act of 2010 or any other  
21 provision of law which was referred to in this  
22 paragraph before the date of the enactment of  
23 such Act (as such Act and provisions of law are  
24 in effect on the date of the enactment of such  
25 Act).”.

1           (2) MASS TRANSIT ACCOUNT.—Paragraph (3)  
2 of section 9503(e) is amended—

3           (A) by striking “October 1, 2009” and in-  
4 sserting “January 1, 2011”; and

5           (B) by striking “in accordance with” and  
6 all that follows and inserting “in accordance  
7 with the Surface Transportation Extension Act  
8 of 2010 or any other provision of law which was  
9 referred to in this paragraph before the date of  
10 the enactment of such Act (as such Act and  
11 provisions of law are in effect on the date of the  
12 enactment of such Act).”.

13           (3) EXCEPTION TO LIMITATION ON TRANS-  
14 FERS.—Subparagraph (B) of section 9503(b)(6) is  
15 amended by striking “September 30, 2009 (October  
16 1, 2009” and inserting “December 31, 2010 (Janu-  
17 ary 1, 2011”.

18           (b) SPORT FISH RESTORATION AND BOATING TRUST  
19 FUND.—

20           (1) IN GENERAL.—Paragraph (2) of section  
21 9504(b) is amended—

22           (A) by striking “(as in effect” in subpara-  
23 graph (A) and all that follows in such subpara-  
24 graph and inserting “(as in effect on the date

1 of the enactment of the Surface Transportation  
2 Extension Act of 2010),”

3 (B) by striking “(as in effect” in subpara-  
4 graph (B) and all that follows in such subpara-  
5 graph and inserting “(as in effect on the date  
6 of the enactment of the Surface Transportation  
7 Extension Act of 2010), and”, and

8 (C) by striking “(as in effect” in subpara-  
9 graph (C) and all that follows in such subpara-  
10 graph and inserting “(as in effect on the date  
11 of the enactment of the Surface Transportation  
12 Extension Act of 2010).”.

13 (2) EXCEPTION TO LIMITATION ON TRANS-  
14 FERS.—Paragraph (2) of section 9504(d) is amend-  
15 ed by striking “October 1, 2009” and inserting  
16 “January 1, 2011”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on September 30, 2009.

19 **SEC. 446. LEVEL OF OBLIGATION LIMITATIONS.**

20 (a) HIGHWAY CATEGORY.—Section 8003(a) of the  
21 SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is  
22 amended—

23 (1) in paragraph (4), by striking “and” at the  
24 end;

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

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

4           “(6) for the period beginning on October 1,  
5           2009, and ending on September 30, 2010,  
6           \$42,469,970,178.

7           “(7) for the period beginning on October 1,  
8           2010, and ending on December 31, 2010,  
9           \$10,617,492,545.”.

10          (b) MASS TRANSIT CATEGORY.—Section 8003(b) of  
11          the SAFETEA–LU (2 U.S.C. 901 note; 119 Stat. 1917)  
12          is amended—

13                 (1) in paragraph (4), by striking “and” at the  
14                 end;

15                 (2) in paragraph (5), by striking the period at  
16                 the end and inserting “; and”; and

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

18                 “(6) for the period beginning on October 1,  
19                 2009, and ending on December 31, 2010,  
20                 \$10,338,065,000.

21                 “(7) for the period beginning on October 1,  
22                 2010, and ending on December 31, 2010,  
23                 \$2,584,516,250.”.

1 (c) TREATMENT OF FUNDS.—No adjustment pursu-  
2 ant to section 110 of title 23, United States Code, shall  
3 be made for fiscal year 2010 or fiscal year 2011.

## 4 **TITLE V—EXTENSION OF** 5 **EXPIRING PROVISIONS**

### 6 **Subtitle A—Energy**

7 **SEC. 501. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW**  
8 **QUALIFIED HYBRID MOTOR VEHICLES**  
9 **OTHER THAN PASSENGER AUTOMOBILES**  
10 **AND LIGHT TRUCKS.**

11 (a) IN GENERAL.—Paragraph (3) of section 30B(k)  
12 is amended by striking “December 31, 2009” and insert-  
13 ing “December 31, 2010”.

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

17 **SEC. 502. INCENTIVES FOR BIODIESEL AND RENEWABLE**  
18 **DIESEL.**

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

23 (b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS  
24 FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIX-  
25 TURES.—

1           (1) Paragraph (6) of section 6426(c) is amend-  
2           ed by striking “December 31, 2009” and inserting  
3           “December 31, 2010”.

4           (2) Subparagraph (B) of section 6427(e)(5) is  
5           amended by striking “December 31, 2009” and in-  
6           serting “December 31, 2010”.

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

10 **SEC. 503. CREDIT FOR ELECTRICITY PRODUCED AT CER-**  
11 **TAIN OPEN-LOOP BIOMASS FACILITIES.**

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

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

18 **SEC. 504. CREDIT FOR REFINED COAL FACILITIES.**

19           (a) IN GENERAL.—Subparagraphs (A) and (B) of  
20           section 45(d)(8) are each amended by striking “January  
21           1, 2010” and inserting “January 1, 2011”.

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

1 **SEC. 505. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**  
2 **SEL FUEL.**

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

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

9 **SEC. 506. CREDIT FOR PRODUCING FUEL FROM COKE OR**  
10 **COKE GAS.**

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

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

17 **SEC. 507. NEW ENERGY EFFICIENT HOME CREDIT.**

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

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

1 **SEC. 508. EXCISE TAX CREDITS AND OUTLAY PAYMENTS**  
2 **FOR ALTERNATIVE FUEL AND ALTERNATIVE**  
3 **FUEL MIXTURES.**

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

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

10 **SEC. 509. SPECIAL RULE FOR SALES OR DISPOSITIONS TO**  
11 **IMPLEMENT FERC OR STATE ELECTRIC RE-**  
12 **STRUCTURING POLICY FOR QUALIFIED ELEC-**  
13 **TRIC UTILITIES.**

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

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to transactions after December 31,  
19 2009.

20 **SEC. 510. SUSPENSION OF LIMITATION ON PERCENTAGE**  
21 **DEPLETION FOR OIL AND GAS FROM MAR-**  
22 **GINAL WELLS.**

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

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

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

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

#### 6 **SEC. 511. DEDUCTION FOR CERTAIN EXPENSES OF ELE-** 7 **MENTARY AND SECONDARY SCHOOL TEACH-** 8 **ERS.**

9 (a) IN GENERAL.—Subparagraph (D) of section  
10 62(a)(2) is amended by striking “or 2009” and inserting  
11 “2009, or 2010”.

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

#### 15 **SEC. 512. ADDITIONAL STANDARD DEDUCTION FOR STATE** 16 **AND LOCAL REAL PROPERTY TAXES.**

17 (a) IN GENERAL.—Subparagraph (C) of section  
18 63(c)(1) is amended by striking “or 2009” and inserting  
19 “2009, or 2010”.

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

1 **SEC. 513. DEDUCTION OF STATE AND LOCAL SALES TAXES.**

2 (a) IN GENERAL.—Subparagraph (I) of section  
3 164(b)(5) is amended by striking “January 1, 2010” and  
4 inserting “January 1, 2011”.

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

8 **SEC. 514. CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-**  
9 **ERTY MADE FOR CONSERVATION PURPOSES.**

10 (a) IN GENERAL.—Clause (vi) of section  
11 170(b)(1)(E) is amended by striking “December 31,  
12 2009” and inserting “December 31, 2010”.

13 (b) CONTRIBUTIONS BY CERTAIN CORPORATE FARM-  
14 ERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B)  
15 is amended by striking “December 31, 2009” and insert-  
16 ing “December 31, 2010”.

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

20 **SEC. 515. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**  
21 **TUITION AND RELATED EXPENSES.**

22 (a) IN GENERAL.—Subsection (e) of section 222 is  
23 amended by striking “December 31, 2009” and inserting  
24 “December 31, 2010”.

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

4 **SEC. 516. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
5 **TIREMENT PLANS FOR CHARITABLE PUR-**  
6 **POSES.**

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

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

13 **SEC. 517. LOOK-THRU OF CERTAIN REGULATED INVEST-**  
14 **MENT COMPANY STOCK IN DETERMINING**  
15 **GROSS ESTATE OF NONRESIDENTS.**

16 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
17 is amended by striking “December 31, 2009” and insert-  
18 ing “December 31, 2010”.

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



1                   utable to amounts described in clauses (ii)  
2                   and (iv) of such subsection, multiplied by  
3                   “(B) 10.

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

12                  “(4) SPECIAL RULE FOR BASIS.—Basis of a  
13                  qualified low-income building shall not be reduced by  
14                  the amount of any payment made under this sub-  
15                  section.

16                  “(5) PAYMENT OF CREDIT; USE TO FINANCE  
17                  LOW-INCOME BUILDINGS.—The Secretary shall pay  
18                  to the housing credit agency of each State an  
19                  amount equal to the credit allowed under paragraph  
20                  (1). Rules similar to the rules of subsections (c) and  
21                  (d) of section 1602 of the American Recovery and  
22                  Reinvestment Tax Act of 2009 shall apply with re-  
23                  spect to any payment made under this paragraph,  
24                  except that such subsection (d) shall be applied by

1 substituting ‘January 1, 2012’ for ‘January 1,  
2 2011’.”.

3 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)  
4 of title 31, United States Code, is amended by inserting  
5 “42(n),” after “36A,”.

## 6 **Subtitle C—Business Tax Relief**

### 7 **SEC. 531. RESEARCH CREDIT.**

8 (a) IN GENERAL.—Subparagraph (B) of section  
9 41(h)(1) is amended by striking “December 31, 2009”  
10 and inserting “December 31, 2010”.

11 (b) CONFORMING AMENDMENT.—Subparagraph (D)  
12 of section 45C(b)(1) is amended by striking “December  
13 31, 2009” and inserting “December 31, 2010”.

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

### 17 **SEC. 532. INDIAN EMPLOYMENT TAX CREDIT.**

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

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

1 **SEC. 533. NEW MARKETS TAX CREDIT.**

2 (a) IN GENERAL.—Subparagraph (F) of section  
3 45D(f)(1) is amended by inserting “and 2010” after  
4 “2009”.

5 (b) CONFORMING AMENDMENT.—Paragraph (3) of  
6 section 45D(f) is amended by striking “2014” and insert-  
7 ing “2015”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to calendar years beginning after  
10 2009.

11 **SEC. 534. RAILROAD TRACK MAINTENANCE CREDIT.**

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

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

18 **SEC. 535. MINE RESCUE TEAM TRAINING CREDIT.**

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

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

1 **SEC. 536. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**  
2 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**  
3 **FORMED SERVICES.**

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

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

10 **SEC. 537. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**  
11 **MACHINERY AND EQUIPMENT.**

12 (a) IN GENERAL.—Clause (vii) of section  
13 168(e)(3)(B) is amended by striking “January 1, 2010”  
14 and inserting “January 1, 2011”.

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

18 **SEC. 538. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**  
19 **QUALIFIED LEASEHOLD IMPROVEMENTS,**  
20 **QUALIFIED RESTAURANT BUILDINGS AND IM-**  
21 **PROVEMENTS, AND QUALIFIED RETAIL IM-**  
22 **PROVEMENTS.**

23 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-  
24 tion 168(e)(3)(E) are each amended by striking “January  
25 1, 2010” and inserting “January 1, 2011”.

26 (b) CONFORMING AMENDMENTS.—

1           (1) Clause (i) of section 168(e)(7)(A) is amend-  
2           ed by striking “if such building is placed in service  
3           after December 31, 2008, and before January 1,  
4           2010.”.

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

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

10 **SEC. 539. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**  
11 **ENTERTAINMENT COMPLEXES.**

12           (a) IN GENERAL.—Subparagraph (D) of section  
13           168(i)(15) is amended by striking “December 31, 2009”  
14           and inserting “December 31, 2010”.

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

18 **SEC. 540. ACCELERATED DEPRECIATION FOR BUSINESS**  
19 **PROPERTY ON AN INDIAN RESERVATION.**

20           (a) IN GENERAL.—Paragraph (8) of section 168(j)  
21           is amended by striking “December 31, 2009” and insert-  
22           ing “December 31, 2010”.

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

1 **SEC. 541. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
2 **TRIBUTIONS OF FOOD INVENTORY.**

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

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

9 **SEC. 542. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
10 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**  
11 **LIC SCHOOLS.**

12 (a) IN GENERAL.—Clause (iv) of section  
13 170(e)(3)(D) is amended by striking “December 31,  
14 2009” and inserting “December 31, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to contributions made after De-  
17 cember 31, 2009.

18 **SEC. 543. ENHANCED CHARITABLE DEDUCTION FOR COR-**  
19 **PORATE CONTRIBUTIONS OF COMPUTER IN-**  
20 **VENTORY FOR EDUCATIONAL PURPOSES.**

21 (a) IN GENERAL.—Subparagraph (G) of section  
22 170(e)(6) is amended by striking “December 31, 2009”  
23 and inserting “December 31, 2010”.

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

1 **SEC. 544. ELECTION TO EXPENSE MINE SAFETY EQUIP-**  
2 **MENT.**

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

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

9 **SEC. 545. SPECIAL EXPENSING RULES FOR CERTAIN FILM**  
10 **AND TELEVISION PRODUCTIONS.**

11 (a) IN GENERAL.—Subsection (f) of section 181 is  
12 amended by striking “December 31, 2009” and inserting  
13 “December 31, 2010”.

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

17 **SEC. 546. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
18 **COSTS.**

19 (a) IN GENERAL.—Subsection (h) of section 198 is  
20 amended by striking “December 31, 2009” and inserting  
21 “December 31, 2010”.

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

1 **SEC. 547. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
2 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
3 **DUCTION ACTIVITIES IN PUERTO RICO.**

4 (a) **IN GENERAL.**—Subparagraph (C) of section  
5 199(d)(8) is amended—

6 (1) by striking “first 4 taxable years” and in-  
7 serting “first 5 taxable years”, and

8 (2) by striking “January 1, 2010” and insert-  
9 ing “January 1, 2011”.

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

13 **SEC. 548. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
14 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
15 **NIZATIONS.**

16 (a) **IN GENERAL.**—Clause (iv) of section  
17 512(b)(13)(E) is amended by striking “December 31,  
18 2009” and inserting “December 31, 2010”.

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

1 **SEC. 549. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**  
2 **CHANGE OF CERTAIN BROWNFIELD SITES**  
3 **FROM UNRELATED BUSINESS INCOME.**

4 (a) IN GENERAL.—Subparagraph (K) of section  
5 512(b)(19) is amended by striking “December 31, 2009”  
6 and inserting “December 31, 2010”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to property acquired after Decem-  
9 ber 31, 2009.

10 **SEC. 550. TIMBER REIT MODERNIZATION.**

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

14 (b) CONFORMING AMENDMENTS.—

15 (1) Subparagraph (I) of section 856(e)(2) is  
16 amended by striking “the first taxable year begin-  
17 ning after the date of the enactment of this subpara-  
18 graph” and inserting “in a taxable year beginning  
19 before the termination date”.

20 (2) Clause (iii) of section 856(e)(5)(H) is  
21 amended by inserting “in taxable years beginning”  
22 after “dispositions”.

23 (3) Clause (v) of section 857(b)(6)(D) is  
24 amended by inserting “in a taxable year beginning”  
25 after “sale”.

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

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years ending after May  
6 22, 2009.

7 **SEC. 551. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS**  
8 **OF REGULATED INVESTMENT COMPANIES.**

9           (a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of  
10 section 871(k) are each amended by striking “December  
11 31, 2009” and inserting “December 31, 2010”.

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

15 **SEC. 552. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**  
16 **UNDER FIRPTA.**

17          (a) IN GENERAL.—Clause (ii) of section  
18 897(h)(4)(A) is amended by striking “December 31,  
19 2009” and inserting “December 31, 2010”.

20          (b) EFFECTIVE DATE.—

21               (1) IN GENERAL.—The amendment made by  
22 subsection (a) shall take effect on January 1, 2010.  
23 Notwithstanding the preceding sentence, such  
24 amendment shall not apply with respect to the with-  
25 holding requirement under section 1445 of the Inter-

1       nal Revenue Code of 1986 for any payment made  
2       before the date of the enactment of this Act.

3               (2) AMOUNTS WITHHELD ON OR BEFORE DATE  
4       OF ENACTMENT.—In the case of a regulated invest-  
5       ment company—

6               (A) which makes a distribution after De-  
7       cember 31, 2009, and before the date of the en-  
8       actment of this Act, and

9               (B) which would (but for the second sen-  
10       tence of paragraph (1)) have been required to  
11       withhold with respect to such distribution under  
12       section 1445 of such Code,

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

17 **SEC. 553. EXCEPTIONS FOR ACTIVE FINANCING INCOME.**

18       (a) IN GENERAL.—Sections 953(e)(10) and  
19       954(h)(9) are each amended by striking “January 1,  
20       2010” and inserting “January 1, 2011”.

21       (b) CONFORMING AMENDMENT.—Section 953(e)(10)  
22       is amended by striking “December 31, 2009” and insert-  
23       ing “December 31, 2010”.

24       (c) EFFECTIVE DATE.—The amendments made by  
25       this section shall apply to taxable years of foreign corpora-

1 tions beginning after December 31, 2009, and to taxable  
2 years of United States shareholders with or within which  
3 any such taxable year of such foreign corporation ends.

4 **SEC. 554. LOOK-THRU TREATMENT OF PAYMENTS BE-**  
5 **TWEEN RELATED CONTROLLED FOREIGN**  
6 **CORPORATIONS UNDER FOREIGN PERSONAL**  
7 **HOLDING COMPANY RULES.**

8 (a) IN GENERAL.—Subparagraph (C) of section  
9 954(c)(6) is amended by striking “January 1, 2010” and  
10 inserting “January 1, 2011”.

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

16 **SEC. 555. TEMPORARY REDUCTION IN CORPORATE RATE**  
17 **FOR QUALIFIED TIMBER GAIN.**

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

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

23 “(3) APPLICATION OF SUBSECTION.—The  
24 qualified timber gain for any taxable year shall not

1 exceed the qualified timber gain which would be de-  
2 termined by not taking into account—

3 “(A) any portion of such taxable year after  
4 May 22, 2009, and before the date of the enact-  
5 ment of the Hiring Incentives to Restore Em-  
6 ployment Act, and

7 “(B) any portion of such taxable year after  
8 December 31, 2010.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years ending after the  
11 date of the enactment of this Act.

12 **SEC. 556. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**  
13 **ING CHARITABLE CONTRIBUTIONS OF PROP-**  
14 **ERTY.**

15 (a) IN GENERAL.—Paragraph (2) of section 1367(a)  
16 is amended by striking “December 31, 2009” and insert-  
17 ing “December 31, 2010”.

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

21 **SEC. 557. EMPOWERMENT ZONE TAX INCENTIVES.**

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

23 (1) by striking “December 31, 2009” in sub-  
24 section (d)(1)(A)(i) and inserting “December 31,  
25 2010”, and

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

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

6           (1) by striking “December 31, 2014” and in-  
7           serting “December 31, 2015”, and

8           (2) by striking “2014” in the heading and in-  
9           serting “2015”.

10          (c) TREATMENT OF CERTAIN TERMINATION DATES  
11 SPECIFIED IN NOMINATIONS.—In the case of a designa-  
12 tion of an empowerment zone the nomination for which  
13 included a termination date which is contemporaneous  
14 with the date specified in subparagraph (A)(i) of section  
15 1391(d)(1) of the Internal Revenue Code of 1986 (as in  
16 effect before the enactment of this Act), subparagraph (B)  
17 of such section shall not apply with respect to such des-  
18 ignation unless, after the date of the enactment of this  
19 section, the entity which made such nomination reconfirms  
20 such termination date, or amends the nomination to pro-  
21 vide for a new termination date, in such manner as the  
22 Secretary of the Treasury (or the Secretary’s designee)  
23 may provide.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to periods after December 31,  
3 2009.

4 **SEC. 558. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
5 **TRICT OF COLUMBIA.**

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

9 (b) TAX-EXEMPT DC EMPOWERMENT ZONE  
10 BONDS.—Subsection (b) of section 1400A is amended by  
11 striking “December 31, 2009” and inserting “December  
12 31, 2010”.

13 (c) ZERO-PERCENT CAPITAL GAINS RATE.—

14 (1) ACQUISITION DATE.—Paragraphs (2)(A)(i),  
15 (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section  
16 1400B(b) are each amended by striking “January 1,  
17 2010” and inserting “January 1, 2011”.

18 (2) LIMITATION ON PERIOD OF GAINS.—

19 (A) IN GENERAL.—Paragraph (2) of sec-  
20 tion 1400B(e) is amended—

21 (i) by striking “December 31, 2014”  
22 and inserting “December 31, 2015”, and

23 (ii) by striking “2014” in the heading  
24 and inserting “2015”.

1                   (B) PARTNERSHIPS AND S-CORPS.—Para-  
2                   graph (2) of section 1400B(g) is amended by  
3                   striking “December 31, 2014” and inserting  
4                   “December 31, 2015”.

5                   (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection  
6 (i) of section 1400C is amended by striking “January 1,  
7 2010” and inserting “January 1, 2011”.

8                   (e) EFFECTIVE DATES.—

9                   (1) IN GENERAL.—Except as otherwise pro-  
10                  vided in this subsection, the amendments made by  
11                  this section shall apply to periods after December  
12                  31, 2009.

13                  (2) TAX-EXEMPT DC EMPOWERMENT ZONE  
14                  BONDS.—The amendment made by subsection (b)  
15                  shall apply to bonds issued after December 31,  
16                  2009.

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

21                  (4) HOMEBUYER CREDIT.—The amendment  
22                  made by subsection (d) shall apply to homes pur-  
23                  chased after December 31, 2009.

1 **SEC. 559. RENEWAL COMMUNITY TAX INCENTIVES.**

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

4 (1) by striking “December 31, 2009” in para-  
5 graphs (1)(A) and (3) and inserting “December 31,  
6 2010”, and

7 (2) by striking “January 1, 2010” in paragraph  
8 (3) and inserting “January 1, 2011”.

9 (b) ZERO-PERCENT CAPITAL GAINS RATE.—

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

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

16 (A) by striking “December 31, 2014” and  
17 inserting “December 31, 2015”, and

18 (B) by striking “2014” in the heading and  
19 inserting “2015”.

20 (3) CLERICAL AMENDMENT.—Subsection (d) of  
21 section 1400F is amended by striking “and ‘Decem-  
22 ber 31, 2014’ for ‘December 31, 2014’”.

23 (c) COMMERCIAL REVITALIZATION DEDUCTION.—

24 (1) IN GENERAL.—Subsection (g) of section  
25 1400I is amended by striking “December 31, 2009”  
26 and inserting “December 31, 2010”.

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

6           (d) INCREASED EXPENSING UNDER SECTION 179.—  
7           Subparagraph (A) of section 1400J(b)(1) is amended by  
8           striking “January 1, 2010” and inserting “January 1,  
9           2011”.

10          (e) TREATMENT OF CERTAIN TERMINATION DATES  
11          SPECIFIED IN NOMINATIONS.—In the case of a designa-  
12          tion of a renewal community the nomination for which in-  
13          cluded a termination date which is contemporaneous with  
14          the date specified in subparagraph (A) of section  
15          1400E(b)(1) of the Internal Revenue Code of 1986 (as  
16          in effect before the enactment of this Act), subparagraph  
17          (B) of such section shall not apply with respect to such  
18          designation unless, after the date of the enactment of this  
19          section, the entity which made such nomination reconfirms  
20          such termination date, or amends the nomination to pro-  
21          vide for a new termination date, in such manner as the  
22          Secretary of the Treasury (or the Secretary’s designee)  
23          may provide.

24          (f) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the amendments made by  
3           this section shall apply to periods after December  
4           31, 2009.

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

8           (3) COMMERCIAL REVITALIZATION DEDUC-  
9           TION.—

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

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

17 **SEC. 560. TEMPORARY INCREASE IN LIMIT ON COVER OVER**  
18 **OF RUM EXCISE TAXES TO PUERTO RICO AND**  
19 **THE VIRGIN ISLANDS.**

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

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

1 **SEC. 561. AMERICAN SAMOA ECONOMIC DEVELOPMENT**  
2 **CREDIT.**

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

6 (1) by striking “first 4 taxable years” and in-  
7 serting “first 5 taxable years”, and

8 (2) by striking “January 1, 2010” and insert-  
9 ing “January 1, 2011”.

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

13 **Subtitle D—Temporary Disaster**  
14 **Relief Provisions**

15 **PART I—NATIONAL DISASTER RELIEF**

16 **SEC. 571. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**  
17 **REQUIREMENTS.**

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

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

1 (c) TECHNICAL AMENDMENT.—Subsection (k) of sec-  
2 tion 143 is amended by redesignating the second para-  
3 graph (12) (relating to special rules for residences de-  
4 stroyed in federally declared disasters) as paragraph (13).

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as otherwise pro-  
7 vided in this subsection, the amendment made by  
8 this section shall apply to bonds issued after Decem-  
9 ber 31, 2009.

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

14 (3) TECHNICAL AMENDMENT.—The amendment  
15 made by subsection (c) shall take effect as if in-  
16 cluded in section 709 of the Tax Extenders and Al-  
17 ternative Minimum Tax Relief Act of 2008.

18 **SEC. 572. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**  
19 **CLARED DISASTERS.**

20 (a) IN GENERAL.—Subclause (I) of section  
21 165(h)(3)(B)(i) is amended by striking “January 1,  
22 2010” and inserting “January 1, 2011”.

23 (b) \$500 LIMITATION.—Paragraph (1) of section  
24 165(h) is amended by striking “December 31, 2009” and  
25 inserting “December 31, 2010”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by  
3 subsection (a) shall apply to federally declared disas-  
4 ters occurring after December 31, 2009.

5 (2) \$500 LIMITATION.—The amendment made  
6 by subsection (b) shall apply to taxable years begin-  
7 ning after December 31, 2009.

8 **SEC. 573. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**  
9 **FIED DISASTER PROPERTY.**

10 (a) IN GENERAL.—Subclause (I) of section  
11 168(n)(2)(A)(ii) is amended by striking “January 1,  
12 2010” and inserting “January 1, 2011”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to disasters occurring after Decem-  
15 ber 31, 2009.

16 **SEC. 574. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**  
17 **ERALLY DECLARED DISASTERS.**

18 (a) IN GENERAL.—Subclause (I) of section  
19 172(j)(1)(A)(i) is amended by striking “January 1, 2010”  
20 and inserting “January 1, 2011”.

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

1 **SEC. 575. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

2 (a) IN GENERAL.—Subparagraph (A) of section  
3 198A(b)(2) is amended by striking “January 1, 2010”  
4 and inserting “January 1, 2011”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to expenditures on account of dis-  
7 asters occurring after December 31, 2009.

8 **PART II—REGIONAL PROVISIONS**

9 **Subpart A—New York Liberty Zone**

10 **SEC. 581. SPECIAL DEPRECIATION ALLOWANCE FOR NON-**  
11 **RESIDENTIAL AND RESIDENTIAL REAL PROP-**  
12 **ERTY.**

13 (a) IN GENERAL.—Subparagraph (A) of section  
14 1400L(b)(2) is amended by striking “December 31, 2009”  
15 and inserting “December 31, 2010”.

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

19 **SEC. 582. TAX-EXEMPT BOND FINANCING.**

20 (a) IN GENERAL.—Subparagraph (D) of section  
21 1400L(d)(2) is amended by striking “January 1, 2010”  
22 and inserting “January 1, 2011”.

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



1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect as if included in section  
3 702(d)(10) of the Heartland Disaster Tax Relief Act of  
4 2008.

5 **SEC. 586. EXCLUSION OF CANCELLATION OF MORTGAGE IN-**  
6 **DEBTEDNESS.**

7 (a) IN GENERAL.—Section 702(e)(4)(C) of the  
8 Heartland Disaster Tax Relief Act of 2008 (Public Law  
9 110-343; 122 Stat. 3918) is amended by striking “Janu-  
10 ary 1, 2010” and inserting “January 1, 2011”.

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

14 **TITLE VI—UNEMPLOYMENT IN-**  
15 **SURANCE, HEALTH, AND**  
16 **OTHER PROVISIONS**

17 **Subtitle A—Unemployment**  
18 **Insurance**

19 **SEC. 601. EXTENSION OF UNEMPLOYMENT INSURANCE**  
20 **PROVISIONS.**

21 (a) IN GENERAL.—(1) Section 4007 of the Supple-  
22 mental Appropriations Act, 2008 (Public Law 110-252;  
23 26 U.S.C. 3304 note) is amended—

24 (A) by striking “February 28, 2010” each place  
25 it appears and inserting “May 31, 2010”;

1 (B) in the heading for subsection (b)(2), by  
2 striking “FEBRUARY 28, 2010” and inserting “MAY,  
3 31 2010”; and

4 (C) in subsection (b)(3), by striking “July 31,  
5 2010” and inserting “November 1, 2010”.

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

10 (A) in paragraph (1)(B), by striking “February  
11 28, 2010” and inserting “May 31, 2010”;

12 (B) in the heading for paragraph (2), by strik-  
13 ing “FEBRUARY 28, 2010” and inserting “MAY 31,  
14 2010”; and

15 (C) in paragraph (3), by striking “August 31,  
16 2010” and inserting “November 30, 2010”.

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

21 (A) by striking “February 28, 2010” each place  
22 it appears and inserting “May 31, 2010”; and

23 (B) in subsection (c), by striking “July 31,  
24 2010” and inserting “November 1, 2010”.

1 (4) Section 5 of the Unemployment Compensation  
2 Extension Act of 2008 (Public Law 110–449; 26 U.S.C.  
3 3304 note) is amended by striking “July 31, 2010” and  
4 inserting “November 1, 2010”.

5 (b) FUNDING.—Section 4004(e)(1) of the Supple-  
6 mental Appropriations Act, 2008 (Public Law 110–252;  
7 26 U.S.C. 3304 note) is amended—

8 (1) in subparagraph (B), by striking “and” at  
9 the end;

10 (2) in subparagraph (C), by striking “1009”  
11 and inserting “1009(a)(1)”; and

12 (3) by inserting after subparagraph (C) the fol-  
13 lowing new subparagraph:

14 “(D) the amendments made by section  
15 601(a)(1) of the Hiring Incentives to Restore  
16 Employment Act; and”.

## 17 **Subtitle B—Health Provisions**

### 18 **SEC. 611. EXTENSION AND IMPROVEMENT OF PREMIUM AS-**

#### 19 **SISTANCE FOR COBRA BENEFITS.**

20 (a) EXTENSION OF ELIGIBILITY PERIOD.—Sub-  
21 section (a)(3)(A) of section 3001 of division B of the  
22 American Recovery and Reinvestment Act of 2009 (Public  
23 Law 111–5) is amended by striking “February 28, 2010”  
24 and inserting “May 31, 2010”.

1 (b) CLARIFICATIONS RELATING TO SECTION 3001 OF  
2 ARRA.—

3 (1) CLARIFICATION REGARDING COBRA CON-  
4 TINUATION RESULTING FROM REDUCTIONS IN  
5 HOURS.—Subsection (a) of section 3001 of division  
6 B of the American Recovery and Reinvestment Act  
7 of 2009 (Public Law 111–5) is amended—

8 (A) in paragraph (3)(C), by inserting be-  
9 fore the period at the end the following: “or  
10 consists of a reduction of hours followed by  
11 such an involuntary termination of employment  
12 during such period”;

13 (B) in paragraph (16)—

14 (i) by striking clause (ii) of subpara-  
15 graph (A), and inserting the following:

16 “(ii) such individual pays, by the lat-  
17 est of 60 days after the date of the enact-  
18 ment of this paragraph, 30 days after the  
19 date of provision of the notification re-  
20 quired under subparagraph (D)(ii), or the  
21 period described in section  
22 4980B(f)(2)(B)(iii) of the Internal Rev-  
23 enue Code of 1986, the amount of such  
24 premium, after the application of para-  
25 graph (1)(A).”; and

## 101

1 (ii) by striking subclause (I) of sub-  
2 paragraph (C)(i), and inserting the fol-  
3 lowing:

4 “(I) such assistance eligible indi-  
5 vidual experienced an involuntary ter-  
6 mination that was a qualifying event  
7 prior to the date of enactment of the  
8 Department of Defense Appropria-  
9 tions Act, 2010; and”;

10 (C) by adding at the end the following:

11 “(17) SPECIAL RULES IN CASE OF INDIVIDUALS  
12 LOSING COVERAGE BECAUSE OF A REDUCTION OF  
13 HOURS.—

14 “(A) NEW ELECTION PERIOD.—

15 “(i) IN GENERAL.—For purposes of  
16 the COBRA continuation provisions, in the  
17 case of an individual described in subpara-  
18 graph (C) who did not make (or who made  
19 and discontinued) an election of COBRA  
20 continuation coverage on the basis of the  
21 reduction of hours of employment, the in-  
22 voluntary termination of employment of  
23 such individual after the date of the enact-  
24 ment of the Hiring Incentives to Restore

## 102

1           Employment Act shall be treated as a  
2           qualifying event.

3           “(ii) COUNTING COBRA DURATION PE-  
4           RIOD FROM PREVIOUS QUALIFYING  
5           EVENT.—In any case of an individual re-  
6           ferred to in clause (i), the period of such  
7           individual’s continuation coverage shall be  
8           determined as though the qualifying event  
9           were the reduction of hours of employ-  
10          ment.

11          “(iii) CONSTRUCTION.—Nothing in  
12          this paragraph shall be construed as re-  
13          quiring an individual referred to in clause  
14          (i) to make a payment for COBRA con-  
15          tinuation coverage between the reduction  
16          of hours and the involuntary termination  
17          of employment.

18          “(iv) PREEXISTING CONDITIONS.—  
19          With respect to an individual referred to in  
20          clause (i) who elects COBRA continuation  
21          coverage pursuant to such clause, rules  
22          similar to the rules in paragraph (4)(C)  
23          shall apply.

24          “(B) NOTICES.—In the case of an indi-  
25          vidual described in subparagraph (C), the ad-

1 administrator of the group health plan (or other  
2 entity) involved shall provide, during the 60-day  
3 period beginning on the date of such individ-  
4 ual's involuntary termination of employment, an  
5 additional notification described in paragraph  
6 (7)(A), including information on the provisions  
7 of this paragraph. Rules similar to the rules of  
8 paragraph (7) shall apply with respect to such  
9 notification.

10 “(C) INDIVIDUALS DESCRIBED.—Individ-  
11 uals described in this subparagraph are individ-  
12 uals who are assistance eligible individuals on  
13 the basis of a qualifying event consisting of a  
14 reduction of hours occurring during the period  
15 described in paragraph (3)(A) followed by an  
16 involuntary termination of employment insofar  
17 as such involuntary termination of employment  
18 occurred after the date of the enactment of the  
19 Hiring Incentives to Restore Employment  
20 Act.”.

21 (2) CLARIFICATION OF PERIOD OF ASSIST-  
22 ANCE.—Subsection (a)(2)(A)(ii)(I) of such section is  
23 amended by striking “of the first month”.

24 (3) ENFORCEMENT.—Subsection (a)(5) of such  
25 section is amended by adding at the end the fol-

1       lowing: “In addition to civil actions that may be  
2       brought to enforce applicable provisions of such Act  
3       or other laws, the appropriate Secretary or an af-  
4       fected individual may bring a civil action to enforce  
5       such determinations and for appropriate relief. In  
6       addition, such Secretary may assess a penalty  
7       against a plan sponsor or health insurance issuer of  
8       not more than \$110 per day for each failure to com-  
9       ply with such determination of such Secretary after  
10      10 days after the date of the plan sponsor’s or  
11      issuer’s receipt of the determination.”.

12           (4) AMENDMENTS RELATING TO SECTION 3001  
13      OF ARRA.—

14           (A) Subsection (g) of section 35 is amend-  
15      ed by striking “section 3002(a) of the Health  
16      Insurance Assistance for the Unemployed Act  
17      of 2009” and inserting “section 3001(a) of title  
18      III of division B of the American Recovery and  
19      Reinvestment Act of 2009”.

20           (B) Section 139C is amended by striking  
21      “section 3002 of the Health Insurance Assist-  
22      ance for the Unemployed Act of 2009” and in-  
23      serting “section 3001 of title III of division B  
24      of the American Recovery and Reinvestment  
25      Act of 2009”.

1 (C) Section 6432 is amended—

2 (i) in subsection (a), by striking “sec-  
3 tion 3002(a) of the Health Insurance As-  
4 sistance for the Unemployed Act of 2009”  
5 and inserting “section 3001(a) of title III  
6 of division B of the American Recovery  
7 and Reinvestment Act of 2009”;

8 (ii) in subsection (c)(3), by striking  
9 “section 3002(a)(1)(A) of such Act” in  
10 subsection (c)(3) and inserting “section  
11 3001(a)(1)(A) of title III of division B of  
12 the American Recovery and Reinvestment  
13 Act of 2009”; and

14 (iii) by redesignating subsections (e)  
15 and (f) as subsections (f) and (g), respec-  
16 tively, and inserting after subsection (d)  
17 the following new subsection:.

18 “(e) EMPLOYER DETERMINATION OF QUALIFYING  
19 EVENT AS INVOLUNTARY TERMINATION.—For purposes  
20 of this section, in any case in which—

21 “(1) based on a reasonable interpretation of  
22 section 3001(a)(3)(C) of division B of the American  
23 Recovery and Reinvestment Act of 2009 and admin-  
24 istrative guidance thereunder, an employer deter-  
25 mines that the qualifying event with respect to

1 COBRA continuation coverage for an individual was  
2 involuntary termination of a covered employee's em-  
3 ployment, and

4 “(2) the employer maintains supporting docu-  
5 mentation of the determination, including an attes-  
6 tation by the employer of involuntary termination  
7 with respect to the covered employee,  
8 the qualifying event for the individual shall be deemed to  
9 be involuntary termination of the covered employee's em-  
10 ployment.”.

11 (D) Subsection (a) of section 6720C is  
12 amended by striking “section 3002(a)(2)(C) of  
13 the Health Insurance Assistance for the Unem-  
14 ployed Act of 2009” and inserting “section  
15 3001(a)(2)(C) of title III of division B of the  
16 American Recovery and Reinvestment Act of  
17 2009”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect as if included in the provisions  
20 of section 3001 of division B of the American Recovery  
21 and Reinvestment Act of 2009 to which they relate, except  
22 that—

23 (1) the amendments made by subsections (b)(1)  
24 shall apply to periods of coverage beginning after the  
25 date of the enactment of this Act; and

1           (2) the amendments made by paragraphs (2)  
2           and (3) of subsection (b) shall take effect on the  
3           date of the enactment of this Act.

4 **SEC. 612. INCREASE IN THE MEDICARE PHYSICIAN PAY-**  
5 **MENT UPDATE.**

6           Paragraph (10) of section 1848(d) of the Social Secu-  
7 rity Act, as added by section 1011(a) of the Department  
8 of Defense Appropriations Act, 2010 (Public Law 111–  
9 118), is amended—

10           (1) in subparagraph (A), by striking “February  
11           28, 2010” and inserting “September 30, 2010”; and

12           (2) in subparagraph (B), by striking “March 1,  
13           2010” and inserting “October 1, 2010”.

14 **SEC. 613. EXTENSION OF THERAPY CAPS EXCEPTIONS**  
15 **PROCESS.**

16           Section 1833(g)(5) of the Social Security Act (42  
17 U.S.C. 1395l(g)(5)) is amended by striking “December  
18 31, 2009” and inserting “December 31, 2010”.

19 **SEC. 614. TREATMENT OF PHARMACIES UNDER DURABLE**  
20 **MEDICAL EQUIPMENT ACCREDITATION RE-**  
21 **QUIREMENTS.**

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

24           (1) in subparagraph (F)—

25           (A) in clause (i)—

1 (i) by striking “clause (ii)” and in-  
2 serting “clauses (ii) and (iii)”;

3 (ii) by striking “January 1, 2010”  
4 and inserting “January 1, 2011”; and

5 (iii) by striking “and” at the end;

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

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

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

16 “(II) effective with respect to items  
17 and services furnished on or after the date  
18 of the enactment of this subparagraph, the  
19 Secretary may apply to pharmacies quality  
20 standards and an accreditation require-  
21 ment established by the Secretary that are  
22 an alternative to the quality standards and  
23 accreditation requirement otherwise appli-  
24 cable under this paragraph if the Secretary  
25 determines such alternative quality stand-

1           ards and accreditation requirement are ap-  
2           propriate for pharmacies.”; and

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

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

11          (2) by adding at the end the following new sub-  
12 paragraph:

13           “(G) PHARMACY DESCRIBED.—A phar-  
14 macy described in this subparagraph is a phar-  
15 macy that meets each of the following criteria:

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

22           “(ii) The pharmacy has been enrolled  
23 under section 1866(j) as a supplier of du-  
24 rable medical equipment, prosthetics,  
25 orthotics, and supplies, has been issued

1 (which may include the renewal of) a pro-  
2 vider number for at least 2 years, and for  
3 which a final adverse action (as defined in  
4 section 424.57(a) of title 42, Code of Fed-  
5 eral Regulations) has not been imposed in  
6 the past 2 years.

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

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

1 (b) CONFORMING AMENDMENTS.—Section  
2 1834(a)(20)(E) of the Social Security Act (42 U.S.C.  
3 1395m(a)(20)(E)) is amended—

4 (1) in the first sentence, by striking “The” and  
5 inserting “Except as provided in the third sentence,  
6 the”; and

7 (2) by adding at the end the following new sen-  
8 tences: “Notwithstanding the preceding sentences,  
9 any alternative quality standards and accreditation  
10 requirement established under subparagraph  
11 (F)(iii)(II) shall be established through notice and  
12 comment rulemaking. The Secretary may implement  
13 by program instruction or otherwise subparagraph  
14 (G) after consultation with representatives of rel-  
15 evant parties. The specifications developed by the  
16 Secretary in order to implement subparagraph (G)  
17 shall be posted on the Internet website of the Cen-  
18 ters for Medicare & Medicaid Services.”.

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

21 (d) RULE OF CONSTRUCTION.—Nothing in the provi-  
22 sions of, or amendments made by, this section shall be  
23 construed as affecting the application of an accreditation  
24 requirement for pharmacies to qualify for bidding in a

1 competitive acquisition area under section 1847 of the So-  
2 cial Security Act (42 U.S.C. 1395w-3).

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

14 **SEC. 615. ENHANCED PAYMENT FOR MENTAL HEALTH**  
15 **SERVICES.**

16 Section 138(a)(1) of the Medicare Improvements for  
17 Patients and Providers Act of 2008 (Public Law 110-275)  
18 is amended by striking “December 31, 2009” and insert-  
19 ing “December 31, 2010”.

20 **SEC. 616. EXTENSION OF AMBULANCE ADD-ONS.**

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

23 (1) in subparagraph (A)—

1 (A) in the matter preceding clause (i), by  
2 striking “before January 1, 2010” and insert-  
3 ing “before January 1, 2011”; and

4 (B) in each of clauses (i) and (ii), by strik-  
5 ing “before January 1, 2010” and inserting  
6 “before January 1, 2011”.

7 (b) AIR AMBULANCE IMPROVEMENTS.—Section  
8 146(b)(1) of the Medicare Improvements for Patients and  
9 Providers Act of 2008 (Public Law 110–275) is amended  
10 by striking “ending on December 31, 2009” and inserting  
11 “ending on December 31, 2010”.

12 (c) SUPER RURAL AMBULANCE.—Section  
13 1834(l)(12)(A) of the Social Security Act (42 U.S.C.  
14 1395m(l)(12)(A)) is amended—

15 (1) in the first sentence, by striking “2010”  
16 and inserting “2011”; and

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

1 **SEC. 617. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.**

2 Section 1848(e)(1)(E) of the Social Security Act (42  
3 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before  
4 January 1, 2010” and inserting “before January 1,  
5 2011”.

6 **SEC. 618. EXTENSION OF PAYMENT FOR TECHNICAL COM-**  
7 **PONENT OF CERTAIN PHYSICIAN PATHOL-**  
8 **OGY SERVICES.**

9 Section 542(c) of the Medicare, Medicaid, and  
10 SCHIP Benefits Improvement and Protection Act of 2000  
11 (as enacted into law by section 1(a)(6) of Public Law 106-  
12 554), as amended by section 732 of the Medicare Prescrip-  
13 tion Drug, Improvement, and Modernization Act of 2003  
14 (42 U.S.C. 1395w-4 note), section 104 of division B of  
15 the Tax Relief and Health Care Act of 2006 (42 U.S.C.  
16 1395w-4 note), section 104 of the Medicare, Medicaid,  
17 and SCHIP Extension Act of 2007 (Public Law 110-  
18 173), and section 136 of the Medicare Improvements for  
19 Patients and Providers Act of 2008 (Public Law 110-  
20 275), is amended by striking “and 2009” and inserting  
21 “2009, and 2010”.

22 **SEC. 619. EXTENSION OF OUTPATIENT HOLD HARMLESS**  
23 **PROVISION.**

24 Section 1833(t)(7)(D)(i) of the Social Security Act  
25 (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

26 (1) in subclause (II)—

1 (A) in the first sentence, by striking  
2 “2010” and inserting “2011”; and

3 (B) in the second sentence, by striking “or  
4 2009” and inserting “, 2009, or 2010”; and

5 (2) in subclause (III), by striking “January 1,  
6 2010” and inserting “January 1, 2011”.

7 **SEC. 620. EHR CLARIFICATION.**

8 (a) **QUALIFICATION FOR CLINIC-BASED PHYSI-**  
9 **CIANs.—**

10 (1) **MEDICARE.**—Section 1848(o)(1)(C)(ii) of  
11 the Social Security Act (42 U.S.C. 1395w–  
12 4(o)(1)(C)(ii)) is amended by striking “setting  
13 (whether inpatient or outpatient)” and inserting “in-  
14 patient or emergency room setting”.

15 (2) **MEDICAID.**—Section 1903(t)(3)(D) of the  
16 Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is  
17 amended by striking “setting (whether inpatient or  
18 outpatient)” and inserting “inpatient or emergency  
19 room setting”.

20 (b) **EFFECTIVE DATE.**—The amendments made by  
21 subsection (a) shall be effective as if included in the enact-  
22 ment of the HITECH Act (included in the American Re-  
23 covery and Reinvestment Act of 2009 (Public Law 111–  
24 5)).

1 (c) IMPLEMENTATION.—Notwithstanding any other  
2 provision of law, the Secretary may implement the amend-  
3 ments made by this section by program instruction or oth-  
4 erwise.

5 **SEC. 621. EXTENSION OF REIMBURSEMENT FOR ALL MEDI-**  
6 **CARE PART B SERVICES FURNISHED BY CER-**  
7 **TAIN INDIAN HOSPITALS AND CLINICS.**

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

11 **SEC. 622. EXTENSION OF CERTAIN PAYMENT RULES FOR**  
12 **LONG-TERM CARE HOSPITAL SERVICES AND**  
13 **OF MORATORIUM ON THE ESTABLISHMENT**  
14 **OF CERTAIN HOSPITALS AND FACILITIES.**

15 (a) EXTENSION OF CERTAIN PAYMENT RULES.—  
16 Section 114(c) of the Medicare, Medicaid, and SCHIP Ex-  
17 tension Act of 2007 (42 U.S.C. 1395ww note), as amend-  
18 ed by section 4302(a) of the American Recovery and Rein-  
19 vestment Act (Public Law 111–5), is amended by striking  
20 “3-year period” each place it appears and inserting “4-  
21 year period”.

22 (b) EXTENSION OF MORATORIUM.—Section  
23 114(d)(1) of such Act (42 U.S.C. 1395ww note), as  
24 amended by section 4302(b) of the American Recovery  
25 and Reinvestment Act (Public Law 111–5), in the matter

1 preceding subparagraph (A), is amended by striking “3-  
2 year period” and inserting “4-year period”.

3 **SEC. 623. EXTENSION OF THE MEDICARE RURAL HOSPITAL**  
4 **FLEXIBILITY PROGRAM.**

5 Section 1820(j) of the Social Security Act (42 U.S.C.  
6 1395i-4(j)) is amended—

7 (1) by striking “2010, and for” and inserting  
8 “2010, for”; and

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

13 **SEC. 624. EXTENSION OF SECTION 508 HOSPITAL RECLASSI-**  
14 **FICATIONS.**

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

23 (b) SPECIAL RULE FOR FISCAL YEAR 2010.—For  
24 purposes of implementation of the amendment made by  
25 subsection (a), including (notwithstanding paragraph (3)

1 of section 117(a) of the Medicare, Medicaid, and SCHIP  
2 Extension Act of 2007 (Public Law 110–173), as amended  
3 by section 124(b) of the Medicare Improvements for Pa-  
4 tients and Providers Act of 2008 (Public Law 110–275))  
5 for purposes of the implementation of paragraph (2) of  
6 such section 117(a), during fiscal year 2010, the Secretary  
7 of Health and Human Services (in this subsection referred  
8 to as the “Secretary”) shall use the hospital wage index  
9 that was promulgated by the Secretary in the Federal  
10 Register on August 27, 2009 (74 Fed. Reg. 43754), and  
11 any subsequent corrections.

12 **SEC. 625. TECHNICAL CORRECTION RELATED TO CRITICAL**  
13 **ACCESS HOSPITAL SERVICES.**

14 (a) **IN GENERAL.**—Subsections (g)(2)(A) and (l)(8)  
15 of section 1834 of the Social Security Act (42 U.S.C.  
16 1395m) are each amended by inserting “101 percent of”  
17 before “the reasonable costs”.

18 (b) **EFFECTIVE DATE.**—The amendments made by  
19 subsection (a) shall take effect as if included in the enact-  
20 ment of section 405(a) of the Medicare Prescription Drug,  
21 Improvement, and Modernization Act of 2003 (Public Law  
22 108–173; 117 Stat. 2266).

1 **SEC. 626. EXTENSION FOR SPECIALIZED MA PLANS FOR**  
2 **SPECIAL NEEDS INDIVIDUALS.**

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

6 (b) TEMPORARY EXTENSION OF AUTHORITY TO OP-  
7 ERATE BUT NO SERVICE AREA EXPANSION FOR DUAL  
8 SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN  
9 REQUIREMENTS.—Section 164(c)(2) of the Medicare Im-  
10 provements for Patients and Providers Act of 2008 (Pub-  
11 lic Law 110–275) is amended by striking “December 31,  
12 2010” and inserting “December 31, 2011”.

13 **SEC. 627. EXTENSION OF REASONABLE COST CONTRACTS.**

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

18 **SEC. 628. EXTENSION OF PARTICULAR WAIVER POLICY FOR**  
19 **EMPLOYER GROUP PLANS.**

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

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

8 **SEC. 629. EXTENSION OF CONTINUING CARE RETIREMENT**  
9 **COMMUNITY PROGRAM.**

10 Notwithstanding any other provision of law, the Sec-  
11 retary of Health and Human Services shall continue to  
12 conduct the Erickson Advantage Continuing Care Retire-  
13 ment Community (CCRC) program under part C of title  
14 XVIII of the Social Security Act through December 31,  
15 2011.

16 **SEC. 630. FUNDING OUTREACH AND ASSISTANCE FOR LOW-**  
17 **INCOME PROGRAMS.**

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

121

1 “(i) for fiscal year 2009, of  
2 \$7,500,000; and

3 “(ii) for fiscal year 2010, of  
4 \$6,000,000.

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

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

13 “(i) for fiscal year 2009, of  
14 \$7,500,000; and

15 “(ii) for fiscal year 2010, of  
16 \$6,000,000.

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

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

122

1 “(i) for fiscal year 2009, of  
2 \$5,000,000; and

3 “(ii) for fiscal year 2010, of  
4 \$6,000,000.

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

7 (d) ADDITIONAL FUNDING FOR CONTRACT WITH  
8 THE NATIONAL CENTER FOR BENEFITS AND OUTREACH  
9 ENROLLMENT.—Subsection (d)(2) of such section 119 is  
10 amended by striking “(42 U.S.C. 1395w–23(f))” and all  
11 that follows through the period at the end and inserting  
12 “(42 U.S.C. 1395w–23(f)), to the Administration on  
13 Aging—

14 “(i) for fiscal year 2009, of  
15 \$5,000,000; and

16 “(ii) for fiscal year 2010, of  
17 \$2,000,000.

18 Amounts appropriated under this subparagraph  
19 shall remain available until expended.”.

20 **SEC. 631. FAMILY-TO-FAMILY HEALTH INFORMATION CEN-**  
21 **TERS.**

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

1 **SEC. 632. IMPLEMENTATION FUNDING.**

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

11 **Subtitle C—Other Provisions**

12 **SEC. 641. EXTENSION OF USE OF 2009 POVERTY GUIDE-**  
13 **LINES.**

14 Section 1012 of the Department of Defense Appro-  
15 priations Act, 2010 (Public Law 111–118) is amended—

16 (1) by striking “before March 1, 2010”; and

17 (2) by inserting “for 2011” after “until up-  
18 dated poverty guidelines”.

19 **SEC. 642. REFUNDS DISREGARDED IN THE ADMINISTRA-**  
20 **TION OF FEDERAL PROGRAMS AND FEDER-**  
21 **ALLY ASSISTED PROGRAMS.**

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

1 **“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-**  
2 **TION OF FEDERAL PROGRAMS AND FEDER-**  
3 **ALLY ASSISTED PROGRAMS.**

4 “(a) **IN GENERAL.**—Notwithstanding any other pro-  
5 vision of law, any refund (or advance payment with respect  
6 to a refundable credit) made to any individual under this  
7 title shall not be taken into account as income, and shall  
8 not be taken into account as resources for a period of 12  
9 months from receipt, for purposes of determining the eligi-  
10 bility of such individual (or any other individual) for bene-  
11 fits or assistance (or the amount or extent of benefits or  
12 assistance) under any Federal program or under any State  
13 or local program financed in whole or in part with Federal  
14 funds.

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

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

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

20 (c) **EFFECTIVE DATE.**—The amendments made by  
21 this section shall apply to amounts received after Decem-  
22 ber 31, 2009.

1 **SEC. 643. STATE COURT IMPROVEMENT PROGRAM.**

2 Section 438 of the Social Security Act (42 U.S.C.  
3 629h) is amended—

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

6 (2) in subsection (e), by striking “2010” and  
7 inserting “2011”.

8 **SEC. 644. EXTENSION OF NATIONAL FLOOD INSURANCE**  
9 **PROGRAM.**

10 Section 129 of the Continuing Appropriations Reso-  
11 lution, 2010 (Public Law 111-68), as amended by section  
12 1005 of Public Law 111-118, is further amended by strik-  
13 ing “by substituting” and all that follows through the pe-  
14 riod at the end, and inserting “by substituting May 31,  
15 2010, for the date specified in each such section.”.

16 **SEC. 645. EXTENSION OF INTELLIGENCE AUTHORITY SUN-**  
17 **SETS.**

18 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-  
19 IZATION ACT OF 2005.—Section 102(b)(1) of the USA  
20 PATRIOT Improvement and Reauthorization Act of 2005  
21 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C.  
22 1861 note, and 50 U.S.C. 1862 note) is amended by strik-  
23 ing “February 28, 2010” and inserting “February 28,  
24 2011”.

25 (b) INTELLIGENCE REFORM AND TERRORISM PRE-  
26 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-

1 lidence Reform and Terrorism Prevention Act of 2004  
2 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801  
3 note) is amended by striking “February 28, 2010” and  
4 inserting “February 28, 2011”.

5 **SEC. 646. EMERGENCY DISASTER ASSISTANCE.**

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

8 (1) DISASTER COUNTY.—

9 (A) IN GENERAL.—The term “disaster  
10 county” means a county included in the geo-  
11 graphic area covered by a qualifying natural  
12 disaster declaration for the 2009 crop year.

13 (B) EXCLUSION.—The term “disaster  
14 county” does not include a contiguous county.

15 (2) ELIGIBLE AQUACULTURE PRODUCER.—The  
16 term “eligible aquaculture producer” means an  
17 aquaculture producer that during the 2009 calendar  
18 year, as determined by the Secretary—

19 (A) produced an aquaculture species for  
20 which feed costs represented a substantial per-  
21 centage of the input costs of the aquaculture  
22 operation; and

23 (B) experienced a substantial price in-  
24 crease of feed costs above the previous 5-year  
25 average.

1           (3) ELIGIBLE PRODUCER.—The term “eligible  
2 producer” means an agricultural producer in a dis-  
3 aster county.

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

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

10                (B) experienced crop losses in a disaster  
11 county due to excessive rainfall or related condi-  
12 tion.

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

19           (6) SECRETARY.—The term “Secretary” means  
20 the Secretary of Agriculture.

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

25           (b) SUPPLEMENTAL DIRECT PAYMENT.—

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

14          (2) ACRE PROGRAM.—Eligible producers that  
15          received payments under section 1105 of the Food,  
16          Conservation, and Energy Act of 2008 (7 U.S.C.  
17          8715) for the 2009 crop year and that otherwise  
18          meet the requirements of paragraph (1) shall be eli-  
19          gible to receive supplemental payments under that  
20          paragraph in an amount equal to 90 percent of the  
21          reduced direct payment the eligible producers re-  
22          ceived for the 2009 crop year under section 1103 or  
23          1303 of the Food, Conservation, and Energy Act of  
24          2008 (7 U.S.C. 8713, 8753).

1           (3) INSURANCE REQUIREMENT.—As a condition  
2 of receiving assistance under this subsection, eligible  
3 producers on a farm that—

4                   (A) in the case of an insurable commodity,  
5 did not obtain a policy or plan of insurance for  
6 the insurable commodity under the Federal  
7 Crop Insurance Act (7 U.S.C. 1501 et seq.)  
8 (other than for a crop insurance pilot program  
9 under that Act) for each crop of economic sig-  
10 nificance (other than crops intended for graz-  
11 ing), shall obtain such a policy or plan for those  
12 crops for the next available crop year, as deter-  
13 mined by the Secretary; or

14                   (B) in the case of a noninsurable com-  
15 modity, did not file the required paperwork, and  
16 pay the administrative fee by the applicable  
17 State filing deadline, for the noninsurable com-  
18 modity under section 196 of the Federal Agri-  
19 culture Improvement and Reform Act of 1996  
20 (7 U.S.C. 7333) for each crop of economic sig-  
21 nificance (other than crops intended for graz-  
22 ing), shall obtain such coverage for those crops  
23 for the next available crop year, as determined  
24 by the Secretary.

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

8           (c) SPECIALTY CROP ASSISTANCE.—

9           (1) IN GENERAL.—Of the funds of the Com-  
10          modity Credit Corporation, the Secretary shall use  
11          not more than \$150,000,000, to remain available  
12          until September 30, 2011, to carry out a program  
13          of grants to States to assist eligible specialty crop  
14          producers for losses due to excessive rainfall and re-  
15          lated conditions affecting the 2009 crops.

16          (2) NOTIFICATION.—Not later than 60 days  
17          after the date of enactment of this Act, the Sec-  
18          retary shall notify the State department of agri-  
19          culture (or similar entity) in each State of the avail-  
20          ability of funds to assist eligible specialty crop pro-  
21          ducers, including such terms as are determined by  
22          the Secretary to be necessary for the equitable treat-  
23          ment of eligible specialty crop producers.

24          (3) PROVISION OF GRANTS.—

1           (A) IN GENERAL.—The Secretary shall  
2           make grants to States for disaster counties with  
3           excessive rainfall and related conditions on a  
4           pro rata basis based on the value of specialty  
5           crop losses in those counties during the 2008  
6           calendar year, as determined by the Secretary.

7           (B) TIMING.—Not later than 120 days  
8           after the date of enactment of this Act, the Sec-  
9           retary shall make grants to States to provide  
10          assistance under this subsection.

11          (C) MAXIMUM GRANT.—The maximum  
12          amount of a grant made to a State under this  
13          subsection may not exceed \$40,000,000.

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

18                (A) use grant funds to assist eligible spe-  
19                cialty crop producers;

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

24                (C) not later than 30 days after the date  
25                on which the State provides assistance to eligi-

1           ble specialty crop producers, submit to the Sec-  
2           retary a report that describes—

3                   (i) the manner in which the State pro-  
4                   vided assistance;

5                   (ii) the amounts of assistance pro-  
6                   vided by type of specialty crop; and

7                   (iii) the process by which the State  
8                   determined the levels of assistance to eligi-  
9                   ble specialty crop producers.

10           (5) RELATION TO OTHER LAW.—Assistance re-  
11           ceived under this subsection shall be included in the  
12           calculation of farm revenue for the 2009 crop year  
13           under section 531(b)(4)(A) of the Federal Crop In-  
14           surance Act (7 U.S.C. 1531(b)(4)(A)) and section  
15           901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.  
16           2497(b)(4)(A)).

17           (d) COTTONSEED ASSISTANCE.—

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

23                   (2) GENERAL TERMS.—Except as otherwise  
24                   provided in this subsection, the Secretary shall pro-  
25                   vide disaster assistance under this subsection under

1 the same terms and conditions as assistance pro-  
2 vided under section 3015 of the Emergency Agricul-  
3 tural Disaster Assistance Act of 2006 (title III of  
4 Public Law 109-234; 120 Stat. 477).

5 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-  
6 retary shall distribute assistance to first handlers for  
7 the benefit of eligible producers in a disaster county  
8 in an amount equal to the product obtained by mul-  
9 tiplying—

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

12 (B) the county-eligible production, as de-  
13 termined under paragraph (5).

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

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

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

20 (5) COUNTY-ELIGIBLE PRODUCTION.—The  
21 county-eligible production shall be equal to the prod-  
22 uct obtained by multiplying—

23 (A) the number of acres planted to cotton  
24 in the disaster county, as reported to the Sec-  
25 retary by first-handlers;

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

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

11 (e) AQUACULTURE ASSISTANCE.—

12 (1) GRANT PROGRAM.—

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

21 (B) NOTIFICATION.—Not later than 60  
22 days after the date of enactment of this Act,  
23 the Secretary shall notify the State department  
24 of agriculture (or similar entity) in each State  
25 of the availability of funds to assist eligible

1 aquaculture producers, including such terms as  
2 are determined by the Secretary to be necessary  
3 for the equitable treatment of eligible aqua-  
4 culture producers.

5 (C) PROVISION OF GRANTS.—

6 (i) IN GENERAL.—The Secretary shall  
7 make grants to States under this sub-  
8 section on a pro rata basis based on the  
9 amount of aquaculture feed used in each  
10 State during the 2008 calendar year, as  
11 determined by the Secretary.

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

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

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

22 (ii) provide assistance to eligible aqua-  
23 culture producers not later than 60 days  
24 after the date on which the State receives  
25 grant funds; and

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

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

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

10 (III) the process by which the  
11 State determined the levels of assist-  
12 ance to eligible aquaculture producers.

13 (2) REDUCTION IN PAYMENTS.—An eligible  
14 aquaculture producer that receives assistance under  
15 this subsection shall not be eligible to receive any  
16 other assistance under the supplemental agricultural  
17 disaster assistance program established under sec-  
18 tion 531 of the Federal Crop Insurance Act (7  
19 U.S.C. 1531) and section 901 of the Trade Act of  
20 1974 (19 U.S.C. 2497) for any losses in 2009 relat-  
21 ing to the same species of aquaculture.

22 (3) REPORT TO CONGRESS.—Not later than  
23 240 days after the date of enactment of this Act, the  
24 Secretary shall submit to the appropriate committees  
25 of Congress a report that—

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

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

5 (f) HAWAII TRANSPORTATION COOPERATIVE.—Not-  
6 withstanding any other provision of law, the Secretary  
7 shall use \$21,000,000 of funds of the Commodity Credit  
8 Corporation to make a payment to an agricultural trans-  
9 portation cooperative in the State of Hawaii, the members  
10 of which are eligible to participate in the commodity loan  
11 program of the Farm Service Agency, for assistance to  
12 maintain and develop employment.

13 (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

16 (A) IN GENERAL.—The term “disaster  
17 county” means a county included in the geo-  
18 graphic area covered by a qualifying natural  
19 disaster declaration announced by the Secretary  
20 in calendar year 2009.

21 (B) INCLUSION.—The term “disaster  
22 county” includes a contiguous county.

23 (2) PAYMENTS.—Of the funds of the Com-  
24 modity Credit Corporation, the Secretary shall use  
25 not more than \$50,000,000 to carry out a program

1 to make payments to eligible producers that had  
2 grazing losses in disaster counties in calendar year  
3 2009.

4 (3) CRITERIA.—

5 (A) IN GENERAL.—Except as provided in  
6 subparagraph (B), assistance under this sub-  
7 section shall be determined under the same cri-  
8 teria as are used to carry out the programs  
9 under section 531(d) of the Federal Crop In-  
10 surance Act (7 U.S.C. 1531(d)) and section  
11 901(d) of the Trade Act of 1974 (19 U.S.C.  
12 2497(d)).

13 (B) DROUGHT INTENSITY.—For purposes  
14 of this subsection, an eligible producer shall not  
15 be required to meet the drought intensity re-  
16 quirements of section 531(d)(3)(D)(ii) of the  
17 Federal Crop Insurance Act (7 U.S.C.  
18 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)  
19 of the Trade Act of 1974 (19 U.S.C.  
20 2497(d)(3)(D)(ii)).

21 (4) AMOUNT.—Assistance under this subsection  
22 shall be in an amount equal to 1 monthly payment  
23 using the monthly payment rate under section  
24 531(d)(3)(B) of the Federal Crop Insurance Act (7

1 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of  
2 the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

3 (5) RELATION TO OTHER LAW.—An eligible  
4 producer that receives assistance under this sub-  
5 section shall be ineligible to receive assistance for  
6 2009 grazing losses under the program carried out  
7 under section 531(d) of the Federal Crop Insurance  
8 Act (7 U.S.C. 1531(d)) and section 901(d) of the  
9 Trade Act of 1974 (19 U.S.C. 2497(d)) .

10 (h) EMERGENCY LOANS FOR POULTRY PRO-  
11 DUCERS.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) ANNOUNCEMENT DATE.—The term  
14 “announcement date” means the date on which  
15 the Secretary announces the emergency loan  
16 program under this subsection.

17 (B) POULTRY INTEGRATOR.—The term  
18 “poultry integrator” means a poultry integrator  
19 that filed proceedings under chapter 11 of title  
20 11, United States Code, in United States Bank-  
21 ruptcy Court during the 30-day period begin-  
22 ning on December 1, 2008.

23 (2) LOAN PROGRAM.—

24 (A) IN GENERAL.—Of the funds of the  
25 Commodity Credit Corporation, the Secretary

1 shall use not more than \$75,000,000, to remain  
2 available until expended, for the cost of making  
3 no-interest emergency loans available to poultry  
4 producers that meet the requirements of this  
5 subsection.

6 (B) TERMS AND CONDITIONS.—Except as  
7 otherwise provided in this subsection, emer-  
8 gency loans under this subsection shall be sub-  
9 ject to such terms and conditions as are deter-  
10 mined by the Secretary.

11 (3) LOANS.—

12 (A) IN GENERAL.—An emergency loan  
13 made to a poultry producer under this sub-  
14 section shall be for the purpose of providing fi-  
15 nancing to the poultry producer in response to  
16 financial losses associated with the termination  
17 or nonrenewal of any contract between the poul-  
18 try producer and a poultry integrator.

19 (B) ELIGIBILITY.—

20 (i) IN GENERAL.—To be eligible for  
21 an emergency loan under this subsection,  
22 not later than 90 days after the announce-  
23 ment date, a poultry producer shall submit  
24 to the Secretary evidence that—

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

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

7 (ii) REQUIREMENT TO OFFER  
8 LOANS.—Notwithstanding any other provi-  
9 sion of law, if a poultry producer meets the  
10 eligibility requirements described in clause  
11 (i), subject to the availability of funds  
12 under paragraph (2)(A), the Secretary  
13 shall offer to make a loan under this sub-  
14 section to the poultry producer with a min-  
15 imum term of 2 years.

16 (4) ADDITIONAL REQUIREMENTS.—

17 (A) IN GENERAL.—A poultry producer  
18 that receives an emergency loan under this sub-  
19 section may use the emergency loan proceeds  
20 only to repay the amount that the poultry pro-  
21 ducer owes to any lender.

22 (B) CONVERSION OF THE LOAN.—A poul-  
23 try producer that receives an emergency loan  
24 under this subsection shall be eligible to have  
25 the balance of the emergency loan converted,

1 but not refinanced, to a loan that has the same  
2 terms and conditions as an operating loan  
3 under subtitle B of the Consolidated Farm and  
4 Rural Development Act (7 U.S.C. 1941 et seq.).

5 (i) ADMINISTRATION.—

6 (1) REGULATIONS.—

7 (A) IN GENERAL.—As soon as practicable  
8 after the date of enactment of this Act, the Sec-  
9 retary shall promulgate such regulations as are  
10 necessary to implement this section.

11 (B) PROCEDURE.—The promulgation of  
12 the regulations and administration of this sec-  
13 tion shall be made without regard to—

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

17 (ii) the Statement of Policy of the  
18 Secretary of Agriculture effective July 24,  
19 1971 (36 Fed. Reg. 13804), relating to no-  
20 tices of proposed rulemaking and public  
21 participation in rulemaking; and

22 (iii) chapter 35 of title 44, United  
23 States Code (commonly known as the “Pa-  
24 perwork Reduction Act”).

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

6 (2) ADMINISTRATIVE COSTS.—Of the funds of  
7 the Commodity Credit Corporation, the Secretary  
8 may use up to \$15,000,000 to pay administrative  
9 costs incurred by the Secretary that are directly re-  
10 lated to carrying out this Act.

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

15 **SEC. 647. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**  
16 **MENT EXTENSIONS.**

17 (a) APPROPRIATION.—There is appropriated, out of  
18 any funds in the Treasury not otherwise appropriated, for  
19 an additional amount for “Small Business Administration  
20 – Business Loans Program Account”, \$354,000,000, to  
21 remain available through December 31, 2010, for the cost  
22 of—

23 (1) fee reductions and eliminations under sec-  
24 tion 501 of division A of the American Recovery and  
25 Reinvestment Act of 2009 (Public Law 111–5; 123

1 Stat. 151), as amended by this section, for loans  
2 guaranteed under section 7(a) of the Small Business  
3 Act (15 U.S.C. 636(a)), title V of the Small Busi-  
4 ness Investment Act of 1958 (15 U.S.C. 695 et  
5 seq.), or section 502 of division A of the American  
6 Recovery and Reinvestment Act of 2009 (Public  
7 Law 111–5; 123 Stat. 152), as amended by this sec-  
8 tion; and

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

13 *Provided*, That such costs, including the cost of modifying  
14 such loans, shall be as defined in section 502 of the Con-  
15 gressional Budget Act of 1974.

16 (b) EXTENSION OF PROGRAMS.—

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

22 (2) LOAN GUARANTEES.—Section 502(f) of di-  
23 vision A of the American Recovery and Reinvest-  
24 ment Act of 2009 (Public Law 111–5; 123 Stat.

1 153) is amended by striking “February 28, 2010”  
2 and inserting “December 31, 2010”.

3 **TITLE VII—PENSION FUNDING**  
4 **RELIEF**

5 **Subtitle A—Single Employer Plans**

6 **SEC. 701. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-**  
7 **FINED BENEFIT PLANS TO AMORTIZE CER-**  
8 **TAIN SHORTFALL AMORTIZATION BASES.**

9 (a) AMENDMENTS TO ERISA.—

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

14 “(D) SPECIAL ELECTION FOR ELIGIBLE  
15 PLAN YEARS.—

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

23 “(I) the shortfall amortization in-  
24 stallments with respect to such base  
25 shall be determined under clause (ii)

1 or (iii), whichever is specified in the  
2 election, and

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

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

15 “(I) in the case of the first 2  
16 plan years in the 9-plan-year period  
17 beginning with the election year, in-  
18 terest on the shortfall amortization  
19 base of the plan for the election year  
20 (determined using the effective inter-  
21 est rate for the plan for the election  
22 year), and

23 “(II) in the case of the last 7  
24 plan years in such 9-plan-year period,  
25 the amounts necessary to amortize the

1 remaining balance of the shortfall am-  
2 ortization base of the plan for the  
3 election year in level annual install-  
4 ments over such last 7 plan years  
5 (using the segment rates under sub-  
6 paragraph (C) for the election year).

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

17 “(iv) ELECTION.—

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

1           this subparagraph apply to a plan  
2           year beginning in 2011.

3                   “(II) AMORTIZATION SCHED-  
4           ULE.—Such election shall specify  
5           whether the amortization schedule  
6           under clause (ii) or (iii) shall apply to  
7           an election year, except that if a plan  
8           sponsor elects to have this subpara-  
9           graph apply to 2 eligible plan years,  
10          the plan sponsor must elect the same  
11          schedule for both years.

12                   “(III) OTHER RULES.—Such  
13          election shall be made at such time,  
14          and in such form and manner, as  
15          shall be prescribed by the Secretary of  
16          the Treasury, and may be revoked  
17          only with the consent of the Secretary  
18          of the Treasury. The Secretary of the  
19          Treasury shall, before granting a rev-  
20          ocation request, provide the Pension  
21          Benefit Guaranty Corporation an op-  
22          portunity to comment on the condi-  
23          tions applicable to the treatment of  
24          any portion of the election year short-

1 fall amortization base that remains  
2 unamortized as of the revocation date.

3 “(v) ELIGIBLE PLAN YEAR.—For pur-  
4 poses of this subparagraph, the term ‘eligi-  
5 ble plan year’ means any plan year begin-  
6 ning in 2008, 2009, 2010, or 2011, except  
7 that a plan year shall only be treated as an  
8 eligible plan year if the due date under  
9 subsection (j)(1) for the payment of the  
10 minimum required contribution for such  
11 plan year occurs on or after the date of the  
12 enactment of this subparagraph.

13 “(vi) REPORTING.—A plan sponsor of  
14 a plan who makes an election under clause  
15 (i) shall inform the Pension Benefit Guar-  
16 anty Corporation of such election in such  
17 form and manner as the Director of the  
18 Pension Benefit Guaranty Corporation  
19 may prescribe.

20 “(vii) INCREASES IN REQUIRED IN-  
21 STALLMENTS IN CERTAIN CASES.—For in-  
22 creases in required contributions in cases  
23 of excess compensation or extraordinary  
24 dividends or stock redemptions, see para-  
25 graph (7).”.

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

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

10           “(A) IN GENERAL.—If there is an install-  
11 ment acceleration amount with respect to a  
12 plan for any plan year in the 9-plan-year or 15-  
13 plan-year period, whichever is applicable, with  
14 respect to an election year under paragraph  
15 (2)(D), then the shortfall amortization install-  
16 ment otherwise determined and payable under  
17 such paragraph for such payment year shall,  
18 subject to the limitation under subparagraph  
19 (B), be increased by such amount.

20           “(B) TOTAL INSTALLMENTS LIMITED TO  
21 SHORTFALL BASE.—Subject to rules prescribed  
22 by the Secretary of the Treasury, if a shortfall  
23 amortization installment with respect to any  
24 shortfall amortization base for an election year

1 is required to be increased for any plan year  
2 under subparagraph (A)—

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

10 “(ii) subsequent shortfall amortization  
11 installments with respect to such base  
12 shall, in reverse order of the otherwise re-  
13 quired installments, be reduced to the ex-  
14 tent necessary to limit the present value of  
15 such subsequent shortfall amortization in-  
16 stallments (after application of this para-  
17 graph) to the present value of the remain-  
18 ing unamortized shortfall amortization  
19 base.

20 “(C) INSTALLMENT ACCELERATION  
21 AMOUNT.—For purposes of this paragraph, the  
22 term ‘installment acceleration amount’ means,  
23 with respect to any plan year, the sum of—

24 “(i) the aggregate amount of excess  
25 employee compensation determined under

1           subparagraph (D) with respect to all em-  
2           ployees for the plan year, plus

3           “(ii) the aggregate amount of extraor-  
4           dinary dividends and redemptions deter-  
5           mined under subparagraph (E) for the  
6           plan year.

7           “(D) EXCESS EMPLOYEE COMPENSA-  
8           TION.—For purposes of this paragraph—

9           “(i) IN GENERAL.—The term ‘excess  
10          employee compensation’ means, with re-  
11          spect to any employee for any plan year,  
12          the excess (if any) of—

13                 “(I) the aggregate amount in-  
14                 cludible in income under chapter 1 of  
15                 the Internal Revenue Code of 1986  
16                 for remuneration during the calendar  
17                 year in which such plan year begins  
18                 for services performed by the em-  
19                 ployee for the plan sponsor (whether  
20                 or not performed during such cal-  
21                 endar year), over

22                 “(II) \$1,000,000.

23           “(ii) AMOUNTS SET ASIDE FOR NON-  
24          QUALIFIED DEFERRED COMPENSATION.—

25          If during any calendar year assets are set

1           aside or reserved (directly or indirectly) in  
2           a trust (or other arrangement as deter-  
3           mined by the Secretary of the Treasury),  
4           or transferred to such a trust or other ar-  
5           rangement, by a plan sponsor for purposes  
6           of paying deferred compensation of an em-  
7           ployee under a nonqualified deferred com-  
8           pensation plan (as defined in section 409A  
9           of such Code) of the plan sponsor, then,  
10          for purposes of clause (i), the amount of  
11          such assets shall be treated as remunera-  
12          tion of the employee includible in income  
13          for the calendar year unless such amount  
14          is otherwise includible in income for such  
15          year. An amount to which the preceding  
16          sentence applies shall not be taken into ac-  
17          count under this paragraph for any subse-  
18          quent calendar year.

19                   “(iii) ONLY REMUNERATION FOR CER-  
20                   TAIN POST-2009 SERVICES COUNTED.—Re-  
21                   muneration shall be taken into account  
22                   under clause (i) only to the extent attrib-  
23                   utable to services performed by the em-  
24                   ployee for the plan sponsor after February  
25                   4, 2010.

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

11                  “(v) INDEXING OF AMOUNT.—In the  
12                  case of any calendar year beginning after  
13                  2010, the dollar amount under clause  
14                  (i)(II) shall be increased by an amount  
15                  equal to—

16                         “(I) such dollar amount, multi-  
17                         plied by

18                                 “(II) the cost-of-living adjust-  
19                                 ment determined under section 1(f)(3)  
20                                 of such Code for the calendar year,  
21                                 determined by substituting ‘calendar  
22                                 year 2009’ for ‘calendar year 1992’ in  
23                                 subparagraph (B) thereof.

24                  If the amount of any increase under clause  
25                  (i) is not a multiple of \$1,000, such in-

1                   crease shall be rounded to the next lowest  
2                   multiple of \$1,000.

3                   “(E) EXTRAORDINARY DIVIDENDS AND  
4 REDEMPTIONS.—

5                   “(i) IN GENERAL.—The amount de-  
6                   termined under this subparagraph for any  
7                   plan year is the sum of—

8                   “(I) the aggregate amount of ex-  
9                   traordinary dividends declared during  
10                  the plan year by the plan sponsor and  
11                  required to be reported under section  
12                  4043(c)(11) (without regard to any  
13                  waiver under such section), plus

14                  “(II) if the plan sponsor re-  
15                  deems, in any 12-month period ending  
16                  during the plan year, an aggregate of  
17                  10 percent or more of the total com-  
18                  bined voting power of all classes of  
19                  stock entitled to vote, or an aggregate  
20                  of 10 percent or more of the total  
21                  value of shares of all classes of stock,  
22                  of the plan sponsor, the aggregate fair  
23                  market value of the stock so re-  
24                  deemed.

1                   “(ii) ONLY CERTAIN POST-2009 DIVI-  
2                   DENDS AND REDEMPTIONS COUNTED.—

3                   For purposes of clause (i)—

4                   “(I) dividends shall be taken into  
5                   account only if declared after Feb-  
6                   ruary 4, 2010, and

7                   “(II) if clause (i)(II) otherwise  
8                   applies for any plan year (determined  
9                   without regard to this subclause), only  
10                  the fair market value of redemptions  
11                  occurring after February 4, 2010,  
12                  shall be taken into account in deter-  
13                  mining the amount under such clause  
14                  for the plan year.

15                  “(F) OTHER DEFINITIONS AND RULES.—

16                  For purposes of this paragraph—

17                  “(i) PLAN SPONSOR.—The term ‘ plan  
18                  sponsor’ includes any member of the plan  
19                  sponsor’s controlled group (as defined in  
20                  section 302(d)(3)).

21                  “(ii) ELECTIONS FOR MULTIPLE  
22                  PLANS.—If a plan sponsor makes elections  
23                  under paragraph (2)(D) with respect to 2  
24                  or more plans, the Secretary of the Treas-  
25                  ury shall provide rules for the application

1 of this paragraph to such plans, including  
2 rules for the ratable allocation of any in-  
3 stallment acceleration amount among such  
4 plans on the basis of each plan's relative  
5 reduction in the plan's shortfall amortiza-  
6 tion installment for the first plan year in  
7 the amortization period described in sub-  
8 paragraph (A) (determined without regard  
9 to this paragraph).”.

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

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

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

20 “(F) QUARTERLY CONTRIBUTIONS NOT TO  
21 INCLUDE CERTAIN INCREASED CONTRIBU-  
22 TIONS.—Subparagraph (D) shall be applied  
23 without regard to any increase under subsection  
24 (c)(7).”.

1 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF  
2 1986.—

3 (1) IN GENERAL.—Paragraph (2) of section  
4 430(c) is amended by adding at the end the fol-  
5 lowing subparagraph:

6 “(D) SPECIAL ELECTION FOR ELIGIBLE  
7 PLAN YEARS.—

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

15 “(I) the shortfall amortization in-  
16 stallments with respect to such base  
17 shall be determined under clause (ii)  
18 or (iii), whichever is specified in the  
19 election, and

20 “(II) the shortfall amortization  
21 installment for any plan year in the 9-  
22 plan-year period described in clause  
23 (ii) or the 15-plan-year period de-  
24 scribed in clause (iii), respectively,  
25 with respect to such shortfall amorti-

1 zation base is the annual installment  
2 determined under the applicable  
3 clause for that year for that base.

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

7 “(I) in the case of the first 2  
8 plan years in the 9-plan-year period  
9 beginning with the election year, in-  
10 terest on the shortfall amortization  
11 base of the plan for the election year  
12 (determined using the effective inter-  
13 est rate for the plan for the election  
14 year), and

15 “(II) in the case of the last 7  
16 plan years in such 9-plan-year period,  
17 the amounts necessary to amortize the  
18 remaining balance of the shortfall am-  
19 ortization base of the plan for the  
20 election year in level annual install-  
21 ments over such last 7 plan years  
22 (using the segment rates under sub-  
23 paragraph (C) for the election year).

24 “(iii) 15-YEAR AMORTIZATION.—The  
25 shortfall amortization installments deter-

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

9           “(iv) ELECTION.—

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

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

1 graph apply to 2 eligible plan years,  
2 the plan sponsor must elect the same  
3 schedule for both years.

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

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

1 plan year occurs on or after the date of the  
2 enactment of this subparagraph.

3 “(vi) REPORTING.—A plan sponsor of  
4 a plan who makes an election under clause  
5 (i) shall inform the Pension Benefit Guar-  
6 anty Corporation of such election in such  
7 form and manner as the Director of the  
8 Pension Benefit Guaranty Corporation  
9 may prescribe.

10 “(vii) INCREASES IN REQUIRED IN-  
11 STALLMENTS IN CERTAIN CASES.—For in-  
12 creases in required contributions in cases  
13 of excess compensation or extraordinary  
14 dividends or stock redemptions, see para-  
15 graph (7).”.

16 (2) INCREASES IN REQUIRED CONTRIBUTIONS  
17 IF EXCESS COMPENSATION PAID.—Section 430(c) is  
18 amended by adding at the end the following para-  
19 graph:

20 “(7) INCREASES IN ALTERNATE REQUIRED IN-  
21 STALLMENTS IN CASES OF EXCESS COMPENSATION  
22 OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-  
23 TIONS.—

24 “(A) IN GENERAL.—If there is an install-  
25 ment acceleration amount with respect to a

1 plan for any plan year in the 9-plan-year or 15-  
2 plan-year period, whichever is applicable, with  
3 respect to an election year under paragraph  
4 (2)(D), then the shortfall amortization install-  
5 ment otherwise determined and payable under  
6 such paragraph for such payment year shall,  
7 subject to the limitation under subparagraph  
8 (B), be increased by such amount.

9 “(B) TOTAL INSTALLMENTS LIMITED TO  
10 SHORTFALL BASE.—Subject to rules prescribed  
11 by the Secretary, if a shortfall amortization in-  
12 stallment with respect to any shortfall amorti-  
13 zation base for an election year is required to  
14 be increased for any plan year under subpara-  
15 graph (A)—

16 “(i) such increase shall not result in  
17 the amount of such installment exceeding  
18 the present value of such installment and  
19 all succeeding installments with respect to  
20 such base (determined without regard to  
21 such increase but after application of  
22 clause (ii)), and

23 “(ii) subsequent shortfall amortization  
24 installments with respect to such base  
25 shall, in reverse order of the otherwise re-

1           required installments, be reduced to the ex-  
2           tent necessary to limit the present value of  
3           such subsequent shortfall amortization in-  
4           stallments (after application of this para-  
5           graph) to the present value of the remain-  
6           ing unamortized shortfall amortization  
7           base.

8           “(C)     INSTALLMENT     ACCELERATION  
9           AMOUNT.—For purposes of this paragraph, the  
10          term ‘installment acceleration amount’ means,  
11          with respect to any plan year, the sum of—

12                 “(i) the aggregate amount of excess  
13                 employee compensation determined under  
14                 subparagraph (D) with respect to all em-  
15                 ployees for the plan year, plus

16                 “(ii) the aggregate amount of extraor-  
17                 dinary dividends and redemptions deter-  
18                 mined under subparagraph (E) for the  
19                 plan year.

20           “(D)     EXCESS     EMPLOYEE     COMPENSA-  
21          TION.—For purposes of this paragraph—

22                 “(i) IN GENERAL.—The term ‘excess  
23                 employee compensation’ means, with re-  
24                 spect to any employee for any plan year,  
25                 the excess (if any) of—



1           for such year. An amount to which the  
2           preceding sentence applies shall not be  
3           taken into account under this paragraph  
4           for any subsequent calendar year.

5           “(iii) ONLY REMUNERATION FOR CER-  
6           TAIN POST-2009 SERVICES COUNTED.—Re-  
7           muneration shall be taken into account  
8           under clause (i) only to the extent attrib-  
9           utable to services performed by the em-  
10          ployee for the plan sponsor after February  
11          4, 2010.

12          “(iv) SELF-EMPLOYED INDIVIDUAL  
13          TREATED AS EMPLOYEE.—The term ‘em-  
14          ployee’ includes, with respect to a calendar  
15          year, a self-employed individual who is  
16          treated as an employee under section  
17          401(c) for the taxable year ending during  
18          such calendar year, and the term ‘com-  
19          pensation’ shall include earned income of  
20          such individual with respect to such self-  
21          employment.

22          “(v) INDEXING OF AMOUNT.—In the  
23          case of any calendar year beginning after  
24          2010, the dollar amount under clause

167

1 (i)(II) shall be increased by an amount  
2 equal to—

3 “(I) such dollar amount, multi-  
4 plied by

5 “(II) the cost-of-living adjust-  
6 ment determined under section 1(f)(3)  
7 for the calendar year, determined by  
8 substituting ‘calendar year 2009’ for  
9 ‘calendar year 1992’ in subparagraph  
10 (B) thereof.

11 If the amount of any increase under clause  
12 (i) is not a multiple of \$1,000, such in-  
13 crease shall be rounded to the next lowest  
14 multiple of \$1,000.

15 “(E) EXTRAORDINARY DIVIDENDS AND  
16 REDEMPTIONS.—

17 “(i) IN GENERAL.—The amount de-  
18 termined under this subparagraph for any  
19 plan year is the sum of—

20 “(I) the aggregate amount of ex-  
21 traordinary dividends declared during  
22 the plan year by the plan sponsor and  
23 required to be reported under section  
24 4043(c)(11) of the Employee Retire-  
25 ment Income Security Act of 1974

168

1 (without regard to any waiver under  
2 such section), plus

3 “(II) if the plan sponsor re-  
4 deems, in any 12-month period ending  
5 during the plan year, an aggregate of  
6 10 percent or more of the total com-  
7 bined voting power of all classes of  
8 stock entitled to vote, or an aggregate  
9 of 10 percent or more of the total  
10 value of shares of all classes of stock,  
11 of the plan sponsor, the aggregate fair  
12 market value of the stock so re-  
13 deemed.

14 “(ii) ONLY CERTAIN POST-2009 DIVI-  
15 DENDS AND REDEMPTIONS COUNTED.—  
16 For purposes of clause (i)—

17 “(I) dividends shall be taken into  
18 account only if declared after Feb-  
19 ruary 4, 2010, and

20 “(II) if clause (i)(II) otherwise  
21 applies for any plan year (determined  
22 without regard to this subclause), only  
23 the fair market value of redemptions  
24 occurring after February 4, 2010,  
25 shall be taken into account in deter-

1                    mining the amount under such clause  
2                    for the plan year.

3                    “(F) OTHER DEFINITIONS AND RULES.—

4                    For purposes of this paragraph—

5                    “(i) PLAN SPONSOR.—The term ‘ plan  
6                    sponsor’ includes any member of the plan  
7                    sponsor’s controlled group (as defined in  
8                    section 412(d)(3)).

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

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

1 (A) in subsection (e)(1), by striking “the  
2 shortfall amortization bases for such plan year  
3 and each of the 6 preceding plan years” and in-  
4 serting “any shortfall amortization base which  
5 has not been fully amortized under this sub-  
6 section”, and

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

9 “(F) QUARTERLY CONTRIBUTIONS NOT TO  
10 INCLUDE CERTAIN INCREASED CONTRIBU-  
11 TIONS.—Subparagraph (D) shall be applied  
12 without regard to any increase under subsection  
13 (c)(7).”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to plan years beginning after De-  
16 cember 31, 2007.

17 **SEC. 702. APPLICATION OF EXTENDED AMORTIZATION PE-**  
18 **RIOD TO PLANS SUBJECT TO PRIOR LAW**  
19 **FUNDING RULES.**

20 (a) IN GENERAL.—Title I of the Pension Protection  
21 Act of 2006 is amended by redesignating section 107 as  
22 section 108 and by inserting the following after section  
23 106:

1 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**  
2 **RIODS TO PLANS WITH DELAYED EFFECTIVE**  
3 **DATE.**

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

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

19 “(1) 2-YEAR LOOKBACK FOR DETERMINING  
20 DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN  
21 PLANS.—For purposes of applying section 302(d)(9)  
22 of such Act and section 412(l)(9) of such Code, the  
23 funded current liability percentage (as defined in  
24 subparagraph (C) thereof) for such plan for such  
25 plan year shall be such funded current liability per-

1 centage of such plan for the second plan year pre-  
2 ceding the first election year of such plan.

3 “(2) CALCULATION OF DEFICIT REDUCTION  
4 CONTRIBUTION.—For purposes of applying section  
5 302(d) of such Act and section 412(l) of such Code  
6 to a plan to which such sections apply (after taking  
7 into account paragraph (1))—

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

14 “(B) in the case of the excess of the un-  
15 funded new liability over the increased un-  
16 funded new liability, such applicable percentage  
17 shall be determined without regard to this sec-  
18 tion.

19 “(c) APPLICATION OF 15-YEAR AMORTIZATION.—In  
20 the case of an election year to which this subsection ap-  
21 plies, for purposes of applying section 302(d) of such Act  
22 and section 412(l) of such Code—

23 “(1) in the case of the increased unfunded new  
24 liability of the plan, the applicable percentage de-  
25 scribed in section 302(d)(4)(C) of such Act and sec-

1       tion 412(l)(4)(C) of such Code for any pre-effective  
2       date plan year beginning with or after the first elec-  
3       tion year shall be the ratio of—

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

10              “(B) the increased unfunded new liability  
11              for such plan year, and

12              “(2) in the case of the excess of the unfunded  
13              new liability over the increased unfunded new liabil-  
14              ity, such applicable percentage shall be determined  
15              without regard to this section.

16              “(d) ELECTION.—

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

24              “(2) AMORTIZATION SCHEDULE.—Such election  
25              shall specify whether the rules under subsection (b)

1 or (c) shall apply to an election year, except that if  
2 a plan sponsor elects to have this section apply to  
3 2 eligible plan years, the plan sponsor must elect the  
4 same rule for both years.

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

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

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

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

24 “(3) INCREASED UNFUNDED NEW LIABILITY.—  
25 The term ‘increased unfunded new liability’ means,

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

12 “(4) OTHER DEFINITIONS.—The terms ‘un-  
13 funded new liability’ and ‘current liability’ shall have  
14 the meanings set forth in section 302(d) of such Act  
15 and section 412(l) of such Code.”.

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

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

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

24 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-  
25 poses of this section, a plan shall be treated as an eligible

1 charity plan for a plan year if the plan is maintained by  
2 more than one employer and 100 percent of the employers  
3 are described in section 501(c)(3) of such Code.”.

4 (c) EFFECTIVE DATE.—

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

8 (2) ELIGIBLE CHARITY PLAN.—The amend-  
9 ments made by subsection (b) shall apply to plan  
10 years beginning after December 31, 2007, except  
11 that a plan sponsor may elect to apply such amend-  
12 ments to plan years beginning after December 31,  
13 2008. Any such election shall be made at such time,  
14 and in such form and manner, as shall be prescribed  
15 by the Secretary of the Treasury, and may be re-  
16 voked only with the consent of the Secretary of the  
17 Treasury.

18 **SEC. 703. LOOKBACK FOR BENEFIT ACCRUAL RESTRIC-**  
19 **TION.**

20 (a) AMENDMENT TO ERISA.—Section 206(g)(4) of  
21 the Employee Retirement Income Security Act of 1974 is  
22 amended by adding at the end the following:

23 “(C) SPECIAL RULE FOR CERTAIN  
24 YEARS.—Solely for purposes of this para-  
25 graph—



1                   mined under rules prescribed by the  
2                   Secretary of the Treasury.”.

3           (b) AMENDMENT TO INTERNAL REVENUE CODE OF  
4 1986.—Section 436(e) of the Internal Revenue Code of  
5 1986 is amended by adding at the end the following:

6                   “(3) SPECIAL RULE FOR CERTAIN YEARS.—  
7           Solely for purposes of this subsection—

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

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

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

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

23                   “(i) subparagraph (A) shall apply to  
24           plan years beginning after December 31,  
25           2007, and before January 1, 2010, and

1                   “(ii) subparagraph (A)(ii) shall apply  
2                   based on the last plan year beginning be-  
3                   fore November 1, 2007, as determined  
4                   under rules prescribed by the Secretary.”.

5           (c) INTERACTION WITH WRERA RULE.—Section 203  
6 of the Worker, Retiree, and Employer Recovery Act of  
7 2008 shall apply to a plan for any plan year in lieu of  
8 the amendments made by this section only to the extent  
9 that such section produces a higher adjusted funding tar-  
10 get attainment percentage for such plan for such year.

11           (d) EFFECTIVE DATE.—

12               (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to plan years beginning on or after Octo-  
15 ber 1, 2008.

16               (2) SPECIAL RULE.—In the case of a plan for  
17 which the valuation date is not the first day of the  
18 plan year, the amendments made by this section  
19 shall apply to plan years beginning after December  
20 31, 2007.

## 21       **Subtitle B—Multiemployer Plans**

### 22       **SEC. 711. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT** 23                   **RULES.**

24           (a) ADJUSTMENTS.—

1           (1) AMENDMENT TO ERISA.—Section 304(b) of  
2           the Employee Retirement Income Security Act of  
3           1974 (29 U.S.C. 1084(b)) is amended by adding at  
4           the end the following new paragraph:

5           “(8) SPECIAL RELIEF RULES.—Notwith-  
6           standing any other provision of this subsection—

7           “(A) AMORTIZATION OF NET INVESTMENT  
8           LOSSES.—

9           “(i) IN GENERAL.—A multiemployer  
10           plan with respect to which the solvency  
11           test under subparagraph (C) is met may  
12           treat the portion of its experience loss at-  
13           tributable to the net investment losses (if  
14           any) incurred in either or both of the first  
15           two plan years beginning after August 31,  
16           2008, as an item separate from other expe-  
17           rience losses, to be amortized in equal an-  
18           nual installments (until fully amortized)  
19           over a period of 30 plan years.

20           “(ii) NO EXTENSION ALLOWED.—If  
21           this subparagraph applies for any plan  
22           year, no extension of the amortization pe-  
23           riod under clause (i) shall be allowed under  
24           subsection (d).

1                   “(iii) NET INVESTMENT LOSSES.—For  
2 purposes of this subparagraph—

3                   “(I) IN GENERAL.—Net invest-  
4 ment losses shall be determined in the  
5 manner prescribed by the Secretary of  
6 the Treasury on the basis of the dif-  
7 ference between actual and expected  
8 returns (including any difference at-  
9 tributable to any criminally fraudulent  
10 investment arrangement).

11                   “(II) CRIMINALLY FRAUDULENT  
12 INVESTMENT ARRANGEMENTS.—The  
13 determination as to whether an ar-  
14 rangement is a criminally fraudulent  
15 investment arrangement shall be made  
16 under rules substantially similar to  
17 the rules prescribed by the Secretary  
18 of the Treasury for purposes of sec-  
19 tion 165 of the Internal Revenue Code  
20 of 1986.

21                   “(B) EXPANDED SMOOTHING PERIOD.—

22                   “(i) IN GENERAL.—A multiemployer  
23 plan with respect to which the solvency  
24 test under subparagraph (C) is met may

182

1 change its asset valuation method in a  
2 manner which—

3 “(I) spreads the difference be-  
4 tween expected and actual returns for  
5 either or both of the first 2 plan years  
6 beginning after August 31, 2008, over  
7 a period of not more than 10 years,

8 “(II) provides that for either or  
9 both of such 2 plan years the value of  
10 plan assets at any time shall not be  
11 less than 80 percent or greater than  
12 130 percent of the fair market value  
13 of such assets at such time, or

14 “(III) makes both changes de-  
15 scribed in subclauses (I) and (II) to  
16 such method.

17 “(ii) ASSET VALUATION METHODS.—  
18 If this subparagraph applies for any plan  
19 year—

20 “(I) the Secretary of the Treas-  
21 ury shall not treat the asset valuation  
22 method of the plan as unreasonable  
23 solely because of the changes in such  
24 method described in clause (i), and

1                   “(II) such changes shall be  
2                   deemed approved by such Secretary  
3                   under section 302(d)(1) and section  
4                   412(d)(1) of such Code.

5                   “(iii) AMORTIZATION OF REDUCTION  
6                   IN UNFUNDED ACCRUED LIABILITY.—If  
7                   this subparagraph and subparagraph (A)  
8                   both apply for any plan year, the plan shall  
9                   treat any reduction in unfunded accrued li-  
10                  ability resulting from the application of  
11                  this subparagraph as a separate experience  
12                  amortization base, to be amortized in equal  
13                  annual installments (until fully amortized)  
14                  over a period of 30 plan years rather than  
15                  the period such liability would otherwise be  
16                  amortized over.

17                  “(C) SOLVENCY TEST.—The solvency test  
18                  under this paragraph is met only if the plan ac-  
19                  tuary certifies that the plan is projected to have  
20                  sufficient assets to timely pay expected benefits  
21                  and anticipated expenditures over the amortiza-  
22                  tion period, taking into account the changes in  
23                  the funding standard account under this para-  
24                  graph.

1           “(D) RESTRICTION ON BENEFIT IN-  
2 CREASES.—If subparagraph (A) or (B) apply to  
3 a multiemployer plan for any plan year, then, in  
4 addition to any other applicable restrictions on  
5 benefit increases, a plan amendment increasing  
6 benefits may not go into effect during either of  
7 the 2 plan years immediately following such  
8 plan year unless—

9                   “(i) the plan actuary certifies that—

10                           “(I) any such increase is paid for  
11 out of additional contributions not al-  
12 located to the plan immediately before  
13 the application of this paragraph to  
14 the plan, and

15                           “(II) the plan’s funded percent-  
16 age and projected credit balances for  
17 such 2 plan years are reasonably ex-  
18 pected to be substantially the same as  
19 such percentage and balances would  
20 have been if the benefit increase had  
21 not been adopted, or

22                           “(ii) the amendment is required as a  
23 condition of qualification under part I of  
24 subchapter D of chapter 1 of the Internal

1           Revenue Code of 1986 or to comply with  
2           other applicable law.

3           “(E) REPORTING.—A plan sponsor of a  
4           plan to which this paragraph applies shall in-  
5           form the Pension Benefit Guaranty Corporation  
6           of such application in such form and manner as  
7           the Director of the Pension Benefit Guaranty  
8           Corporation may prescribe.”.

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

12           “(8) SPECIAL RELIEF RULES.—Notwith-  
13          standing any other provision of this subsection—

14           “(A) AMORTIZATION OF NET INVESTMENT  
15          LOSSES.—

16           “(i) IN GENERAL.—A multiemployer  
17          plan with respect to which the solvency  
18          test under subparagraph (C) is met may  
19          treat the portion of its experience loss at-  
20          tributable to the net investment losses (if  
21          any) incurred in either or both of the first  
22          two plan years beginning after August 31,  
23          2008, as an item separate from other expe-  
24          rience losses, to be amortized in equal an-

1 nual installments (until fully amortized)  
2 over a period of 30 plan years.

3 “(ii) NO EXTENSION ALLOWED.—If  
4 this subparagraph applies for any plan  
5 year, no extension of the amortization pe-  
6 riod under clause (i) shall be allowed under  
7 subsection (d).

8 “(iii) NET INVESTMENT LOSSES.—For  
9 purposes of this subparagraph—

10 “(I) IN GENERAL.—Net invest-  
11 ment losses shall be determined in the  
12 manner prescribed by the Secretary  
13 on the basis of the difference between  
14 actual and expected returns (including  
15 any difference attributable to any  
16 criminally fraudulent investment ar-  
17 rangement).

18 “(II) CRIMINALLY FRAUDULENT  
19 INVESTMENT ARRANGEMENTS.—The  
20 determination as to whether an ar-  
21 rangement is a criminally fraudulent  
22 investment arrangement shall be made  
23 under rules substantially similar to  
24 the rules prescribed by the Secretary  
25 for purposes of section 165.

1                   “(B) EXPANDED SMOOTHING PERIOD.—

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

7                   “(I) spreads the difference be-  
8 tween expected and actual returns for  
9 either or both of the first 2 plan years  
10 beginning after August 31, 2008, over  
11 a period of not more than 10 years,

12                   “(II) provides that for either or  
13 both of such 2 plan years the value of  
14 plan assets at any time shall not be  
15 less than 80 percent or greater than  
16 130 percent of the fair market value  
17 of such assets at such time, or

18                   “(III) makes both changes de-  
19 scribed in subclauses (I) and (II) to  
20 such method.

21                   “(ii) ASSET VALUATION METHODS.—  
22 If this subparagraph applies for any plan  
23 year—

24                   “(I) the Secretary shall not treat  
25 the asset valuation method of the plan

1 as unreasonable solely because of the  
2 changes in such method described in  
3 clause (i), and

4 “(II) such changes shall be  
5 deemed approved by the Secretary  
6 under section 302(d)(1) of the Em-  
7 ployee Retirement Income Security  
8 Act of 1974 and section 412(d)(1).

9 “(iii) AMORTIZATION OF REDUCTION  
10 IN UNFUNDED ACCRUED LIABILITY.—If  
11 this subparagraph and subparagraph (A)  
12 both apply for any plan year, the plan shall  
13 treat any reduction in unfunded accrued li-  
14 ability resulting from the application of  
15 this subparagraph as a separate experience  
16 amortization base, to be amortized in equal  
17 annual installments (until fully amortized)  
18 over a period of 30 plan years rather than  
19 the period such liability would otherwise be  
20 amortized over.

21 “(C) SOLVENCY TEST.—The solvency test  
22 under this paragraph is met only if the plan ac-  
23 tuary certifies that the plan is projected to have  
24 sufficient assets to timely pay expected benefits  
25 and anticipated expenditures over the amortiza-

1           tion period, taking into account the changes in  
2           the funding standard account under this para-  
3           graph.

4           “(D) RESTRICTION ON BENEFIT IN-  
5           CREASES.—If subparagraph (A) or (B) apply to  
6           a multiemployer plan for any plan year, then, in  
7           addition to any other applicable restrictions on  
8           benefit increases, a plan amendment increasing  
9           benefits may not go into effect during either of  
10          the 2 plan years immediately following such  
11          plan year unless—

12                   “(i) the plan actuary certifies that—

13                           “(I) any such increase is paid for  
14                           out of additional contributions not al-  
15                           located to the plan immediately before  
16                           the application of this paragraph to  
17                           the plan, and

18                           “(II) the plan’s funded percent-  
19                           age and projected credit balances for  
20                           such 2 plan years are reasonably ex-  
21                           pected to be substantially the same as  
22                           such percentage and balances would  
23                           have been if the benefit increase had  
24                           not been adopted, or

1                   “(ii) the amendment is required as a  
2                   condition of qualification under part I of  
3                   subchapter D or to comply with other ap-  
4                   plicable law.

5                   “(E) REPORTING.—A plan sponsor of a  
6                   plan to which this paragraph applies shall in-  
7                   form the Pension Benefit Guaranty Corporation  
8                   of such application in such form and manner as  
9                   the Director of the Pension Benefit Guaranty  
10                  Corporation may prescribe.”.

11               (b) EFFECTIVE DATES.—

12               (1) IN GENERAL.—The amendments made by  
13               this section shall take effect as of the first day of  
14               the first plan year beginning after August 31, 2008,  
15               except that any election a plan makes pursuant to  
16               this section that affects the plan’s funding standard  
17               account for the first plan year beginning after Au-  
18               gust 31, 2008, shall be disregarded for purposes of  
19               applying the provisions of section 305 of the Em-  
20               ployee Retirement Income Security Act of 1974 and  
21               section 432 of the Internal Revenue Code of 1986  
22               to such plan year.

23               (2) RESTRICTIONS ON BENEFIT INCREASES.—  
24               Notwithstanding paragraph (1), the restrictions on  
25               plan amendments increasing benefits in sections

1 304(b)(8)(D) of such Act and 431(b)(8)(D) of such  
2 Code, as added by this section, shall take effect on  
3 the date of enactment of this Act.

4 **TITLE VIII—OFFSET PROVISIONS**  
5 **Subtitle A—Foreign Account Tax**  
6 **Compliance**

7 **PART I—INCREASED DISCLOSURE OF**  
8 **BENEFICIAL OWNERS**

9 **SEC. 801. REPORTING ON CERTAIN FOREIGN ACCOUNTS.**

10 (a) IN GENERAL.—The Internal Revenue Code of  
11 1986 is amended by inserting after chapter 3 the following  
12 new chapter:

13 **“CHAPTER 4—TAXES TO ENFORCE RE-**  
14 **PORTING ON CERTAIN FOREIGN AC-**  
15 **COUNTS**

“Sec. 1471. Withholdable payments to foreign financial institutions.

“Sec. 1472. Withholdable payments to other foreign entities.

“Sec. 1473. Definitions.

“Sec. 1474. Special rules.

16 **“SEC. 1471. WITHHOLDABLE PAYMENTS TO FOREIGN FI-**  
17 **NANCIAL INSTITUTIONS.**

18 “(a) IN GENERAL.—In the case of any withholdable  
19 payment to a foreign financial institution which does not  
20 meet the requirements of subsection (b), the withholding  
21 agent with respect to such payment shall deduct and with-  
22 hold from such payment a tax equal to 30 percent of the  
23 amount of such payment.

1 “(b) REPORTING REQUIREMENTS, ETC.—

2 “(1) IN GENERAL.—The requirements of this  
3 subsection are met with respect to any foreign finan-  
4 cial institution if an agreement is in effect between  
5 such institution and the Secretary under which such  
6 institution agrees—

7 “(A) to obtain such information regarding  
8 each holder of each account maintained by such  
9 institution as is necessary to determine which  
10 (if any) of such accounts are United States ac-  
11 counts,

12 “(B) to comply with such verification and  
13 due diligence procedures as the Secretary may  
14 require with respect to the identification of  
15 United States accounts,

16 “(C) in the case of any United States ac-  
17 count maintained by such institution, to report  
18 on an annual basis the information described in  
19 subsection (c) with respect to such account,

20 “(D) to deduct and withhold a tax equal to  
21 30 percent of—

22 “(i) any passthru payment which is  
23 made by such institution to a recalcitrant  
24 account holder or another foreign financial

1 institution which does not meet the re-  
2 quirements of this subsection, and

3 “(ii) in the case of any passthru pay-  
4 ment which is made by such institution to  
5 a foreign financial institution which has in  
6 effect an election under paragraph (3) with  
7 respect to such payment, so much of such  
8 payment as is allocable to accounts held by  
9 recalcitrant account holders or foreign fi-  
10 nancial institutions which do not meet the  
11 requirements of this subsection,

12 “(E) to comply with requests by the Sec-  
13 retary for additional information with respect to  
14 any United States account maintained by such  
15 institution, and

16 “(F) in any case in which any foreign law  
17 would (but for a waiver described in clause (i))  
18 prevent the reporting of any information re-  
19 ferred to in this subsection or subsection (c)  
20 with respect to any United States account  
21 maintained by such institution—

22 “(i) to attempt to obtain a valid and  
23 effective waiver of such law from each  
24 holder of such account, and

1                   “(ii) if a waiver described in clause (i)  
2                   is not obtained from each such holder  
3                   within a reasonable period of time, to close  
4                   such account.

5           Any agreement entered into under this subsection  
6           may be terminated by the Secretary upon a deter-  
7           mination by the Secretary that the foreign financial  
8           institution is out of compliance with such agreement.

9                   “(2) FINANCIAL INSTITUTIONS DEEMED TO  
10           MEET REQUIREMENTS IN CERTAIN CASES.—A for-  
11           eign financial institution may be treated by the Sec-  
12           retary as meeting the requirements of this sub-  
13           section if—

14                   “(A) such institution—

15                   “(i) complies with such procedures as  
16                   the Secretary may prescribe to ensure that  
17                   such institution does not maintain United  
18                   States accounts, and

19                   “(ii) meets such other requirements as  
20                   the Secretary may prescribe with respect  
21                   to accounts of other foreign financial insti-  
22                   tutions maintained by such institution, or

23                   “(B) such institution is a member of a  
24                   class of institutions with respect to which the  
25                   Secretary has determined that the application

1 of this section is not necessary to carry out the  
2 purposes of this section.

3 “(3) ELECTION TO BE WITHHELD UPON RATH-  
4 ER THAN WITHHOLD ON PAYMENTS TO RECAL-  
5 CITRANT ACCOUNT HOLDERS AND NONPARTICI-  
6 PATING FOREIGN FINANCIAL INSTITUTIONS.—In the  
7 case of a foreign financial institution which meets  
8 the requirements of this subsection and such other  
9 requirements as the Secretary may provide and  
10 which elects the application of this paragraph—

11 “(A) the requirements of paragraph (1)(D)  
12 shall not apply,

13 “(B) the withholding tax imposed under  
14 subsection (a) shall apply with respect to any  
15 withholdable payment to such institution to the  
16 extent such payment is allocable to accounts  
17 held by recalcitrant account holders or foreign  
18 financial institutions which do not meet the re-  
19 quirements of this subsection, and

20 “(C) the agreement described in paragraph  
21 (1) shall—

22 “(i) require such institution to notify  
23 the withholding agent with respect to each  
24 such payment of the institution’s election  
25 under this paragraph and such other infor-

1                   mation as may be necessary for the with-  
2                   holding agent to determine the appropriate  
3                   amount to deduct and withhold from such  
4                   payment, and

5                   “(ii) include a waiver of any right  
6                   under any treaty of the United States with  
7                   respect to any amount deducted and with-  
8                   held pursuant to an election under this  
9                   paragraph.

10                  To the extent provided by the Secretary, the election  
11                  under this paragraph may be made with respect to  
12                  certain classes or types of accounts of the foreign fi-  
13                  nancial institution.

14                  “(c) INFORMATION REQUIRED TO BE REPORTED ON  
15                  UNITED STATES ACCOUNTS.—

16                  “(1) IN GENERAL.—The agreement described in  
17                  subsection (b) shall require the foreign financial in-  
18                  stitution to report the following with respect to each  
19                  United States account maintained by such institu-  
20                  tion:

21                  “(A) The name, address, and TIN of each  
22                  account holder which is a specified United  
23                  States person and, in the case of any account  
24                  holder which is a United States owned foreign

1 entity, the name, address, and TIN of each sub-  
2 stantial United States owner of such entity.

3 “(B) The account number.

4 “(C) The account balance or value (deter-  
5 mined at such time and in such manner as the  
6 Secretary may provide).

7 “(D) Except to the extent provided by the  
8 Secretary, the gross receipts and gross with-  
9 drawals or payments from the account (deter-  
10 mined for such period and in such manner as  
11 the Secretary may provide).

12 “(2) ELECTION TO BE SUBJECT TO SAME RE-  
13 PORTING AS UNITED STATES FINANCIAL INSTITU-  
14 TIONS.—In the case of a foreign financial institution  
15 which elects the application of this paragraph—

16 “(A) subparagraphs (C) and (D) of para-  
17 graph (1) shall not apply, and

18 “(B) the agreement described in subsection  
19 (b) shall require such foreign financial institu-  
20 tion to report such information with respect to  
21 each United States account maintained by such  
22 institution as such institution would be required  
23 to report under sections 6041, 6042, 6045, and  
24 6049 if—

1                   “(i) such institution were a United  
2                   States person, and

3                   “(ii) each holder of such account  
4                   which is a specified United States person  
5                   or United States owned foreign entity were  
6                   a natural person and citizen of the United  
7                   States.

8                   An election under this paragraph shall be made  
9                   at such time, in such manner, and subject to  
10                  such conditions as the Secretary may provide.

11                  “(3) SEPARATE REQUIREMENTS FOR QUALI-  
12                  FIED INTERMEDIARIES.—In the case of a foreign fi-  
13                  nancial institution which is treated as a qualified  
14                  intermediary by the Secretary for purposes of sec-  
15                  tion 1441 and the regulations issued thereunder, the  
16                  requirements of this section shall be in addition to  
17                  any reporting or other requirements imposed by the  
18                  Secretary for purposes of such treatment.

19                  “(d) DEFINITIONS.—For purposes of this section—

20                         “(1) UNITED STATES ACCOUNT.—

21                                 “(A) IN GENERAL.—The term ‘United  
22                                 States account’ means any financial account  
23                                 which is held by one or more specified United  
24                                 States persons or United States owned foreign  
25                                 entities.

1           “(B) EXCEPTION FOR CERTAIN ACCOUNTS  
2 HELD BY INDIVIDUALS.—Unless the foreign fi-  
3 nancial institution elects to not have this sub-  
4 paragraph apply, such term shall not include  
5 any depository account maintained by such fi-  
6 nancial institution if—

7                   “(i) each holder of such account is a  
8 natural person, and

9                   “(ii) with respect to each holder of  
10 such account, the aggregate value of all de-  
11 pository accounts held (in whole or in part)  
12 by such holder and maintained by the  
13 same financial institution which maintains  
14 such account does not exceed \$50,000.

15 To the extent provided by the Secretary, finan-  
16 cial institutions which are members of the same  
17 expanded affiliated group shall be treated for  
18 purposes of clause (ii) as a single financial in-  
19 stitution.

20           “(C) ELIMINATION OF DUPLICATIVE RE-  
21 PORTING REQUIREMENTS.—Such term shall not  
22 include any financial account in a foreign finan-  
23 cial institution if—

1                   “(i) such account is held by another  
2                   financial institution which meets the re-  
3                   quirements of subsection (b), or

4                   “(ii) the holder of such account is oth-  
5                   erwise subject to information reporting re-  
6                   quirements which the Secretary determines  
7                   would make the reporting required by this  
8                   section with respect to United States ac-  
9                   counts duplicative.

10                   “(2) FINANCIAL ACCOUNT.—Except as other-  
11                   wise provided by the Secretary, the term ‘financial  
12                   account’ means, with respect to any financial institu-  
13                   tion—

14                   “(A) any depository account maintained by  
15                   such financial institution,

16                   “(B) any custodial account maintained by  
17                   such financial institution, and

18                   “(C) any equity or debt interest in such fi-  
19                   nancial institution (other than interests which  
20                   are regularly traded on an established securities  
21                   market).

22                   Any equity or debt interest which constitutes a fi-  
23                   nancial account under subparagraph (C) with re-  
24                   spect to any financial institution shall be treated for

1 purposes of this section as maintained by such fi-  
2 nancial institution.

3 “(3) UNITED STATES OWNED FOREIGN ENTI-  
4 TY.—The term ‘United States owned foreign entity’  
5 means any foreign entity which has one or more sub-  
6 stantial United States owners.

7 “(4) FOREIGN FINANCIAL INSTITUTION.—The  
8 term ‘foreign financial institution’ means any finan-  
9 cial institution which is a foreign entity. Except as  
10 otherwise provided by the Secretary, such term shall  
11 not include a financial institution which is organized  
12 under the laws of any possession of the United  
13 States.

14 “(5) FINANCIAL INSTITUTION.—Except as oth-  
15 erwise provided by the Secretary, the term ‘financial  
16 institution’ means any entity that—

17 “(A) accepts deposits in the ordinary  
18 course of a banking or similar business,

19 “(B) as a substantial portion of its busi-  
20 ness, holds financial assets for the account of  
21 others, or

22 “(C) is engaged (or holding itself out as  
23 being engaged) primarily in the business of in-  
24 vesting, reinvesting, or trading in securities (as  
25 defined in section 475(c)(2) without regard to

1 the last sentence thereof), partnership interests,  
2 commodities (as defined in section 475(e)(2)),  
3 or any interest (including a futures or forward  
4 contract or option) in such securities, partner-  
5 ship interests, or commodities.

6 “(6) RECALCITRANT ACCOUNT HOLDER.—The  
7 term ‘recalcitrant account holder’ means any ac-  
8 count holder which—

9 “(A) fails to comply with reasonable re-  
10 quests for the information referred to in sub-  
11 section (b)(1)(A) or (c)(1)(A), or

12 “(B) fails to provide a waiver described in  
13 subsection (b)(1)(F) upon request.

14 “(7) PASSTHRU PAYMENT.—The term ‘passthru  
15 payment’ means any withholdable payment or other  
16 payment to the extent attributable to a withholdable  
17 payment.

18 “(e) AFFILIATED GROUPS.—

19 “(1) IN GENERAL.—The requirements of sub-  
20 sections (b) and (c)(1) shall apply—

21 “(A) with respect to United States ac-  
22 counts maintained by the foreign financial insti-  
23 tution, and

24 “(B) except as otherwise provided by the  
25 Secretary, with respect to United States ac-

1 counts maintained by each other foreign finan-  
2 cial institution (other than any foreign financial  
3 institution which meets the requirements of  
4 subsection (b)) which is a member of the same  
5 expanded affiliated group as such foreign finan-  
6 cial institution.

7 “(2) EXPANDED AFFILIATED GROUP.—For pur-  
8 poses of this section, the term ‘expanded affiliated  
9 group’ means an affiliated group as defined in sec-  
10 tion 1504(a), determined—

11 “(A) by substituting ‘more than 50 per-  
12 cent’ for ‘at least 80 percent’ each place it ap-  
13 pears, and

14 “(B) without regard to paragraphs (2) and  
15 (3) of section 1504(b).

16 A partnership or any other entity (other than a cor-  
17 poration) shall be treated as a member of an ex-  
18 panded affiliated group if such entity is controlled  
19 (within the meaning of section 954(d)(3)) by mem-  
20 bers of such group (including any entity treated as  
21 a member of such group by reason of this sentence).

22 “(f) EXCEPTION FOR CERTAIN PAYMENTS.—Sub-  
23 section (a) shall not apply to any payment to the extent  
24 that the beneficial owner of such payment is—

1           “(1) any foreign government, any political sub-  
2           division of a foreign government, or any wholly  
3           owned agency or instrumentality of any one or more  
4           of the foregoing,

5           “(2) any international organization or any  
6           wholly owned agency or instrumentality thereof,

7           “(3) any foreign central bank of issue, or

8           “(4) any other class of persons identified by the  
9           Secretary for purposes of this subsection as posing  
10          a low risk of tax evasion.

11 **“SEC. 1472. WITHHOLDABLE PAYMENTS TO OTHER FOR-**  
12 **EIGN ENTITIES.**

13          “(a) IN GENERAL.—In the case of any withholdable  
14          payment to a non-financial foreign entity, if—

15               “(1) the beneficial owner of such payment is  
16               such entity or any other non-financial foreign entity,  
17               and

18               “(2) the requirements of subsection (b) are not  
19               met with respect to such beneficial owner,

20          then the withholding agent with respect to such payment  
21          shall deduct and withhold from such payment a tax equal  
22          to 30 percent of the amount of such payment.

23          “(b) REQUIREMENTS FOR WAIVER OF WITH-  
24          HOLDING.—The requirements of this subsection are met  
25          with respect to the beneficial owner of a payment if—

1           “(1) such beneficial owner or the payee provides  
2           the withholding agent with either—

3                   “(A) a certification that such beneficial  
4                   owner does not have any substantial United  
5                   States owners, or

6                   “(B) the name, address, and TIN of each  
7                   substantial United States owner of such bene-  
8                   ficial owner,

9           “(2) the withholding agent does not know, or  
10           have reason to know, that any information provided  
11           under paragraph (1) is incorrect, and

12                   “(3) the withholding agent reports the informa-  
13                   tion provided under paragraph (1)(B) to the Sec-  
14                   retary in such manner as the Secretary may provide.

15           “(c) EXCEPTIONS.—Subsection (a) shall not apply  
16           to—

17                   “(1) except as otherwise provided by the Sec-  
18                   retary, any payment beneficially owned by—

19                           “(A) any corporation the stock of which is  
20                           regularly traded on an established securities  
21                           market,

22                           “(B) any corporation which is a member of  
23                           the same expanded affiliated group (as defined  
24                           in section 1471(e)(2) without regard to the last

1 sentence thereof) as a corporation described in  
2 subparagraph (A),

3 “(C) any entity which is organized under  
4 the laws of a possession of the United States  
5 and which is wholly owned by one or more bona  
6 fide residents (as defined in section 937(a)) of  
7 such possession,

8 “(D) any foreign government, any political  
9 subdivision of a foreign government, or any  
10 wholly owned agency or instrumentality of any  
11 one or more of the foregoing,

12 “(E) any international organization or any  
13 wholly owned agency or instrumentality thereof,

14 “(F) any foreign central bank of issue, or

15 “(G) any other class of persons identified  
16 by the Secretary for purposes of this subsection,  
17 and

18 “(2) any class of payments identified by the  
19 Secretary for purposes of this subsection as posing  
20 a low risk of tax evasion.

21 “(d) **NON-FINANCIAL FOREIGN ENTITY.**—For pur-  
22 poses of this section, the term ‘non-financial foreign enti-  
23 ty’ means any foreign entity which is not a financial insti-  
24 tution (as defined in section 1471(d)(5)).

1 **“SEC. 1473. DEFINITIONS.**

2 “For purposes of this chapter—

3 “(1) WITHHOLDABLE PAYMENT.—Except as  
4 otherwise provided by the Secretary—

5 “(A) IN GENERAL.—The term  
6 ‘withholdable payment’ means—

7 “(i) any payment of interest (includ-  
8 ing any original issue discount), dividends,  
9 rents, salaries, wages, premiums, annuities,  
10 compensations, remunerations, emolu-  
11 ments, and other fixed or determinable an-  
12 nual or periodical gains, profits, and in-  
13 come, if such payment is from sources  
14 within the United States, and

15 “(ii) any gross proceeds from the sale  
16 or other disposition of any property of a  
17 type which can produce interest or divi-  
18 dends from sources within the United  
19 States.

20 “(B) EXCEPTION FOR INCOME CONNECTED  
21 WITH UNITED STATES BUSINESS.—Such term  
22 shall not include any item of income which is  
23 taken into account under section 871(b)(1) or  
24 882(a)(1) for the taxable year.

25 “(C) SPECIAL RULE FOR SOURCING INTER-  
26 EST PAID BY FOREIGN BRANCHES OF DOMESTIC

1 FINANCIAL INSTITUTIONS.—Subparagraph (B)  
2 of section 861(a)(1) shall not apply.

3 “(2) SUBSTANTIAL UNITED STATES OWNER.—

4 “(A) IN GENERAL.—The term ‘substantial  
5 United States owner’ means—

6 “(i) with respect to any corporation,  
7 any specified United States person which  
8 owns, directly or indirectly, more than 10  
9 percent of the stock of such corporation  
10 (by vote or value),

11 “(ii) with respect to any partnership,  
12 any specified United States person which  
13 owns, directly or indirectly, more than 10  
14 percent of the profits interests or capital  
15 interests in such partnership, and

16 “(iii) in the case of a trust—

17 “(I) any specified United States  
18 person treated as an owner of any  
19 portion of such trust under subpart E  
20 of part I of subchapter J of chapter  
21 1, and

22 “(II) to the extent provided by  
23 the Secretary in regulations or other  
24 guidance, any specified United States  
25 person which holds, directly or indi-

1                   rectly, more than 10 percent of the  
2                   beneficial interests of such trust.

3                   “(B) SPECIAL RULE FOR INVESTMENT VE-  
4                   HICLES.—In the case of any financial institu-  
5                   tion described in section 1471(d)(5)(C), clauses  
6                   (i), (ii), and (iii) of subparagraph (A) shall be  
7                   applied by substituting ‘0 percent’ for ‘10 per-  
8                   cent’.

9                   “(3) SPECIFIED UNITED STATES PERSON.—Ex-  
10                  cept as otherwise provided by the Secretary, the  
11                  term ‘specified United States person’ means any  
12                  United States person other than—

13                         “(A) any corporation the stock of which is  
14                         regularly traded on an established securities  
15                         market,

16                         “(B) any corporation which is a member of  
17                         the same expanded affiliated group (as defined  
18                         in section 1471(e)(2) without regard to the last  
19                         sentence thereof) as a corporation the stock of  
20                         which is regularly traded on an established se-  
21                         curities market,

22                         “(C) any organization exempt from tax-  
23                         ation under section 501(a) or an individual re-  
24                         tirement plan,

1           “(D) the United States or any wholly  
2 owned agency or instrumentality thereof,

3           “(E) any State, the District of Columbia,  
4 any possession of the United States, any polit-  
5 ical subdivision of any of the foregoing, or any  
6 wholly owned agency or instrumentality of any  
7 one or more of the foregoing,

8           “(F) any bank (as defined in section 581),

9           “(G) any real estate investment trust (as  
10 defined in section 856),

11           “(H) any regulated investment company  
12 (as defined in section 851),

13           “(I) any common trust fund (as defined in  
14 section 584(a)), and

15           “(J) any trust which—

16                   “(i) is exempt from tax under section  
17 664(e), or

18                   “(ii) is described in section  
19 4947(a)(1).

20           “(4) WITHHOLDING AGENT.—The term ‘with-  
21 holding agent’ means all persons, in whatever capac-  
22 ity acting, having the control, receipt, custody, dis-  
23 posal, or payment of any withholdable payment.

1           “(5) FOREIGN ENTITY.—The term ‘foreign en-  
2           tity’ means any entity which is not a United States  
3           person.

4   **“SEC. 1474. SPECIAL RULES.**

5           “(a) LIABILITY FOR WITHHELD TAX.—Every person  
6           required to deduct and withhold any tax under this chap-  
7           ter is hereby made liable for such tax and is hereby indem-  
8           nified against the claims and demands of any person for  
9           the amount of any payments made in accordance with the  
10          provisions of this chapter.

11          “(b) CREDITS AND REFUNDS.—

12           “(1) IN GENERAL.—Except as provided in para-  
13          graph (2), the determination of whether any tax de-  
14          ducted and withheld under this chapter results in an  
15          overpayment by the beneficial owner of the payment  
16          to which such tax is attributable shall be made as  
17          if such tax had been deducted and withheld under  
18          subchapter A of chapter 3.

19           “(2) SPECIAL RULE WHERE FOREIGN FINAN-  
20          CIAL INSTITUTION IS BENEFICIAL OWNER OF PAY-  
21          MENT.—

22           “(A) IN GENERAL.—In the case of any tax  
23          properly deducted and withheld under section  
24          1471 from a specified financial institution pay-  
25          ment—

1                   “(i) if the foreign financial institution  
2                   referred to in subparagraph (B) with re-  
3                   spect to such payment is entitled to a re-  
4                   duced rate of tax with respect to such pay-  
5                   ment by reason of any treaty obligation of  
6                   the United States—

7                   “(I) the amount of any credit or  
8                   refund with respect to such tax shall  
9                   not exceed the amount of credit or re-  
10                  fund attributable to such reduction in  
11                  rate, and

12                  “(II) no interest shall be allowed  
13                  or paid with respect to such credit or  
14                  refund, and

15                  “(ii) if such foreign financial institu-  
16                  tion is not so entitled, no credit or refund  
17                  shall be allowed or paid with respect to  
18                  such tax.

19                  “(B) SPECIFIED FINANCIAL INSTITUTION  
20                  PAYMENT.—The term ‘specified financial insti-  
21                  tution payment’ means any payment if the ben-  
22                  eficial owner of such payment is a foreign fi-  
23                  nancial institution.

24                  “(3) REQUIREMENT TO IDENTIFY SUBSTANTIAL  
25                  UNITED STATES OWNERS.—No credit or refund shall

1 be allowed or paid with respect to any tax properly  
2 deducted and withheld under this chapter unless the  
3 beneficial owner of the payment provides the Sec-  
4 retary such information as the Secretary may re-  
5 quire to determine whether such beneficial owner is  
6 a United States owned foreign entity (as defined in  
7 section 1471(d)(3)) and the identity of any substan-  
8 tial United States owners of such entity.

9 “(c) CONFIDENTIALITY OF INFORMATION.—

10 “(1) IN GENERAL.—For purposes of this chap-  
11 ter, rules similar to the rules of section 3406(f) shall  
12 apply.

13 “(2) DISCLOSURE OF LIST OF PARTICIPATING  
14 FOREIGN FINANCIAL INSTITUTIONS PERMITTED.—

15 The identity of a foreign financial institution which  
16 meets the requirements of section 1471(b) shall not  
17 be treated as return information for purposes of sec-  
18 tion 6103.

19 “(d) COORDINATION WITH OTHER WITHHOLDING  
20 PROVISIONS.—The Secretary shall provide for the coordi-  
21 nation of this chapter with other withholding provisions  
22 under this title, including providing for the proper cred-  
23 iting of amounts deducted and withheld under this chapter  
24 against amounts required to be deducted and withheld  
25 under such other provisions.

1           “(e) TREATMENT OF WITHHOLDING UNDER AGREE-  
2 MENTS.—Any tax deducted and withheld pursuant to an  
3 agreement described in section 1471(b) shall be treated  
4 for purposes of this title as a tax deducted and withheld  
5 by a withholding agent under section 1471(a).

6           “(f) REGULATIONS.—The Secretary shall prescribe  
7 such regulations or other guidance as may be necessary  
8 or appropriate to carry out the purposes of, and prevent  
9 the avoidance of, this chapter.”.

10          (b) SPECIAL RULE FOR INTEREST ON OVERPAY-  
11 MENTS.—Subsection (e) of section 6611 is amended by  
12 adding at the end the following new paragraph:

13           “(4) CERTAIN WITHHOLDING TAXES.—In the  
14 case of any overpayment resulting from tax deducted  
15 and withheld under chapter 3 or 4, paragraphs (1),  
16 (2), and (3) shall be applied by substituting ‘180  
17 days’ for ‘45 days’ each place it appears.”.

18          (c) CONFORMING AMENDMENTS.—

19           (1) Section 6414 is amended by inserting “or  
20 4” after “chapter 3”.

21           (2) Paragraph (1) of section 6501(b) is amend-  
22 ed by inserting “4,” after “chapter 3,”.

23           (3) Paragraph (2) of section 6501(b) is amend-  
24 ed—

1 (A) by inserting “4,” after “chapter 3,” in  
2 the text thereof, and

3 (B) by striking “TAXES AND TAX IMPOSED  
4 BY CHAPTER 3” in the heading thereof and in-  
5 serting “AND WITHHOLDING TAXES”.

6 (4) Paragraph (3) of section 6513(b) is amend-  
7 ed—

8 (A) by inserting “or 4” after “chapter 3”,  
9 and

10 (B) by inserting “or 1474(b)” after “sec-  
11 tion 1462”.

12 (5) Subsection (c) of section 6513 is amended  
13 by inserting “4,” after “chapter 3,”.

14 (6) Paragraph (1) of section 6724(d) is amend-  
15 ed by inserting “under chapter 4 or” after “filed  
16 with the Secretary” in the last sentence thereof.

17 (7) Paragraph (2) of section 6724(d) is amend-  
18 ed by inserting “or 4” after “chapter 3”.

19 (8) The table of chapters of the Internal Rev-  
20 enue Code of 1986 is amended by adding at the end  
21 the following new item:

“CHAPTER 4. TAXES TO ENFORCE REPORTING ON CERTAIN FOREIGN  
ACCOUNTS.”.

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as otherwise pro-  
24 vided in this subsection, the amendments made by

1 this section shall apply to payments made after De-  
2 cember 31, 2012.

3 (2) GRANDFATHERED TREATMENT OF OUT-  
4 STANDING OBLIGATIONS.—The amendments made  
5 by this section shall not require any amount to be  
6 deducted or withheld from any payment under any  
7 obligation outstanding on the date which is 2 years  
8 after the date of the enactment of this Act or from  
9 the gross proceeds from any disposition of such an  
10 obligation.

11 (3) INTEREST ON OVERPAYMENTS.—The  
12 amendment made by subsection (b) shall apply—

13 (A) in the case of such amendment's appli-  
14 cation to paragraph (1) of section 6611(e) of  
15 the Internal Revenue Code of 1986, to returns  
16 the due date for which (determined without re-  
17 gard to extensions) is after the date of the en-  
18 actment of this Act,

19 (B) in the case of such amendment's appli-  
20 cation to paragraph (2) of such section, to  
21 claims for credit or refund of any overpayment  
22 filed after the date of the enactment of this Act  
23 (regardless of the taxable period to which such  
24 refund relates), and

1 (C) in the case of such amendment's appli-  
2 cation to paragraph (3) of such section, to re-  
3 funds paid after the date of the enactment of  
4 this Act (regardless of the taxable period to  
5 which such refund relates).

6 **SEC. 802. REPEAL OF CERTAIN FOREIGN EXCEPTIONS TO**  
7 **REGISTERED BOND REQUIREMENTS.**

8 (a) REPEAL OF EXCEPTION TO DENIAL OF DEDUC-  
9 TION FOR INTEREST ON NON-REGISTERED BONDS.—

10 (1) IN GENERAL.—Paragraph (2) of section  
11 163(f) is amended by striking subparagraph (B) and  
12 by redesignating subparagraph (C) as subparagraph  
13 (B).

14 (2) CONFORMING AMENDMENTS.—

15 (A) Paragraph (2) of section 149(a) is  
16 amended by inserting “or” at the end of sub-  
17 paragraph (A), by striking “, or” at the end of  
18 subparagraph (B) and inserting a period, and  
19 by striking subparagraph (C).

20 (B) Subparagraph (A) of section 163(f)(2)  
21 is amended by inserting “or” at the end of  
22 clause (ii), by striking “, or” at the end of  
23 clause (iii) and inserting a period, and by strik-  
24 ing clause (iv).

1 (C) Subparagraph (B) of section 163(f)(2),  
2 as redesignated by paragraph (1), is amended—

3 (i) by striking “, and subparagraph  
4 (B),” in the matter preceding clause (i),  
5 and

6 (ii) by amending clause (i) to read as  
7 follows:

8 “(i) such obligation is of a type which  
9 the Secretary has determined by regula-  
10 tions to be used frequently in avoiding  
11 Federal taxes, and”.

12 (D) Sections 165(j)(2)(A) and 1287(b)(1)  
13 are each amended by striking “except that  
14 clause (iv) of subparagraph (A), and subpara-  
15 graph (B), of such section shall not apply”.

16 (b) REPEAL OF TREATMENT AS PORTFOLIO DEBT.—

17 (1) IN GENERAL.—Paragraph (2) of section  
18 871(h) is amended to read as follows:

19 “(2) PORTFOLIO INTEREST.—For purposes of  
20 this subsection, the term ‘portfolio interest’ means  
21 any interest (including original issue discount)  
22 which—

23 “(A) would be subject to tax under sub-  
24 section (a) but for this subsection, and

25 “(B) is paid on an obligation—

1 “(i) which is in registered form, and

2 “(ii) with respect to which—

3 “(I) the United States person  
4 who would otherwise be required to  
5 deduct and withhold tax from such in-  
6 terest under section 1441(a) receives  
7 a statement (which meets the require-  
8 ments of paragraph (5)) that the ben-  
9 efiticial owner of the obligation is not a  
10 United States person, or

11 “(II) the Secretary has deter-  
12 mined that such a statement is not re-  
13 quired in order to carry out the pur-  
14 poses of this subsection.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 871(h)(3)(A) is amended by  
17 striking “subparagraph (A) or (B) of”.

18 (B) Paragraph (2) of section 881(c) is  
19 amended to read as follows:

20 “(2) PORTFOLIO INTEREST.—For purposes of  
21 this subsection, the term ‘portfolio interest’ means  
22 any interest (including original issue discount)  
23 which—

24 “(A) would be subject to tax under sub-  
25 section (a) but for this subsection, and

1                   “(B) is paid on an obligation—  
2                   “(i) which is in registered form, and  
3                   “(ii) with respect to which—  
4                   “(I) the person who would other-  
5                   wise be required to deduct and with-  
6                   hold tax from such interest under sec-  
7                   tion 1442(a) receives a statement  
8                   which meets the requirements of sec-  
9                   tion 871(h)(5) that the beneficial  
10                  owner of the obligation is not a  
11                  United States person, or  
12                  “(II) the Secretary has deter-  
13                  mined that such a statement is not re-  
14                  quired in order to carry out the pur-  
15                  poses of this subsection.”.

16           (c) DEMATERIALIZED BOOK ENTRY SYSTEMS  
17 TREATED AS REGISTERED FORM.—Paragraph (3) of sec-  
18 tion 163(f) is amended by inserting “, except that a dema-  
19 terialized book entry system or other book entry system  
20 specified by the Secretary shall be treated as a book entry  
21 system described in such section” before the period at the  
22 end.

23           (d) REPEAL OF EXCEPTION TO REQUIREMENT THAT  
24 TREASURY OBLIGATIONS BE IN REGISTERED FORM.—



1           “(B) CERTAIN OBLIGATIONS NOT IN-  
2           CLUDED.—An obligation is described in this  
3           subparagraph if—

4                   “(i) there are arrangements reason-  
5                   ably designed to ensure that such obliga-  
6                   tion will be sold (or resold in connection  
7                   with the original issue) only to a person  
8                   who is not a United States person,

9                   “(ii) interest on such obligation is  
10                  payable only outside the United States and  
11                  its possessions, and

12                  “(iii) on the face of such obligation  
13                  there is a statement that any United  
14                  States person who holds such obligation  
15                  will be subject to limitations under the  
16                  United States income tax laws.”.

17           (f) EFFECTIVE DATE.—The amendments made by  
18           this section shall apply to obligations issued after the date  
19           which is 2 years after the date of the enactment of this  
20           Act.

1 **PART II—UNDER REPORTING WITH RESPECT TO**  
2 **FOREIGN ASSETS**

3 **SEC. 811. DISCLOSURE OF INFORMATION WITH RESPECT**  
4 **TO FOREIGN FINANCIAL ASSETS.**

5 (a) IN GENERAL.—Subpart A of part III of sub-  
6 chapter A of chapter 61 is amended by inserting after sec-  
7 tion 6038C the following new section:

8 **“SEC. 6038D. INFORMATION WITH RESPECT TO FOREIGN FI-**  
9 **NANCIAL ASSETS.**

10 “(a) IN GENERAL.—Any individual who, during any  
11 taxable year, holds any interest in a specified foreign fi-  
12 nancial asset shall attach to such person’s return of tax  
13 imposed by subtitle A for such taxable year the informa-  
14 tion described in subsection (c) with respect to each such  
15 asset if the aggregate value of all such assets exceeds  
16 \$50,000 (or such higher dollar amount as the Secretary  
17 may prescribe).

18 “(b) SPECIFIED FOREIGN FINANCIAL ASSETS.—For  
19 purposes of this section, the term ‘specified foreign finan-  
20 cial asset’ means—

21 “(1) any financial account (as defined in section  
22 1471(d)(2)) maintained by a foreign financial insti-  
23 tution (as defined in section 1471(d)(4)), and

24 “(2) any of the following assets which are not  
25 held in an account maintained by a financial institu-  
26 tion (as defined in section 1471(d)(5))—

1           “(A) any stock or security issued by a per-  
2           son other than a United States person,

3           “(B) any financial instrument or contract  
4           held for investment that has an issuer or  
5           counterparty which is other than a United  
6           States person, and

7           “(C) any interest in a foreign entity (as  
8           defined in section 1473).

9           “(c) **REQUIRED INFORMATION.**—The information de-  
10          scribed in this subsection with respect to any asset is:

11           “(1) In the case of any account, the name and  
12           address of the financial institution in which such ac-  
13           count is maintained and the number of such ac-  
14           count.

15           “(2) In the case of any stock or security, the  
16           name and address of the issuer and such informa-  
17           tion as is necessary to identify the class or issue of  
18           which such stock or security is a part.

19           “(3) In the case of any other instrument, con-  
20           tract, or interest—

21           “(A) such information as is necessary to  
22           identify such instrument, contract, or interest,  
23           and

1           “(B) the names and addresses of all  
2           issuers and counterparties with respect to such  
3           instrument, contract, or interest.

4           “(4) The maximum value of the asset during  
5           the taxable year.

6           “(d) PENALTY FOR FAILURE TO DISCLOSE.—

7           “(1) IN GENERAL.—If any individual fails to  
8           furnish the information described in subsection (c)  
9           with respect to any taxable year at the time and in  
10          the manner described in subsection (a), such person  
11          shall pay a penalty of \$10,000.

12          “(2) INCREASE IN PENALTY WHERE FAILURE  
13          CONTINUES AFTER NOTIFICATION.—If any failure  
14          described in paragraph (1) continues for more than  
15          90 days after the day on which the Secretary mails  
16          notice of such failure to the individual, such indi-  
17          vidual shall pay a penalty (in addition to the pen-  
18          alties under paragraph (1)) of \$10,000 for each 30-  
19          day period (or fraction thereof) during which such  
20          failure continues after the expiration of such 90-day  
21          period. The penalty imposed under this paragraph  
22          with respect to any failure shall not exceed \$50,000.

23          “(e) PRESUMPTION THAT VALUE OF SPECIFIED  
24          FOREIGN FINANCIAL ASSETS EXCEEDS DOLLAR  
25          THRESHOLD.—If—

1           “(1) the Secretary determines that an indi-  
2           vidual has an interest in one or more specified for-  
3           eign financial assets, and

4           “(2) such individual does not provide sufficient  
5           information to demonstrate the aggregate value of  
6           such assets,

7 then the aggregate value of such assets shall be treated  
8 as being in excess of \$50,000 (or such higher dollar  
9 amount as the Secretary prescribes for purposes of sub-  
10 section (a)) for purposes of assessing the penalties im-  
11 posed under this section.

12           “(f) APPLICATION TO CERTAIN ENTITIES.—To the  
13 extent provided by the Secretary in regulations or other  
14 guidance, the provisions of this section shall apply to any  
15 domestic entity which is formed or availed of for purposes  
16 of holding, directly or indirectly, specified foreign financial  
17 assets, in the same manner as if such entity were an indi-  
18 vidual.

19           “(g) REASONABLE CAUSE EXCEPTION.—No penalty  
20 shall be imposed by this section on any failure which is  
21 shown to be due to reasonable cause and not due to willful  
22 neglect. The fact that a foreign jurisdiction would impose  
23 a civil or criminal penalty on the taxpayer (or any other  
24 person) for disclosing the required information is not rea-  
25 sonable cause.

1       “(h) REGULATIONS.—The Secretary shall prescribe  
2 such regulations or other guidance as may be necessary  
3 or appropriate to carry out the purposes of this section,  
4 including regulations or other guidance which provide ap-  
5 propriate exceptions from the application of this section  
6 in the case of—

7               “(1) classes of assets identified by the Sec-  
8 retary, including any assets with respect to which  
9 the Secretary determines that disclosure under this  
10 section would be duplicative of other disclosures,

11               “(2) nonresident aliens, and

12               “(3) bona fide residents of any possession of  
13 the United States.”.

14       (b) CLERICAL AMENDMENT.—The table of sections  
15 for subpart A of part III of subchapter A of chapter 61  
16 is amended by inserting after the item relating to section  
17 6038C the following new item:

“Sec. 6038D. Information with respect to foreign financial assets.”.

18       (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 the date of the enactment of this Act.

21 **SEC. 812. PENALTIES FOR UNDERPAYMENTS ATTRIB-**  
22 **UTABLE TO UNDISCLOSED FOREIGN FINAN-**  
23 **CIAL ASSETS.**

24       (a) IN GENERAL.—Section 6662, as amended by this  
25 Act, is amended—

1           (1) in subsection (b), by inserting after para-  
2 graph (6) the following new paragraph:

3           “(7) Any undisclosed foreign financial asset un-  
4 derstatement.”, and

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

7           “(j) UNDISCLOSED FOREIGN FINANCIAL ASSET UN-  
8 DERSTATEMENT.—

9           “(1) IN GENERAL.—For purposes of this sec-  
10 tion, the term ‘undisclosed foreign financial asset  
11 understatement’ means, for any taxable year, the  
12 portion of the understatement for such taxable year  
13 which is attributable to any transaction involving an  
14 undisclosed foreign financial asset.

15           “(2) UNDISCLOSED FOREIGN FINANCIAL  
16 ASSET.—For purposes of this subsection, the term  
17 ‘undisclosed foreign financial asset’ means, with re-  
18 spect to any taxable year, any asset with respect to  
19 which information was required to be provided under  
20 section 6038, 6038B, 6038D, 6046A, or 6048 for  
21 such taxable year but was not provided by the tax-  
22 payer as required under the provisions of those sec-  
23 tions.

24           “(3) INCREASE IN PENALTY FOR UNDISCLOSED  
25 FOREIGN FINANCIAL ASSET UNDERSTATEMENTS.—

1 In the case of any portion of an underpayment  
2 which is attributable to any undisclosed foreign fi-  
3 nancial asset understatement, subsection (a) shall be  
4 applied with respect to such portion by substituting  
5 ‘40 percent’ for ‘20 percent’.”

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 the date of the enactment of this Act.

9 **SEC. 813. MODIFICATION OF STATUTE OF LIMITATIONS**  
10 **FOR SIGNIFICANT OMISSION OF INCOME IN**  
11 **CONNECTION WITH FOREIGN ASSETS.**

12 (a) EXTENSION OF STATUTE OF LIMITATIONS.—

13 (1) IN GENERAL.—Paragraph (1) of section  
14 6501(e) is amended by redesignating subparagraphs  
15 (A) and (B) as subparagraphs (B) and (C), respec-  
16 tively, and by inserting before subparagraph (B) (as  
17 so redesignated) the following new subparagraph:

18 “(A) GENERAL RULE.—If the taxpayer  
19 omits from gross income an amount properly  
20 includible therein and—

21 “(i) such amount is in excess of 25  
22 percent of the amount of gross income  
23 stated in the return, or

24 “(ii) such amount—

1                   “(I) is attributable to one or  
2                   more assets with respect to which in-  
3                   formation is required to be reported  
4                   under section 6038D (or would be so  
5                   required if such section were applied  
6                   without regard to the dollar threshold  
7                   specified in subsection (a) thereof and  
8                   without regard to any exceptions pro-  
9                   vided pursuant to subsection (h)(1)  
10                  thereof), and

11                   “(II) is in excess of \$5,000,  
12                  the tax may be assessed, or a proceeding in  
13                  court for collection of such tax may be begun  
14                  without assessment, at any time within 6 years  
15                  after the return was filed.”.

16                  (2) CONFORMING AMENDMENTS.—

17                  (A) Subparagraph (B) of section  
18                  6501(e)(1), as redesignated by paragraph (1),  
19                  is amended by striking all that precedes clause  
20                  (i) and inserting the following:

21                   “(B) DETERMINATION OF GROSS IN-  
22                   COME.—For purposes of subparagraph (A)—”.

23                  (B) Paragraph (2) of section 6229(e) is  
24                  amended by striking “which is in excess of 25  
25                  percent of the amount of gross income stated in

1           its return” and inserting “and such amount is  
2           described in clause (i) or (ii) of section  
3           6501(e)(1)(A)”.

4           (b) **ADDITIONAL REPORTS SUBJECT TO EXTENDED**  
5 **PERIOD.**—Paragraph (8) of section 6501(c) is amended—

6           (1) by inserting “pursuant to an election under  
7           section 1295(b) or” before “under section 6038”,

8           (2) by inserting “1298(f),” before “6038”, and

9           (3) by inserting “6038D,” after “6038B,”.

10          (c) **CLARIFICATIONS RELATED TO FAILURE TO DIS-**  
11 **CLOSE FOREIGN TRANSFERS.**—Paragraph (8) of section  
12 6501(c) is amended by striking “event” and inserting “tax  
13 return, event,”.

14          (d) **EFFECTIVE DATE.**—The amendments made by  
15 this section shall apply to—

16           (1) returns filed after the date of the enactment  
17           of this Act; and

18           (2) returns filed on or before such date if the  
19           period specified in section 6501 of the Internal Rev-  
20           enue Code of 1986 (determined without regard to  
21           such amendments) for assessment of such taxes has  
22           not expired as of such date.

1       **PART III—OTHER DISCLOSURE PROVISIONS**

2       **SEC. 821. REPORTING OF ACTIVITIES WITH RESPECT TO**  
3                       **PASSIVE FOREIGN INVESTMENT COMPANIES.**

4       (a) IN GENERAL.—Section 1298 is amended by re-  
5 designating subsection (f) as subsection (g) and by insert-  
6 ing after subsection (e) the following new subsection:

7           “(f) REPORTING REQUIREMENT.—Except as other-  
8 wise provided by the Secretary, each United States person  
9 who is a shareholder of a passive foreign investment com-  
10 pany shall file an annual report containing such informa-  
11 tion as the Secretary may require.”.

12       (b) CONFORMING AMENDMENT.—Subsection (e) of  
13 section 1291 is amended by striking “, (d), and (f)” and  
14 inserting “and (d)”.

15       (c) EFFECTIVE DATE.—The amendments made by  
16 this section take effect on the date of the enactment of  
17 this Act.

18       **SEC. 822. SECRETARY PERMITTED TO REQUIRE FINANCIAL**  
19                       **INSTITUTIONS TO FILE CERTAIN RETURNS**  
20                       **RELATED TO WITHHOLDING ON FOREIGN**  
21                       **TRANSFERS ELECTRONICALLY.**

22       (a) IN GENERAL.—Subsection (e) of section 6011 is  
23 amended by adding at the end the following new para-  
24 graph:

25           “(4) SPECIAL RULE FOR RETURNS FILED BY  
26 FINANCIAL INSTITUTIONS WITH RESPECT TO WITH-

1 HOLDING ON FOREIGN TRANSFERS.—The numerical  
2 limitation under paragraph (2)(A) shall not apply to  
3 any return filed by a financial institution (as defined  
4 in section 1471(d)(5)) with respect to tax for which  
5 such institution is made liable under section 1461 or  
6 1474(a).”.

7 (b) CONFORMING AMENDMENT.—Subsection (c) of  
8 section 6724 is amended by inserting “or with respect to  
9 a return described in section 6011(e)(4)” before the end  
10 period.

11 (c) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to returns the due date for which  
13 (determined without regard to extensions) is after the date  
14 of the enactment of this Act.

15 **PART IV—PROVISIONS RELATED TO FOREIGN**

16 **TRUSTS**

17 **SEC. 831. CLARIFICATIONS WITH RESPECT TO FOREIGN**

18 **TRUSTS WHICH ARE TREATED AS HAVING A**

19 **UNITED STATES BENEFICIARY.**

20 (a) IN GENERAL.—Paragraph (1) of section 679(c)  
21 is amended by adding at the end the following:

22 “For purposes of subparagraph (A), an amount  
23 shall be treated as accumulated for the benefit of a  
24 United States person even if the United States per-

1 son's interest in the trust is contingent on a future  
2 event.”.

3 (b) CLARIFICATION REGARDING DISCRETION TO  
4 IDENTIFY BENEFICIARIES.—Subsection (c) of section 679  
5 is amended by adding at the end the following new para-  
6 graph:

7 “(4) SPECIAL RULE IN CASE OF DISCRETION TO  
8 IDENTIFY BENEFICIARIES.—For purposes of para-  
9 graph (1)(A), if any person has the discretion (by  
10 authority given in the trust agreement, by power of  
11 appointment, or otherwise) of making a distribution  
12 from the trust to, or for the benefit of, any person,  
13 such trust shall be treated as having a beneficiary  
14 who is a United States person unless—

15 “(A) the terms of the trust specifically  
16 identify the class of persons to whom such dis-  
17 tributions may be made, and

18 “(B) none of those persons are United  
19 States persons during the taxable year.”.

20 (c) CLARIFICATION THAT CERTAIN AGREEMENTS  
21 AND UNDERSTANDINGS ARE TERMS OF THE TRUST.—  
22 Subsection (c) of section 679, as amended by subsection  
23 (b), is amended by adding at the end the following new  
24 paragraph:

1           “(5) CERTAIN AGREEMENTS AND UNDER-  
2           STANDINGS TREATED AS TERMS OF THE TRUST.—  
3           For purposes of paragraph (1)(A), if any United  
4           States person who directly or indirectly transfers  
5           property to the trust is directly or indirectly involved  
6           in any agreement or understanding (whether writ-  
7           ten, oral, or otherwise) that may result in the in-  
8           come or corpus of the trust being paid or accumu-  
9           lated to or for the benefit of a United States person,  
10          such agreement or understanding shall be treated as  
11          a term of the trust.”.

12 **SEC. 832. PRESUMPTION THAT FOREIGN TRUST HAS**  
13                                   **UNITED STATES BENEFICIARY.**

14          (a) IN GENERAL.—Section 679 is amended by redес-  
15          ignating subsection (d) as subsection (e) and inserting  
16          after subsection (c) the following new subsection:

17          “(d) PRESUMPTION THAT FOREIGN TRUST HAS  
18          UNITED STATES BENEFICIARY.—If a United States per-  
19          son directly or indirectly transfers property to a foreign  
20          trust (other than a trust described in section  
21          6048(a)(3)(B)(ii)), the Secretary may treat such trust as  
22          having a United States beneficiary for purposes of apply-  
23          ing this section to such transfer unless such person—

1           “(1) submits such information to the Secretary  
2           as the Secretary may require with respect to such  
3           transfer, and

4           “(2) demonstrates to the satisfaction of the  
5           Secretary that such trust satisfies the requirements  
6           of subparagraphs (A) and (B) of subsection (c)(1).”.

7           (b) **EFFECTIVE DATE.**—The amendments made by  
8           this section shall apply to transfers of property after the  
9           date of the enactment of this Act.

10 **SEC. 833. UNCOMPENSATED USE OF TRUST PROPERTY.**

11           (a) **IN GENERAL.**—Paragraph (1) of section 643(i)  
12           is amended—

13                   (1) by striking “directly or indirectly to” and  
14                   inserting “(or permits the use of any other trust  
15                   property) directly or indirectly to or by”, and

16                   (2) by inserting “(or the fair market value of  
17                   the use of such property)” after “the amount of  
18                   such loan”.

19           (b) **EXCEPTION FOR COMPENSATED USE.**—Para-  
20           graph (2) of section 643(i) is amended by adding at the  
21           end the following new subparagraph:

22                           “(E) **EXCEPTION FOR COMPENSATED USE**  
23                           **OF PROPERTY.**—In the case of the use of any  
24                           trust property other than a loan of cash or  
25                           marketable securities, paragraph (1) shall not

1           apply to the extent that the trust is paid the  
2           fair market value of such use within a reason-  
3           able period of time of such use.”.

4           (c) APPLICATION TO GRANTOR TRUSTS.—Subsection  
5 (c) of section 679, as amended by this Act, is amended  
6 by adding at the end the following new paragraph:

7           “(6) UNCOMPENSATED USE OF TRUST PROP-  
8           ERTY TREATED AS A PAYMENT.—For purposes of  
9           this subsection, a loan of cash or marketable securi-  
10          ties (or the use of any other trust property) directly  
11          or indirectly to or by any United States person  
12          (whether or not a beneficiary under the terms of the  
13          trust) shall be treated as paid or accumulated for  
14          the benefit of a United States person. The preceding  
15          sentence shall not apply to the extent that the  
16          United States person repays the loan at a market  
17          rate of interest (or pays the fair market value of the  
18          use of such property) within a reasonable period of  
19          time.”.

20          (d) CONFORMING AMENDMENTS.—Paragraph (3) of  
21 section 643(i) is amended—

22               (1) by inserting “(or use of property)” after “If  
23               any loan”,

24               (2) by inserting “or the return of such prop-  
25               erty” before “shall be disregarded”, and

1           (3) by striking “REGARDING LOAN PRINCIPAL”  
2           in the heading thereof.

3           (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to loans made, and uses of prop-  
5 erty, after the date of the enactment of this Act.

6 **SEC. 834. REPORTING REQUIREMENT OF UNITED STATES**  
7                                   **OWNERS OF FOREIGN TRUSTS.**

8           (a) IN GENERAL.—Paragraph (1) of section 6048(b)  
9 is amended by inserting “shall submit such information  
10 as the Secretary may prescribe with respect to such trust  
11 for such year and” before “shall be responsible to ensure”.

12           (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to taxable years beginning after  
14 the date of the enactment of this Act.

15 **SEC. 835. MINIMUM PENALTY WITH RESPECT TO FAILURE**  
16                                   **TO REPORT ON CERTAIN FOREIGN TRUSTS.**

17           (a) IN GENERAL.—Subsection (a) of section 6677 is  
18 amended—

19           (1) by inserting “the greater of \$10,000 or” be-  
20 fore “35 percent”, and

21           (2) by striking the last sentence and inserting  
22 the following: “At such time as the gross reportable  
23 amount with respect to any failure can be deter-  
24 mined by the Secretary, any subsequent penalty im-  
25 posed under this subsection with respect to such fail-

1 ure shall be reduced as necessary to assure that the  
2 aggregate amount of such penalties do not exceed  
3 the gross reportable amount (and to the extent that  
4 such aggregate amount already exceeds the gross re-  
5 portable amount the Secretary shall refund such ex-  
6 cess to the taxpayer).”

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to notices and returns required to  
9 be filed after December 31, 2009.

10 **PART V—SUBSTITUTE DIVIDENDS AND DIVIDEND**  
11 **EQUIVALENT PAYMENTS RECEIVED BY FOR-**  
12 **EIGN PERSONS TREATED AS DIVIDENDS**

13 **SEC. 841. SUBSTITUTE DIVIDENDS AND DIVIDEND EQUIVA-**  
14 **LENT PAYMENTS RECEIVED BY FOREIGN**  
15 **PERSONS TREATED AS DIVIDENDS.**

16 (a) IN GENERAL.—Section 871 is amended by redес-  
17 ignating subsection (l) as subsection (m) and by inserting  
18 after subsection (k) the following new subsection:

19 “(l) TREATMENT OF DIVIDEND EQUIVALENT PAY-  
20 MENTS.—

21 “(1) IN GENERAL.—For purposes of subsection  
22 (a), sections 881 and 4948(a), and chapters 3 and  
23 4, a dividend equivalent shall be treated as a divi-  
24 dend from sources within the United States.

1           “(2) DIVIDEND EQUIVALENT.—For purposes of  
2 this subsection, the term ‘dividend equivalent’  
3 means—

4                   “(A) any substitute dividend made pursu-  
5 ant to a securities lending or a sale-repurchase  
6 transaction that (directly or indirectly) is con-  
7 tingent upon, or determined by reference to, the  
8 payment of a dividend from sources within the  
9 United States,

10                   “(B) any payment made pursuant to a  
11 specified notional principal contract that (di-  
12 rectly or indirectly) is contingent upon, or de-  
13 termined by reference to, the payment of a divi-  
14 dend from sources within the United States,  
15 and

16                   “(C) any other payment determined by the  
17 Secretary to be substantially similar to a pay-  
18 ment described in subparagraph (A) or (B).

19           “(3) SPECIFIED NOTIONAL PRINCIPAL CON-  
20 TRACT.—For purposes of this subsection, the term  
21 ‘specified notional principal contract’ means—

22                   “(A) any notional principal contract if—

23                           “(i) in connection with entering into  
24 such contract, any long party to the con-

1           tract transfers the underlying security to  
2           any short party to the contract,

3           “(ii) in connection with the termi-  
4           nation of such contract, any short party to  
5           the contract transfers the underlying secu-  
6           rity to any long party to the contract,

7           “(iii) the underlying security is not  
8           readily tradable on an established securi-  
9           ties market,

10          “(iv) in connection with entering into  
11          such contract, the underlying security is  
12          posted as collateral by any short party to  
13          the contract with any long party to the  
14          contract, or

15          “(v) such contract is identified by the  
16          Secretary as a specified notional principal  
17          contract,

18          “(B) in the case of payments made after  
19          the date which is 2 years after the date of the  
20          enactment of this subsection, any notional prin-  
21          cipal contract unless the Secretary determines  
22          that such contract is of a type which does not  
23          have the potential for tax avoidance.

24          “(4) DEFINITIONS.—For purposes of paragraph

25          (3)(A)—

1           “(A) LONG PARTY.—The term ‘long party’  
2 means, with respect to any underlying security  
3 of any notional principal contract, any party to  
4 the contract which is entitled to receive any  
5 payment pursuant to such contract which is  
6 contingent upon, or determined by reference to,  
7 the payment of a dividend from sources within  
8 the United States with respect to such under-  
9 lying security.

10           “(B) SHORT PARTY.—The term ‘short  
11 party’ means, with respect to any underlying se-  
12 curity of any notional principal contract, any  
13 party to the contract which is not a long party  
14 with respect to such underlying security.

15           “(C) UNDERLYING SECURITY.—The term  
16 ‘underlying security’ means, with respect to any  
17 notional principal contract, the security with re-  
18 spect to which the dividend referred to in para-  
19 graph (2)(B) is paid. For purposes of this para-  
20 graph, any index or fixed basket of securities  
21 shall be treated as a single security.

22           “(5) PAYMENTS DETERMINED ON GROSS  
23 BASIS.—For purposes of this subsection, the term  
24 ‘payment’ includes any gross amount which is used

1 in computing any net amount which is transferred to  
2 or from the taxpayer.

3 “(6) PREVENTION OF OVER-WITHHOLDING.—In  
4 the case of any chain of dividend equivalents one or  
5 more of which is subject to tax under subsection (a)  
6 or section 881, the Secretary may reduce such tax,  
7 but only to the extent that the taxpayer can estab-  
8 lish that such tax has been paid with respect to an-  
9 other dividend equivalent in such chain, or is not  
10 otherwise due, or as the Secretary determines is ap-  
11 propriate to address the role of financial inter-  
12 mediaries in such chain. For purposes of this para-  
13 graph, a dividend shall be treated as a dividend  
14 equivalent.

15 “(7) COORDINATION WITH CHAPTERS 3 AND  
16 4.—For purposes of chapters 3 and 4, each person  
17 that is a party to any contract or other arrangement  
18 that provides for the payment of a dividend equiva-  
19 lent shall be treated as having control of such pay-  
20 ment.”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to payments made on or after the  
23 date that is 180 days after the date of the enactment of  
24 this Act.

1                   **Subtitle B—Black Liquor**

2   **SEC. 851. EXCLUSION OF UNPROCESSED FUELS FROM THE**  
3                   **CELLULOSIC BIOFUEL PRODUCER CREDIT.**

4           (a) IN GENERAL.—Subparagraph (E) of section  
5 40(b)(6) is amended by adding at the end the following  
6 new clause:

7                           “(iii) EXCLUSION OF UNPROCESSED  
8                           FUELS.—The term ‘cellulosic biofuel’ shall  
9                           not include any fuel if—

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

13                                   “(II) the ash content of such fuel  
14                                   is more than 1 percent (determined by  
15                                   weight).”.

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

19   **SEC. 852. PROHIBITION ON ALTERNATIVE FUEL CREDIT**  
20                   **AND ALTERNATIVE FUEL MIXTURE CREDIT**  
21                   **FOR BLACK LIQUOR.**

22           (a) IN GENERAL.—The last sentence of section  
23 6426(d)(2) is amended by striking “or biodiesel” and in-  
24 serting “biodiesel, or any fuel (including lignin, wood resi-

1 dues, or spent pulping liquors) derived from the produc-  
2 tion of paper or pulp”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to fuel sold or used after December  
5 31, 2009.

## 6 **Subtitle C—Homebuyer Credit**

### 7 **SEC. 861. TECHNICAL MODIFICATIONS TO HOMEBUYER** 8 **CREDIT.**

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

13 (1) by striking “or” at the end of paragraph

14 (3),

15 (2) by striking the period at the end of para-  
16 graph (4) and inserting a comma, and

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

19 “(5) in the case of a taxpayer to whom such a  
20 credit would be allowed (but for this paragraph) by  
21 reason of subsection (c)(6), the taxpayer fails to at-  
22 tach to the return of tax for such taxable year a  
23 copy of such property tax bills or other documenta-  
24 tion as are required by the Secretary to demonstrate

1 compliance with the requirements of subsection  
2 (c)(6), or

3 “(6) in the case of a taxpayer to whom such a  
4 credit would be allowed (but for this paragraph) by  
5 reason of subsection (h)(2), the taxpayer fails to at-  
6 tach to the return of tax for such taxable year a  
7 copy of the binding contract which meets the re-  
8 quirements of subsection (h)(2).”.

9 (b) MODIFICATION OF EFFECTIVE DATE OF DOCU-  
10 MENTATION REQUIREMENTS.—Paragraph (2) of section  
11 12(e) of the Worker, Homeownership, and Business As-  
12 sistance Act of 2009 is amended by striking “returns for  
13 taxable years ending after the date of the enactment of  
14 this Act” and inserting “returns filed after the date of  
15 the enactment of this Act”.

16 (c) EFFECTIVE DATES.—

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

21 (2) EFFECTIVE DATE OF WORKER, HOMEOWN-  
22 ERSHIP, AND BUSINESS ASSISTANCE ACT.—The  
23 amendment made by subsection (b) shall apply to  
24 purchases of a principal residence on or after the

1 date of the enactment of the Worker, Homeowner-  
2 ship, and Business Assistance Act of 2009.

### 3 **Subtitle D—Economic Substance**

#### 4 **SEC. 871. CODIFICATION OF ECONOMIC SUBSTANCE DOC-** 5 **TRINE; PENALTIES.**

6 (a) IN GENERAL.—Section 7701 is amended by re-  
7 designating subsection (o) as subsection (p) and by insert-  
8 ing after subsection (n) the following new subsection:

9 “(o) CLARIFICATION OF ECONOMIC SUBSTANCE  
10 DOCTRINE.—

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

15 “(A) the transaction changes in a mean-  
16 ingful way (apart from Federal income tax ef-  
17 fects) the taxpayer’s economic position, and

18 “(B) the taxpayer has a substantial pur-  
19 pose (apart from Federal income tax effects)  
20 for entering into such transaction.

21 “(2) SPECIAL RULE WHERE TAXPAYER RELIES  
22 ON PROFIT POTENTIAL.—

23 “(A) IN GENERAL.—The potential for  
24 profit of a transaction shall be taken into ac-  
25 count in determining whether the requirements

1 of subparagraphs (A) and (B) of paragraph (1)  
2 are met with respect to the transaction only if  
3 the present value of the reasonably expected  
4 pre-tax profit from the transaction is substan-  
5 tial in relation to the present value of the ex-  
6 pected net tax benefits that would be allowed if  
7 the transaction were respected.

8 “(B) TREATMENT OF FEES AND FOREIGN  
9 TAXES.—Fees and other transaction expenses  
10 shall be taken into account as expenses in de-  
11 termining pre-tax profit under subparagraph  
12 (A). The Secretary may issue regulations re-  
13 quiring foreign taxes to be treated as expenses  
14 in determining pre-tax profit in appropriate  
15 cases.

16 “(3) STATE AND LOCAL TAX BENEFITS.—For  
17 purposes of paragraph (1), any State or local income  
18 tax effect which is related to a Federal income tax  
19 effect shall be treated in the same manner as a Fed-  
20 eral income tax effect.

21 “(4) FINANCIAL ACCOUNTING BENEFITS.—For  
22 purposes of paragraph (1)(B), achieving a financial  
23 accounting benefit shall not be taken into account as  
24 a purpose for entering into a transaction if the ori-

1       gin of such financial accounting benefit is a reduc-  
2       tion of Federal income tax.

3               “(5) DEFINITIONS AND SPECIAL RULES.—For  
4       purposes of this subsection—

5               “(A) ECONOMIC SUBSTANCE DOCTRINE.—  
6       The term ‘economic substance doctrine’ means  
7       the common law doctrine under which tax bene-  
8       fits under subtitle A with respect to a trans-  
9       action are not allowable if the transaction does  
10      not have economic substance or lacks a business  
11      purpose.

12              “(B) EXCEPTION FOR PERSONAL TRANS-  
13      ACTIONS OF INDIVIDUALS.—In the case of an  
14      individual, paragraph (1) shall apply only to  
15      transactions entered into in connection with a  
16      trade or business or an activity engaged in for  
17      the production of income.

18              “(C) OTHER COMMON LAW DOCTRINES  
19      NOT AFFECTED.—Except as specifically pro-  
20      vided in this subsection, the provisions of this  
21      subsection shall not be construed as altering or  
22      supplanting any other rule of law, and the re-  
23      quirements of this subsection shall be construed  
24      as being in addition to any such other rule of  
25      law.

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

7           “(E) TRANSACTION.—The term ‘trans-  
8           action’ includes a series of transactions.

9           “(6) REGULATIONS.—The Secretary shall pre-  
10          scribe such regulations as may be necessary or ap-  
11          propriate to carry out the purposes of this sub-  
12          section.”.

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

15               (1) IN GENERAL.—Subsection (b) of section  
16               6662 is amended by inserting after paragraph (5)  
17               the following new paragraph:

18               “(6) Any disallowance of claimed tax benefits  
19               by reason of a transaction lacking economic sub-  
20               stance (within the meaning of section 7701(o)) or  
21               failing to meet the requirements of any similar rule  
22               of law.”.

23               (2) INCREASED PENALTY FOR NONDISCLOSED  
24               TRANSACTIONS.—Section 6662 is amended by add-  
25               ing at the end the following new subsection:

1       “(i) INCREASE IN PENALTY IN CASE OF NONDIS-  
2 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

3           “(1) IN GENERAL.—In the case of any portion  
4 of an underpayment which is attributable to one or  
5 more nondisclosed noneconomic substance trans-  
6 actions, subsection (a) shall be applied with respect  
7 to such portion by substituting ‘40 percent’ for ‘20  
8 percent’.

9           “(2) NONDISCLOSED NONECONOMIC SUB-  
10 STANCE TRANSACTIONS.—For purposes of this sub-  
11 section, the term ‘nondisclosed noneconomic sub-  
12 stance transaction’ means any portion of a trans-  
13 action described in subsection (b)(6) with respect to  
14 which the relevant facts affecting the tax treatment  
15 are not adequately disclosed in the return nor in a  
16 statement attached to the return.

17           “(3) SPECIAL RULE FOR AMENDED RE-  
18 TURNS.—Except as provided in regulations, in no  
19 event shall any amendment or supplement to a re-  
20 turn of tax be taken into account for purposes of  
21 this subsection if the amendment or supplement is  
22 filed after the earlier of the date the taxpayer is first  
23 contacted by the Secretary regarding the examina-  
24 tion of the return or such other date as is specified  
25 by the Secretary.”.

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

3                   (A) by striking “section 6662(h)” and in-  
4                   serting “subsections (h) or (i) of section 6662”;  
5                   and

6                   (B) by striking “GROSS VALUATION  
7                   MISSTATEMENT PENALTY” in the heading and  
8                   inserting “CERTAIN INCREASED UNDER-  
9                   PAYMENT PENALTIES”.

10          (c) REASONABLE CAUSE EXCEPTION NOT APPLICA-  
11          BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

12           (1) REASONABLE CAUSE EXCEPTION FOR UN-  
13          DERPAYMENTS.—Subsection (c) of section 6664 is  
14          amended—

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

17                   (B) by striking “paragraph (2)” in para-  
18                   graph (4)(A), as so redesignated, and inserting  
19                   “paragraph (3)”; and

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

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

1           (2) REASONABLE CAUSE EXCEPTION FOR RE-  
2           PORTABLE TRANSACTION UNDERSTATEMENTS.—

3           Subsection (d) of section 6664 is amended—

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

6                   (B) by striking “paragraph (2)(C)” in  
7                   paragraph (4), as so redesignated, and inserting  
8                   “paragraph (3)(C)”; and

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

11                 “(2) EXCEPTION.—Paragraph (1) shall not  
12                 apply to any portion of a reportable transaction un-  
13                 derstatement which is attributable to one or more  
14                 transactions described in section 6662(b)(6).”.

15           (d) APPLICATION OF PENALTY FOR ERRONEOUS  
16           CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-  
17           STANCE TRANSACTIONS.—Section 6676 is amended by re-  
18           designating subsection (c) as subsection (d) and inserting  
19           after subsection (b) the following new subsection:

20                   “(c) NONECONOMIC SUBSTANCE TRANSACTIONS  
21                   TREATED AS LACKING REASONABLE BASIS.—For pur-  
22                   poses of this section, any excessive amount which is attrib-  
23                   utable to any transaction described in section 6662(b)(6)  
24                   shall not be treated as having a reasonable basis.”.

25           (e) EFFECTIVE DATE.—

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

5           (2) UNDERPAYMENTS.—The amendments made  
6           by subsections (b) and (c)(1) shall apply to under-  
7           payments attributable to transactions entered into  
8           after the date of the enactment of this Act.

9           (3) UNDERSTATEMENTS.—The amendments  
10          made by subsection (c)(2) shall apply to understate-  
11          ments attributable to transactions entered into after  
12          the date of the enactment of this Act.

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

## 17   **Subtitle E—Additional Provisions**

### 18   **SEC. 881. REVISION TO THE MEDICARE IMPROVEMENT**

#### 19                   **FUND.**

20          Section 1898(b)(1)(A) of the Social Security Act (42  
21          U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b)  
22          of the Department of Defense Appropriations Act, 2010  
23          (Public Law 111–118), is amended by striking  
24          “\$20,740,000,000” and inserting “\$12,740,000,000”.

1                   **TITLE IX—SATELLITE**  
2                   **TELEVISION EXTENSION**

3 **SEC. 901. SHORT TITLE.**

4           This title may be cited as the “Satellite Television  
5 Extension and Localism Act of 2010”.

6                   **Subtitle A—Statutory Licenses**

7 **SEC. 901. REFERENCE.**

8           Except as otherwise provided, whenever in this sub-  
9 title an amendment is made to a section or other provision,  
10 the reference shall be considered to be made to such sec-  
11 tion or provision of title 17, United States Code.

12 **SEC. 902. MODIFICATIONS TO STATUTORY LICENSE FOR**  
13                   **SATELLITE CARRIERS.**

14           (a) **HEADING RENAMED.—**

15                   (1) **IN GENERAL.—**The heading of section 119  
16 is amended by striking “**superstations and net-**  
17 **work stations for private home viewing**”  
18 and inserting “**distant television program-**  
19 **ming by satellite**”.

20                   (2) **TABLE OF CONTENTS.—**The table of con-  
21 tents for chapter 1 is amended by striking the item  
22 relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant tele-  
vision programming by satellite.”.

23           (b) **UNSERVED HOUSEHOLD DEFINED.—**

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

3           (A) by striking subparagraph (A) and in-  
4 sserting the following:

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

11           “(i) if the signal originates as an ana-  
12 log signal, Grade B intensity as defined by  
13 the Federal Communications Commission  
14 in section 73.683(a) of title 47, Code of  
15 Federal Regulations, as in effect on Janu-  
16 ary 1, 1999; or

17           “(ii) if the signal originates as a dig-  
18 ital signal, intensity defined in the values  
19 for the digital television noise-limited serv-  
20 ice contour, as defined in regulations  
21 issued by the Federal Communications  
22 Commission (section 73.622(e) of title 47,  
23 Code of Federal Regulations), as such reg-  
24 ulations may be amended from time to  
25 time;”;

1 (B) in subparagraph (B)—

2 (i) by striking “subsection (a)(14)”

3 and inserting “subsection (a)(13),”; and

4 (ii) by striking “Satellite Home View-

5 er Extension and Reauthorization Act of

6 2004” and inserting “Satellite Television

7 Extension and Localism Act of 2010”; and

8 (C) in subparagraph (D), by striking

9 “(a)(12)” and inserting “(a)(11)”.

10 (2) QUALIFYING DATE DEFINED.—Section

11 119(d) is amended by adding at the end the fol-

12 lowing:

13 “(14) QUALIFYING DATE.—The term ‘quali-

14 fying date’, for purposes of paragraph (10)(A),

15 means—

16 “(A) July 1, 2010, for multicast streams

17 that exist on December 31, 2009; and

18 “(B) January 1, 2011, for all other

19 multicast streams.”.

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

21 (1) in subparagraph (A), by striking “and”

22 after the semicolon at the end;

23 (2) in subparagraph (B), by striking the period

24 and inserting “; and”; and

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

1           “(C) a filing fee, as determined by the  
2           Register of Copyrights pursuant to section  
3           708(a).”.

4           (d) DEPOSIT OF STATEMENTS AND FEES;  
5 VERIFICATION PROCEDURES.—Section 119(b) is amend-  
6 ed—

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

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

12           “(B) a royalty fee payable to copyright  
13 owners pursuant to paragraph (4) for that 6-  
14 month period, computed by multiplying the  
15 total number of subscribers receiving each sec-  
16 ondary transmission of a primary stream or  
17 multicast stream of each non-network station or  
18 network station during each calendar year  
19 month by the appropriate rate in effect under  
20 this subsection; and”;

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

23           (4) by inserting after paragraph (1) the fol-  
24 lowing:

1           “(2) VERIFICATION OF ACCOUNTS AND FEE  
2 PAYMENTS.—The Register of Copyrights shall issue  
3 regulations to permit interested parties to verify and  
4 audit the statements of account and royalty fees  
5 submitted by satellite carriers under this sub-  
6 section.”;

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

9           (A) by inserting “(including the filing fee  
10 specified in paragraph (1)(C))” after “shall re-  
11 ceive all fees”; and

12           (B) by striking “paragraph (4)” and in-  
13 serting “paragraph (5)”;

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

15           (A) by striking “paragraph (2)” and in-  
16 serting “paragraph (3)”;

17           (B) by striking “paragraph (4)” each place  
18 it appears and inserting “paragraph (5)”;

19           (7) in paragraph (5), as redesignated, by strik-  
20 ing “paragraph (2)” and inserting “paragraph (3)”.

21           (e) ADJUSTMENT OF ROYALTY FEES.—Section  
22 119(c) is amended as follows:

23           (1) Paragraph (1) is amended—

24           (A) in the heading for such paragraph, by  
25 striking “ANALOG”;

1 (B) in subparagraph (A)—

2 (i) by striking “primary analog trans-  
3 missions” and inserting “primary trans-  
4 missions”; and

5 (ii) by striking “July 1, 2004” and in-  
6 serting “July 1, 2009”;

7 (C) in subparagraph (B)—

8 (i) by striking “January 2, 2005, the  
9 Librarian of Congress” and inserting  
10 “March 1, 2010, the Copyright Royalty  
11 Judges”; and

12 (ii) by striking “primary analog trans-  
13 mission” and inserting “primary trans-  
14 missions”;

15 (D) in subparagraph (C), by striking “Li-  
16 brarian of Congress” and inserting “Copyright  
17 Royalty Judges”;

18 (E) in subparagraph (D)—

19 (i) in clause (i)—

20 (I) by striking “(i) Voluntary  
21 agreements” and inserting the fol-  
22 lowing:

23 “(i) VOLUNTARY AGREEMENTS; FIL-  
24 ING.—Voluntary agreements”; and

261

1 (II) by striking “that a parties”  
2 and inserting “that are parties”; and  
3 (ii) in clause (ii)—

4 (I) by striking “(ii)(I) Within”  
5 and inserting the following:

6 “(ii) PROCEDURE FOR ADOPTION OF  
7 FEES.—

8 “(I) PUBLICATION OF NOTICE.—  
9 Within”;

10 (II) in subclause (I), by striking  
11 “an arbitration proceeding pursuant  
12 to subparagraph (E)” and inserting  
13 “a proceeding under subparagraph  
14 (F)”;

15 (III) in subclause (II), by strik-  
16 ing “(II) Upon receiving a request  
17 under subclause (I), the Librarian of  
18 Congress” and inserting the following:

19 “(II) PUBLIC NOTICE OF  
20 FEES.—Upon receiving a request  
21 under subclause (I), the Copyright  
22 Royalty Judges”; and

23 (IV) in subclause (III)—

262

1 (aa) by striking “(III) The  
2 Librarian” and inserting the fol-  
3 lowing:

4 “(III) ADOPTION OF FEES.—The  
5 Copyright Royalty Judges”;

6 (bb) by striking “an arbitra-  
7 tion proceeding” and inserting  
8 “the proceeding under subpara-  
9 graph (F)”;

10 (cc) by striking “the arbitra-  
11 tion proceeding” and inserting  
12 “that proceeding”;

13 (F) in subparagraph (E)—

14 (i) by striking “Copyright Office” and  
15 inserting “Copyright Royalty Judges”; and

16 (ii) by striking “February 28, 2010”  
17 and inserting “December 31, 2014”; and

18 (G) in subparagraph (F)—

19 (i) in the heading, by striking “COM-  
20 PULSORY ARBITRATION” and inserting “  
21 COPYRIGHT ROYALTY JUDGES PRO-  
22 CEEDING”;

23 (ii) in clause (i)—

263

1 (I) in the heading, by striking  
2 “PROCEEDINGS” and inserting “THE  
3 PROCEEDING”;

4 (II) in the matter preceding sub-  
5 clause (I)—

6 (aa) by striking “May 1,  
7 2005, the Librarian of Congress”  
8 and inserting “May 3, 2010, the  
9 Copyright Royalty Judges”;

10 (bb) by striking “arbitration  
11 proceedings” and inserting “a  
12 proceeding”;

13 (cc) by striking “fee to be  
14 paid” and inserting “fees to be  
15 paid”;

16 (dd) by striking “primary  
17 analog transmission” and insert-  
18 ing “the primary transmissions”;  
19 and

20 (ee) by striking “distribu-  
21 tors” and inserting “distribu-  
22 tors—”;

23 (III) in subclause (II)—

1 (aa) by striking “Librarian  
2 of Congress” and inserting  
3 “Copyright Royalty Judges”; and

4 (bb) by striking “arbitra-  
5 tion”; and

6 (IV) by amending the last sen-  
7 tence to read as follows: “Such pro-  
8 ceeding shall be conducted under  
9 chapter 8.”;

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

13 “(ii) ESTABLISHMENT OF ROYALTY  
14 FEES.—In determining royalty fees under  
15 this subparagraph, the Copyright Royalty  
16 Judges shall establish fees for the sec-  
17 ondary transmissions of the primary trans-  
18 missions of network stations and non-net-  
19 work stations that most clearly represent  
20 the fair market value of secondary trans-  
21 missions, except that the Copyright Roy-  
22 alty Judges shall adjust royalty fees to ac-  
23 count for the obligations of the parties  
24 under any applicable voluntary agreement  
25 filed with the Copyright Royalty Judges in

1           accordance with subparagraph (D). In de-  
2           termining the fair market value, the  
3           Judges shall base their decision on eco-  
4           nomic, competitive, and programming in-  
5           formation presented by the parties, includ-  
6           ing—”;

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

9           “(iii) EFFECTIVE DATE FOR DECISION  
10          OF COPYRIGHT ROYALTY JUDGES.—The  
11          obligation to pay the royalty fees estab-  
12          lished under a determination that is made  
13          by the Copyright Royalty Judges in a pro-  
14          ceeding under this paragraph shall be ef-  
15          fective as of January 1, 2010.”; and

16          (v) in clause (iv)—

17                  (I) in the heading, by striking  
18                  “FEE” and inserting “FEES”; and

19                  (II) by striking “fee referred to  
20                  in (iii)” and inserting “fees referred  
21                  to in clause (iii)”.

22          (2) Paragraph (2) is amended to read as fol-  
23          lows:

24                  “(2) ANNUAL ROYALTY FEE ADJUSTMENT.—  
25          Effective January 1 of each year, the royalty fee

1 payable under subsection (b)(1)(B) for the sec-  
2 ondary transmission of the primary transmissions of  
3 network stations and non-network stations shall be  
4 adjusted by the Copyright Royalty Judges to reflect  
5 any changes occurring in the cost of living as deter-  
6 mined by the most recent Consumer Price Index (for  
7 all consumers and for all items) published by the  
8 Secretary of Labor before December 1 of the pre-  
9 ceding year. Notification of the adjusted fees shall  
10 be published in the Federal Register at least 25 days  
11 before January 1.”.

12 (f) DEFINITIONS.—

13 (1) SUBSCRIBER.—Section 119(d)(8) is amend-  
14 ed to read as follows:

15 “(8) SUBSCRIBER; SUBSCRIBE.—

16 “(A) SUBSCRIBER.—The term ‘subscriber’  
17 means a person or entity that receives a sec-  
18 ondary transmission service from a satellite car-  
19 rier and pays a fee for the service, directly or  
20 indirectly, to the satellite carrier or to a dis-  
21 tributor.

22 “(B) SUBSCRIBE.—The term ‘subscribe’  
23 means to elect to become a subscriber.”.

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

1           “(11) LOCAL MARKET.—The term ‘local mar-  
2           ket’ has the meaning given such term under section  
3           122(j).”.

4           (3) LOW POWER TELEVISION STATION.—Sec-  
5           tion 119(d) is amended by striking paragraph (12)  
6           and redesignating paragraphs (13) and (14) as  
7           paragraphs (12) and (13), respectively.

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

11          “(14) MULTICAST STREAM.—The term  
12          ‘multicast stream’ means a digital stream containing  
13          programming and program-related material affili-  
14          ated with a television network, other than the pri-  
15          mary stream.”.

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

19          “(15) PRIMARY STREAM.—The term ‘primary  
20          stream’ means—

21                 “(A) the single digital stream of program-  
22                 ming as to which a television broadcast station  
23                 has the right to mandatory carriage with a sat-  
24                 ellite carrier under the rules of the Federal

1 Communications Commission in effect on July  
2 1, 2009; or

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

5 “(i) the single digital stream of pro-  
6 gramming associated with the network last  
7 transmitted by the station as an analog  
8 signal; or

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

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

18 (g) SUPERSTATION REDESIGNATED AS NON-NET-  
19 WORK STATION.—Section 119 is amended—

20 (1) by striking “superstation” each place it ap-  
21 pears in a heading and each place it appears in text  
22 and inserting “non-network station”; and

23 (2) by striking “superstations” each place it ap-  
24 pears in a heading and each place it appears in text  
25 and inserting “non-network stations”.

1 (h) REMOVAL OF CERTAIN PROVISIONS.—

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

4 (A) in paragraph (2), by striking subpara-  
5 graph (C) and redesignating subparagraph (D)  
6 as subparagraph (C);

7 (B) by striking paragraph (3) and redesi-  
8 gnating paragraphs (4) through (14) as para-  
9 graphs (3) through (13), respectively; and

10 (C) by striking paragraph (15) and redesi-  
11 gnating paragraph (16) as paragraph (14).

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

14 (A) in subsection (a)—

15 (i) in paragraph (1), by striking “(5),  
16 (6), and (8)” and inserting “(4), (5), and  
17 (7)”;

18 (ii) in paragraph (2)—

19 (I) in subparagraph (A), by strik-  
20 ing “subparagraphs (B) and (C) of  
21 this paragraph and paragraphs (5),  
22 (6), (7), and (8)” and inserting “sub-  
23 paragraph (B) of this paragraph and  
24 paragraphs (4), (5), (6), and (7)”;

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

3 (III) in subparagraph (C) (as re-  
4 designated), by striking clauses (i)  
5 and (ii) and inserting the following:

6 “(i) INITIAL LISTS.—A satellite car-  
7 rier that makes secondary transmissions of  
8 a primary transmission made by a network  
9 station pursuant to subparagraph (A)  
10 shall, not later than 90 days after com-  
11 mencing such secondary transmissions,  
12 submit to the network that owns or is af-  
13 filiated with the network station a list  
14 identifying (by name and address, includ-  
15 ing street or rural route number, city,  
16 State, and 9-digit zip code) all subscribers  
17 to which the satellite carrier makes sec-  
18 ondary transmissions of that primary  
19 transmission to subscribers in unserved  
20 households.

21 “(ii) MONTHLY LISTS.—After the sub-  
22 mission of the initial lists under clause (i),  
23 the satellite carrier shall, not later than  
24 the 15th of each month, submit to the net-  
25 work a list, aggregated by designated mar-

1 ket area, identifying (by name and ad-  
2 dress, including street or rural route num-  
3 ber, city, State, and 9-digit zip code) any  
4 persons who have been added or dropped  
5 as subscribers under clause (i) since the  
6 last submission under this subparagraph.”;  
7 and

8 (iii) in subparagraph (E) of para-  
9 graph (3) (as redesignated)—

10 (I) by striking “under paragraph  
11 (3) or”; and

12 (II) by striking “paragraph (12)”  
13 and inserting “paragraph (11)”; and

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

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

18 (1) PREDICTIVE MODEL.—Section  
19 119(a)(2)(B)(ii) is amended by adding at the end  
20 the following:

21 “(III) ACCURATE PREDICTIVE  
22 MODEL WITH RESPECT TO DIGITAL  
23 SIGNALS.—Notwithstanding subclause  
24 (I), in determining presumptively  
25 whether a person resides in an

1 unserved household under subsection  
2 (d)(10)(A) with respect to digital sig-  
3 nals, a court shall rely on a predictive  
4 model set forth by the Federal Com-  
5 munications Commission pursuant to  
6 a rulemaking as provided in section  
7 339(c)(3) of the Communications Act  
8 of 1934 (47 U.S.C. 339(c)(3)), as  
9 that model may be amended by the  
10 Commission over time under such sec-  
11 tion to increase the accuracy of that  
12 model. Until such time as the Com-  
13 mission sets forth such model, a court  
14 shall rely on the predictive model as  
15 recommended by the Commission with  
16 respect to digital signals in its Report  
17 to Congress in ET Docket No. 05-  
18 182, FCC 05-199 (released December  
19 9, 2005).”.

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

24 (A) by striking “analog” each place it ap-  
25 pears in a heading and text;

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

3           “(B) RULES FOR LAWFUL SUBSCRIBERS  
4           AS OF DATE OF ENACTMENT OF 2009 ACT.—In  
5           the case of a subscriber of a satellite carrier  
6           who, on the day before the date of the enact-  
7           ment of the Satellite Television Extension and  
8           Localism Act of 2010, was lawfully receiving  
9           the secondary transmission of the primary  
10          transmission of a network station under the  
11          statutory license under paragraph (2) (in this  
12          subparagraph referred to as the ‘distant sig-  
13          nal’), other than subscribers to whom subpara-  
14          graph (A) applies, the statutory license under  
15          paragraph (2) shall apply to secondary trans-  
16          missions by that satellite carrier to that sub-  
17          scriber of the distant signal of a station affili-  
18          ated with the same television network, and the  
19          subscriber’s household shall continue to be con-  
20          sidered to be an unserved household with re-  
21          spect to such network, until such time as the  
22          subscriber elects to terminate such secondary  
23          transmissions, whether or not the subscriber  
24          elects to subscribe to receive the secondary  
25          transmission of the primary transmission of a

1 local network station affiliated with the same  
2 network pursuant to the statutory license under  
3 section 122.

4 “(C) FUTURE APPLICABILITY.—

5 “(i) WHEN LOCAL SIGNAL AVAILABLE  
6 AT TIME OF SUBSCRIPTION.—The statu-  
7 tory license under paragraph (2) shall not  
8 apply to the secondary transmission by a  
9 satellite carrier of the primary trans-  
10 mission of a network station to a person  
11 who is not a subscriber lawfully receiving  
12 such secondary transmission as of the date  
13 of the enactment of the Satellite Television  
14 Extension and Localism Act of 2010 and,  
15 at the time such person seeks to subscribe  
16 to receive such secondary transmission, re-  
17 sides in a local market where the satellite  
18 carrier makes available to that person the  
19 secondary transmission of the primary  
20 transmission of a local network station af-  
21 filiated with the same network pursuant to  
22 the statutory license under section 122.

23 “(ii) WHEN LOCAL SIGNAL AVAILABLE  
24 AFTER SUBSCRIPTION.—In the case of a  
25 subscriber who lawfully subscribes to and

1 receives the secondary transmission by a  
2 satellite carrier of the primary trans-  
3 mission of a network station under the  
4 statutory license under paragraph (2) (in  
5 this clause referred to as the ‘distant sig-  
6 nal’) on or after the date of the enactment  
7 of the Satellite Television Extension and  
8 Localism Act of 2010, the statutory license  
9 under paragraph (2) shall apply to sec-  
10 ondary transmissions by that satellite car-  
11 rier to that subscriber of the distant signal  
12 of a station affiliated with the same tele-  
13 vision network, and the subscriber’s house-  
14 hold shall continue to be considered to be  
15 an unserved household with respect to such  
16 network, until such time as the subscriber  
17 elects to terminate such secondary trans-  
18 missions, but only if such subscriber sub-  
19 scribes to the secondary transmission of  
20 the primary transmission of a local net-  
21 work station affiliated with the same net-  
22 work within 60 days after the satellite car-  
23 rier makes available to the subscriber such  
24 secondary transmission of the primary

1 transmission of such local network sta-  
2 tion.”;

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

6 (D) in subparagraph (E) (as redesignated),  
7 by striking “(C) or (D)” and inserting “(B) or  
8 (C)”;

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

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

14 (A) in subparagraph (A)(ii), by striking  
15 “\$5” and inserting “\$250”;

16 (B) in subparagraph (B)—

17 (i) in clause (i), by striking  
18 “\$250,000 for each 6-month period” and  
19 inserting “\$2,500,000 for each 3-month  
20 period”;

21 (ii) in clause (ii), by striking  
22 “\$250,000” and inserting “\$2,500,000”;  
23 and

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

1           “The court shall direct one half of any statu-  
2           tory damages ordered under clause (i) to be de-  
3           posited with the Register of Copyrights for dis-  
4           tribution to copyright owners pursuant to sub-  
5           section (b). The Copyright Royalty Judges shall  
6           issue regulations establishing procedures for  
7           distributing such funds, on a proportional basis,  
8           to copyright owners whose works were included  
9           in the secondary transmissions that were the  
10          subject of the statutory damages.”.

11          (4)       TECHNICAL        AMENDMENT.—Section  
12          119(a)(4) (as redesignated) is amended by striking  
13          “and 509”.

14          (5)       CLERICAL        AMENDMENT.—Section  
15          119(a)(2)(B)(iii)(II) is amended by striking “In this  
16          clause” and inserting “In this clause,”.

17          (j)       MORATORIUM   EXTENSION.—Section 119(e) is  
18          amended by striking “February 28, 2010” and inserting  
19          “December 31, 2014”.

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

22                (1) by striking “of the Code of Federal Regula-  
23                tions” each place it appears and inserting “, Code  
24                of Federal Regulations”; and



1           “(A) the secondary transmission is made  
2 by a satellite carrier to the public;

3           “(B) with regard to secondary trans-  
4 missions, the satellite carrier is in compliance  
5 with the rules, regulations, or authorizations of  
6 the Federal Communications Commission gov-  
7 erning the carriage of television broadcast sta-  
8 tion signals; and

9           “(C) the satellite carrier makes a direct or  
10 indirect charge for the secondary transmission  
11 to—

12                   “(i) each subscriber receiving the sec-  
13 ondary transmission; or

14                   “(ii) a distributor that has contracted  
15 with the satellite carrier for direct or indi-  
16 rect delivery of the secondary transmission  
17 to the public.

18           “(2) SIGNIFICANTLY VIEWED STATIONS.—

19           “(A) IN GENERAL.—A secondary trans-  
20 mission of a performance or display of a work  
21 embodied in a primary transmission of a tele-  
22 vision broadcast station to subscribers who re-  
23 ceive secondary transmissions of primary trans-  
24 missions under paragraph (1) shall be subject  
25 to statutory licensing under this paragraph if

1 the secondary transmission is of the primary  
2 transmission of a network station or a non-net-  
3 work station to a subscriber who resides outside  
4 the station's local market but within a commu-  
5 nity in which the signal has been determined by  
6 the Federal Communications Commission to be  
7 significantly viewed in such community, pursu-  
8 ant to the rules, regulations, and authorizations  
9 of the Federal Communications Commission in  
10 effect on April 15, 1976, applicable to deter-  
11 mining with respect to a cable system whether  
12 signals are significantly viewed in a community.

13 “(B) WAIVER.—A subscriber who is denied  
14 the secondary transmission of the primary  
15 transmission of a network station or a non-net-  
16 work station under subparagraph (A) may re-  
17 quest a waiver from such denial by submitting  
18 a request, through the subscriber's satellite car-  
19 rier, to the network station or non-network sta-  
20 tion in the local market affiliated with the same  
21 network or non-network where the subscriber is  
22 located. The network station or non-network  
23 station shall accept or reject the subscriber's re-  
24 quest for a waiver within 30 days after receipt  
25 of the request. If the network station or non-

1 network station fails to accept or reject the sub-  
2 scriber's request for a waiver within that 30-  
3 day period, that network station or non-network  
4 station shall be deemed to agree to the waiver  
5 request.

6 “(3) SECONDARY TRANSMISSION OF LOW  
7 POWER PROGRAMMING.—

8 “(A) IN GENERAL.—Subject to subpara-  
9 graphs (B) and (C), a secondary transmission  
10 of a performance or display of a work embodied  
11 in a primary transmission of a television broad-  
12 cast station to subscribers who receive sec-  
13 ondary transmissions of primary transmissions  
14 under paragraph (1) shall be subject to statu-  
15 tory licensing under this paragraph if the sec-  
16 ondary transmission is of the primary trans-  
17 mission of a television broadcast station that is  
18 licensed as a low power television station, to a  
19 subscriber who resides within the same des-  
20 ignated market area as the station that origi-  
21 nates the transmission.

22 “(B) NO APPLICABILITY TO REPEATERS  
23 AND TRANSLATORS.—Secondary transmissions  
24 provided for in subparagraph (A) shall not  
25 apply to any low power television station that

1 retransmits the programs and signals of an-  
2 other television station for more than 2 hours  
3 each day.

4 “(C) NO IMPACT ON OTHER SECONDARY  
5 TRANSMISSIONS OBLIGATIONS.—A satellite car-  
6 rier that makes secondary transmissions of a  
7 primary transmission of a low power television  
8 station under a statutory license provided under  
9 this section is not required, by reason of such  
10 secondary transmissions, to make any other sec-  
11 ondary transmissions.

12 “(4) SPECIAL EXCEPTIONS.—A secondary  
13 transmission of a performance or display of a work  
14 embodied in a primary transmission of a television  
15 broadcast station to subscribers who receive sec-  
16 ondary transmissions of primary transmissions  
17 under paragraph (1) shall, if the secondary trans-  
18 mission is made by a satellite carrier that complies  
19 with the requirements of paragraph (1), be subject  
20 to statutory licensing under this paragraph as fol-  
21 lows:

22 “(A) STATES WITH SINGLE FULL-POWER  
23 NETWORK STATION.—In a State in which there  
24 is licensed by the Federal Communications  
25 Commission a single full-power station that was

1 a network station on January 1, 1995, the stat-  
2 tutory license provided for in this paragraph  
3 shall apply to the secondary transmission by a  
4 satellite carrier of the primary transmission of  
5 that station to any subscriber in a community  
6 that is located within that State and that is not  
7 within the first 50 television markets as listed  
8 in the regulations of the Commission as in ef-  
9 fect on such date (47 C.F.R. 76.51).

10 “(B) STATES WITH ALL NETWORK STA-  
11 TIONS AND NON-NETWORK STATIONS IN SAME  
12 LOCAL MARKET.—In a State in which all net-  
13 work stations and non-network stations licensed  
14 by the Federal Communications Commission  
15 within that State as of January 1, 1995, are  
16 assigned to the same local market and that  
17 local market does not encompass all counties of  
18 that State, the statutory license provided under  
19 this paragraph shall apply to the secondary  
20 transmission by a satellite carrier of the pri-  
21 mary transmissions of such station to all sub-  
22 scribers in the State who reside in a local mar-  
23 ket that is within the first 50 major television  
24 markets as listed in the regulations of the Com-

1 mission as in effect on such date (section 76.51  
2 of title 47, Code of Federal Regulations).

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

6 “(i) on January 1, 2004, were in local  
7 markets principally comprised of counties  
8 in another State, and

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

13 the statutory license provided under this para-  
14 graph shall apply to secondary transmissions by  
15 a satellite carrier to subscribers in any such  
16 county of the primary transmissions of any net-  
17 work station located in that State, if the sat-  
18 ellite carrier was making such secondary trans-  
19 missions to any subscribers in that county on  
20 January 1, 2004.

21 “(D) CERTAIN ADDITIONAL STATIONS.—If  
22 2 adjacent counties in a single State are in a  
23 local market comprised principally of counties  
24 located in another State, the statutory license  
25 provided for in this paragraph shall apply to

1 the secondary transmission by a satellite carrier  
2 to subscribers in those 2 counties of the pri-  
3 mary transmissions of any network station lo-  
4 cated in the capital of the State in which such  
5 2 counties are located, if—

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

10 “(ii) the total number of television  
11 households in the 2 counties combined did  
12 not exceed 10,000 for the year 2003 ac-  
13 cording to Nielsen Media Research.

14 “(E) NETWORKS OF NONCOMMERCIAL  
15 EDUCATIONAL BROADCAST STATIONS.—In the  
16 case of a system of three or more noncommer-  
17 cial educational broadcast stations licensed to a  
18 single State, public agency, or political, edu-  
19 cational, or special purpose subdivision of a  
20 State, the statutory license provided for in this  
21 paragraph shall apply to the secondary trans-  
22 mission of the primary transmission of such  
23 system to any subscriber in any county or coun-  
24 ty equivalent within such State, if such sub-  
25 scriber is located in a designated market area

1 that is not otherwise eligible to receive the sec-  
2 ondary transmission of the primary trans-  
3 mission of a noncommercial educational broad-  
4 cast station located within the State pursuant  
5 to paragraph (1).

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

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

13 (1) in paragraph (1), by striking “station a  
14 list” and all that follows through the end and insert-  
15 ing the following: “station—

16 “(A) a list identifying (by name in alpha-  
17 betical order and street address, including coun-  
18 ty and 9-digit zip code) all subscribers to which  
19 the satellite carrier makes secondary trans-  
20 missions of that primary transmission under  
21 subsection (a); and

22 “(B) a separate list, aggregated by des-  
23 ignated market area (by name and address, in-  
24 cluding street or rural route number, city,  
25 State, and 9-digit zip code), which shall indicate

1 those subscribers being served pursuant to  
2 paragraph (2) of subsection (a).”; and

3 (2) in paragraph (2), by striking “network a  
4 list” and all that follows through the end and insert-  
5 ing the following: “network—

6 “(A) a list identifying (by name in alpha-  
7 betical order and street address, including coun-  
8 ty and 9-digit zip code) any subscribers who  
9 have been added or dropped as subscribers  
10 since the last submission under this subsection;  
11 and

12 “(B) a separate list, aggregated by des-  
13 ignated market area (by name and street ad-  
14 dress, including street or rural route number,  
15 city, State, and 9-digit zip code), identifying  
16 those subscribers whose service pursuant to  
17 paragraph (2) of subsection (a) has been added  
18 or dropped since the last submission under this  
19 subsection.”.

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

22 (1) in the heading, by inserting “FOR CERTAIN  
23 SECONDARY TRANSMISSIONS” after “REQUIRED”;  
24 and

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

3           (e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

4           (1) MODIFICATION TO STATUTORY DAMAGES.—

5           Section 122(f) is amended—

6           (A) in paragraph (1)(B), by striking “\$5”  
7           and inserting “\$250”; and

8           (B) in paragraph (2), by striking  
9           “\$250,000” each place it appears and inserting  
10           “\$2,500,000”.

11           (2) CONFORMING AMENDMENTS FOR ADDI-  
12           TIONAL STATIONS.—Section 122 is amended—

13           (A) in subsection (f), by striking “section  
14           119 or” each place it appears and inserting the  
15           following: “section 119, subject to statutory li-  
16           censing by reason of paragraph (2)(A), (3), or  
17           (4) of subsection (a), or subject to”; and

18           (B) in subsection (g), by striking “section  
19           119 or” and inserting the following: “section  
20           119, paragraph (2)(A), (3), or (4) of subsection  
21           (a), or”.

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

23           (1) in paragraph (1), by striking “which con-  
24           tracts” and inserting “that contracts”;

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

3           (3) in paragraph (3)—

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

6                 (B) in the heading of such paragraph, by  
7 inserting “NON-NETWORK STATION;” after  
8 “NETWORK STATION;”; and

9                 (C) by inserting “‘non-network station’,”  
10 after “‘network station’,”;

11           (4) by inserting after paragraph (2) the fol-  
12 lowing:

13                 “(3) LOW POWER TELEVISION STATION.—The  
14 term ‘low power television station’ means a low  
15 power TV station as defined in section 74.701(f) of  
16 title 47, Code of Federal Regulations, as in effect on  
17 June 1, 2004. For purposes of this paragraph, the  
18 term ‘low power television station’ includes a low  
19 power television station that has been accorded pri-  
20 mary status as a Class A television licensee under  
21 section 73.6001(a) of title 47, Code of Federal Reg-  
22 ulations.”;

23           (5) by inserting after paragraph (4) (as redesign-  
24 nated) the following:

1           “(5) NONCOMMERCIAL EDUCATIONAL BROAD-  
2           CAST STATION.—The term ‘noncommercial edu-  
3           cational broadcast station’ means a television broad-  
4           cast station that is a noncommercial educational  
5           broadcast station as defined in section 397 of the  
6           Communications Act of 1934, as in effect on the  
7           date of the enactment of the Satellite Television Ex-  
8           tension and Localism Act of 2010.”; and

9           (6) by amending paragraph (6) (as redesign-  
10          nated) to read as follows:

11          “(6) SUBSCRIBER.—The term ‘subscriber’  
12          means a person or entity that receives a secondary  
13          transmission service from a satellite carrier and pays  
14          a fee for the service, directly or indirectly, to the sat-  
15          ellite carrier or to a distributor.”.

16 **SEC. 904. MODIFICATIONS TO CABLE SYSTEM SECONDARY**  
17 **TRANSMISSION RIGHTS UNDER SECTION 111.**

18          (a) **HEADING RENAMED.—**

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

22           (2) **TABLE OF CONTENTS.—**The table of con-  
23          tents for chapter 1 is amended by striking the item  
24          relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast pro-  
gramming by cable.”.

1 (b) TECHNICAL AMENDMENT.—Section 111(a)(4) is  
2 amended by striking “; or” and inserting “or section  
3 122;”.

4 (c) STATUTORY LICENSE FOR SECONDARY TRANS-  
5 MISSIONS BY CABLE SYSTEMS.—Section 111(d) is amend-  
6 ed—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph

9 (A)—

10 (i) by striking “A cable system whose  
11 secondary” and inserting the following:  
12 “STATEMENT OF ACCOUNT AND ROYALTY  
13 FEES.—Subject to paragraph (5), a cable  
14 system whose secondary”; and

15 (ii) by striking “by regulation—” and  
16 inserting “by regulation the following:”;

17 (B) in subparagraph (A)—

18 (i) by striking “a statement of ac-  
19 count” and inserting “A statement of ac-  
20 count”; and

21 (ii) by striking “; and” and inserting  
22 a period; and

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

1           “(B) Except in the case of a cable system  
2 whose royalty fee is specified in subparagraph  
3 (E) or (F), a total royalty fee payable to copy-  
4 right owners pursuant to paragraph (3) for the  
5 period covered by the statement, computed on  
6 the basis of specified percentages of the gross  
7 receipts from subscribers to the cable service  
8 during such period for the basic service of pro-  
9 viding secondary transmissions of primary  
10 broadcast transmitters, as follows:

11                   “(i) 1.064 percent of such gross re-  
12 cepts for the privilege of further transmit-  
13 ting, beyond the local service area of such  
14 primary transmitter, any non-network pro-  
15 gramming of a primary transmitter in  
16 whole or in part, such amount to be ap-  
17 plied against the fee, if any, payable pursu-  
18 ant to clauses (ii) through (iv);

19                   “(ii) 1.064 percent of such gross re-  
20 cepts for the first distant signal equiva-  
21 lent;

22                   “(iii) 0.701 percent of such gross re-  
23 cepts for each of the second, third, and  
24 fourth distant signal equivalents; and

1                   “(iv) 0.330 percent of such gross re-  
2                   ceipts for the fifth distant signal equivalent  
3                   and each distant signal equivalent there-  
4                   after.

5                   “(C) In computing amounts under clauses  
6                   (ii) through (iv) of subparagraph (B)—

7                   “(i) any fraction of a distant signal  
8                   equivalent shall be computed at its frac-  
9                   tional value;

10                  “(ii) in the case of any cable system  
11                  located partly within and partly outside of  
12                  the local service area of a primary trans-  
13                  mitter, gross receipts shall be limited to  
14                  those gross receipts derived from sub-  
15                  scribers located outside of the local service  
16                  area of such primary transmitter; and

17                  “(iii) if a cable system provides a sec-  
18                  ondary transmission of a primary trans-  
19                  mitter to some but not all communities  
20                  served by that cable system—

21                  “(I) the gross receipts and the  
22                  distant signal equivalent values for  
23                  such secondary transmission shall be  
24                  derived solely on the basis of the sub-  
25                  scribers in those communities where

1                   the cable system provides such sec-  
2                   ondary transmission; and

3                   “(II) the total royalty fee for the  
4                   period paid by such system shall not  
5                   be less than the royalty fee calculated  
6                   under subparagraph (B)(i) multiplied  
7                   by the gross receipts from all sub-  
8                   scribers to the system.

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

20                  “(E) If the actual gross receipts paid by  
21                  subscribers to a cable system for the period cov-  
22                  ered by the statement for the basic service of  
23                  providing secondary transmissions of primary  
24                  broadcast transmitters are \$263,800 or less—

1                   “(i) gross receipts of the cable system  
2                   for the purpose of this paragraph shall be  
3                   computed by subtracting from such actual  
4                   gross receipts the amount by which  
5                   \$263,800 exceeds such actual gross re-  
6                   ceipts, except that in no case shall a cable  
7                   system’s gross receipts be reduced to less  
8                   than \$10,400; and

9                   “(ii) the royalty fee payable under this  
10                  paragraph to copyright owners pursuant to  
11                  paragraph (3) shall be 0.5 percent, regard-  
12                  less of the number of distant signal equiva-  
13                  lents, if any.

14                  “(F) If the actual gross receipts paid by  
15                  subscribers to a cable system for the period cov-  
16                  ered by the statement for the basic service of  
17                  providing secondary transmissions of primary  
18                  broadcast transmitters are more than \$263,800  
19                  but less than \$527,600, the royalty fee payable  
20                  under this paragraph to copyright owners pur-  
21                  suant to paragraph (3) shall be—

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

1                   “(ii) 1 percent of any gross receipts in  
2                   excess of \$263,800, but less than  
3                   \$527,600, regardless of the number of dis-  
4                   tant signal equivalents, if any.

5                   “(G) A filing fee, as determined by the  
6                   Register of Copyrights pursuant to section  
7                   708(a).”;

8                   (2) in paragraph (2), in the first sentence—

9                   (A) by striking “The Register of Copy-  
10                  rights” and inserting the following “HANDLING  
11                  OF FEES.—The Register of Copyrights”; and

12                  (B) by inserting “(including the filing fee  
13                  specified in paragraph (1)(G))” after “shall re-  
14                  ceive all fees”;

15                  (3) in paragraph (3)—

16                  (A) by striking “The royalty fees” and in-  
17                  serting the following: “DISTRIBUTION OF ROY-  
18                  ALTY FEES TO COPYRIGHT OWNERS.—The roy-  
19                  alty fees”;

20                  (B) in subparagraph (A)—

21                         (i) by striking “any such” and insert-  
22                         ing “Any such”; and

23                         (ii) by striking “; and” and inserting  
24                         a period;

25                  (C) in subparagraph (B)—

1 (i) by striking “any such” and insert-  
2 ing “Any such”; and

3 (ii) by striking the semicolon and in-  
4 sserting a period; and

5 (D) in subparagraph (C), by striking “any  
6 such” and inserting “Any such”;

7 (4) in paragraph (4), by striking “The royalty  
8 fees” and inserting the following: “PROCEDURES  
9 FOR ROYALTY FEE DISTRIBUTION.—The royalty  
10 fees”; and

11 (5) by adding at the end the following new  
12 paragraphs:

13 “(5) 3.75 PERCENT RATE AND SYNDICATED EX-  
14 CLUSIVITY SURCHARGE NOT APPLICABLE TO  
15 MULTICAST STREAMS.—The royalty rates specified  
16 in sections 256.2(c) and 256.2(d) of title 37, Code  
17 of Federal Regulations (commonly referred to as the  
18 ‘3.75 percent rate’ and the ‘syndicated exclusivity  
19 surcharge’, respectively), as in effect on the date of  
20 the enactment of the Satellite Television Extension  
21 and Localism Act of 2010, as such rates may be ad-  
22 justed, or such sections redesignated, thereafter by  
23 the Copyright Royalty Judges, shall not apply to the  
24 secondary transmission of a multicast stream.



1           “(B) establish procedures for safeguarding  
2 all non-public financial and business informa-  
3 tion provided under this paragraph;

4           “(C)(i) require a consultation period for  
5 the independent auditor to review its conclu-  
6 sions with a designee of the cable system;

7           “(ii) establish a mechanism for the cable  
8 system to remedy any errors identified in the  
9 auditor’s report and to cure any underpayment  
10 identified; and

11           “(iii) provide an opportunity to remedy any  
12 disputed facts or conclusions;

13           “(D) limit the frequency of requests for  
14 verification for a particular cable system and  
15 the number of audits that a multiple system op-  
16 erator can be required to undergo in a single  
17 year; and

18           “(E) permit requests for verification of a  
19 statement of account to be made only within 3  
20 years after the last day of the year in which the  
21 statement of account is filed.

22           “(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—  
23 Any royalty fee payments received by the Copyright  
24 Office from cable systems for the secondary trans-  
25 mission of primary transmissions that are in addi-

1       tion to the payments calculated and deposited in ac-  
2       cordance with this subsection shall be deemed to  
3       have been deposited for the particular accounting pe-  
4       riod for which they are received and shall be distrib-  
5       uted as specified under this subsection.”.

6       (d) EFFECTIVE DATE OF NEW ROYALTY FEE  
7 RATES.—The royalty fee rates established in section  
8 111(d)(1)(B) of title 17, United States Code, as amended  
9 by subsection (c)(1)(C) of this section, shall take effect  
10 commencing with the first accounting period occurring in  
11 2010.

12       (e) DEFINITIONS.—Section 111(f) is amended—

13           (1) by striking the first undesignated paragraph  
14       and inserting the following:

15           “(1) PRIMARY TRANSMISSION.—A ‘primary  
16       transmission’ is a transmission made to the public  
17       by a transmitting facility whose signals are being re-  
18       ceived and further transmitted by a secondary trans-  
19       mission service, regardless of where or when the per-  
20       formance or display was first transmitted. In the  
21       case of a television broadcast station, the primary  
22       stream and any multicast streams transmitted by  
23       the station constitute primary transmissions.”;

24           (2) in the second undesignated paragraph—

1 (A) by striking “A ‘secondary trans-  
2 mission’” and inserting the following:

3 “(2) SECONDARY TRANSMISSION.—A ‘secondary  
4 transmission’”; and

5 (B) by striking “‘cable system’” and in-  
6 serting “cable system”;

7 (3) in the third undesignated paragraph—

8 (A) by striking “A ‘cable system’” and in-  
9 serting the following:

10 “(3) CABLE SYSTEM.—A ‘cable system’”; and

11 (B) by striking “Territory, Trust Terri-  
12 tory, or Possession” and inserting “territory,  
13 trust territory, or possession of the United  
14 States”;

15 (4) in the fourth undesignated paragraph, in  
16 the first sentence—

17 (A) by striking “The ‘local service area of  
18 a primary transmitter’, in the case of a tele-  
19 vision broadcast station, comprises the area in  
20 which such station is entitled to insist” and in-  
21 serting the following:

22 “(4) LOCAL SERVICE AREA OF A PRIMARY  
23 TRANSMITTER.—The ‘local service area of a primary  
24 transmitter’, in the case of both the primary stream  
25 and any multicast streams transmitted by a primary

1 transmitter that is a television broadcast station,  
2 comprises the area where such primary transmitter  
3 could have insisted”;

4 (B) by striking “76.59 of title 47 of the  
5 Code of Federal Regulations” and inserting the  
6 following: “76.59 of title 47, Code of Federal  
7 Regulations, or within the noise-limited contour  
8 as defined in 73.622(e)(1) of title 47, Code of  
9 Federal Regulations”; and

10 (C) by striking “as defined by the rules  
11 and regulations of the Federal Communications  
12 Commission,”;

13 (5) by amending the fifth undesignated para-  
14 graph to read as follows:

15 “(5) DISTANT SIGNAL EQUIVALENT.—

16 “(A) IN GENERAL.—Except as provided  
17 under subparagraph (B), a ‘distant signal  
18 equivalent’—

19 “(i) is the value assigned to the sec-  
20 ondary transmission of any non-network  
21 television programming carried by a cable  
22 system in whole or in part beyond the local  
23 service area of the primary transmitter of  
24 such programming; and

1                   “(ii) is computed by assigning a value  
2                   of one to each primary stream and to each  
3                   multicast stream (other than a simulcast)  
4                   that is an independent station, and by as-  
5                   signing a value of one-quarter to each pri-  
6                   mary stream and to each multicast stream  
7                   (other than a simulcast) that is a network  
8                   station or a noncommercial educational  
9                   station.

10                   “(B) EXCEPTIONS.—The values for inde-  
11                   pendent, network, and noncommercial edu-  
12                   cational stations specified in subparagraph (A)  
13                   are subject to the following:

14                   “(i) Where the rules and regulations  
15                   of the Federal Communications Commis-  
16                   sion require a cable system to omit the fur-  
17                   ther transmission of a particular program  
18                   and such rules and regulations also permit  
19                   the substitution of another program em-  
20                   bodying a performance or display of a  
21                   work in place of the omitted transmission,  
22                   or where such rules and regulations in ef-  
23                   fect on the date of the enactment of the  
24                   Copyright Act of 1976 permit a cable sys-  
25                   tem, at its election, to effect such omission

1           and substitution of a nonlive program or to  
2           carry additional programs not transmitted  
3           by primary transmitters within whose local  
4           service area the cable system is located, no  
5           value shall be assigned for the substituted  
6           or additional program.

7           “(ii) Where the rules, regulations, or  
8           authorizations of the Federal Communica-  
9           tions Commission in effect on the date of  
10          the enactment of the Copyright Act of  
11          1976 permit a cable system, at its election,  
12          to omit the further transmission of a par-  
13          ticular program and such rules, regula-  
14          tions, or authorizations also permit the  
15          substitution of another program embodying  
16          a performance or display of a work in  
17          place of the omitted transmission, the  
18          value assigned for the substituted or addi-  
19          tional program shall be, in the case of a  
20          live program, the value of one full distant  
21          signal equivalent multiplied by a fraction  
22          that has as its numerator the number of  
23          days in the year in which such substitution  
24          occurs and as its denominator the number  
25          of days in the year.

1                   “(iii) In the case of the secondary  
2                   transmission of a primary transmitter that  
3                   is a television broadcast station pursuant  
4                   to the late-night or specialty programming  
5                   rules of the Federal Communications Com-  
6                   mission, or the secondary transmission of a  
7                   primary transmitter that is a television  
8                   broadcast station on a part-time basis  
9                   where full-time carriage is not possible be-  
10                  cause the cable system lacks the activated  
11                  channel capacity to retransmit on a full-  
12                  time basis all signals that it is authorized  
13                  to carry, the values for independent, net-  
14                  work, and noncommercial educational sta-  
15                  tions set forth in subparagraph (A), as the  
16                  case may be, shall be multiplied by a frac-  
17                  tion that is equal to the ratio of the broad-  
18                  cast hours of such primary transmitter re-  
19                  transmitted by the cable system to the  
20                  total broadcast hours of the primary trans-  
21                  mitter.

22                   “(iv) No value shall be assigned for  
23                   the secondary transmission of the primary  
24                   stream or any multicast streams of a pri-  
25                   mary transmitter that is a television broad-



1 networks described in subparagraph (A);

2 and

3 “(ii) offers programming on a regular  
4 basis for 15 or more hours per week to at  
5 least 25 of the affiliated television licensees  
6 of the interconnected program service in  
7 10 or more States.”;

8 (7) by striking the seventh undesignated para-  
9 graph and inserting the following:

10 “(7) INDEPENDENT STATION.—The term ‘inde-  
11 pendent station’ shall be applied to the primary  
12 stream or a multicast stream of a television broad-  
13 cast station that is not a network station or a non-  
14 commercial educational station.”;

15 (8) by striking the eighth undesignated para-  
16 graph and inserting the following:

17 “(8) NONCOMMERCIAL EDUCATIONAL STA-  
18 TION.—The term ‘noncommercial educational sta-  
19 tion’ shall be applied to the primary stream or a  
20 multicast stream of a television broadcast station  
21 that is a noncommercial educational broadcast sta-  
22 tion as defined in section 397 of the Communica-  
23 tions Act of 1934, as in effect on the date of the en-  
24 actment of the Satellite Television Extension and  
25 Localism Act of 2010.”; and

1 (9) by adding at the end the following:

2 “(9) PRIMARY STREAM.—A ‘primary stream’  
3 is—

4 “(A) the single digital stream of program-  
5 ming that, before June 12, 2009, was substan-  
6 tially duplicating the programming transmitted  
7 by the television broadcast station as an analog  
8 signal; or

9 “(B) if there is no stream described in  
10 subparagraph (A), then the single digital  
11 stream of programming transmitted by the tele-  
12 vision broadcast station for the longest period  
13 of time.

14 “(10) PRIMARY TRANSMITTER.—A ‘primary  
15 transmitter’ is a television or radio broadcast station  
16 licensed by the Federal Communications Commis-  
17 sion, or by an appropriate governmental authority of  
18 Canada or Mexico, that makes primary trans-  
19 missions to the public.

20 “(11) MULTICAST STREAM.—A ‘multicast  
21 stream’ is a digital stream of programming that is  
22 transmitted by a television broadcast station and is  
23 not the station’s primary stream.

24 “(12) SIMULCAST.—A ‘simulcast’ is a multicast  
25 stream of a television broadcast station that dupli-

1 cates the programming transmitted by the primary  
2 stream or another multicast stream of such station.

3 “(13) SUBSCRIBER; SUBSCRIBE.—

4 “(A) SUBSCRIBER.—The term ‘subscriber’  
5 means a person or entity that receives a sec-  
6 ondary transmission service from a cable sys-  
7 tem and pays a fee for the service, directly or  
8 indirectly, to the cable system.

9 “(B) SUBSCRIBE.—The term ‘subscribe’  
10 means to elect to become a subscriber.”.

11 (f) TIMING OF SECTION 111 PROCEEDINGS.—Section  
12 804(b)(1) is amended by striking “2005” each place it ap-  
13 pears and inserting “2015”.

14 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) CORRECTIONS TO FIX LEVEL DESIGNA-  
16 TIONS.—Section 111 is amended—

17 (A) in subsections (a), (c), and (e), by  
18 striking “clause” each place it appears and in-  
19 serting “paragraph”;

20 (B) in subsection (c)(1), by striking  
21 “clauses” and inserting “paragraphs”; and

22 (C) in subsection (e)(1)(F), by striking  
23 “subclause” and inserting “subparagraph”.

24 (2) CONFORMING AMENDMENT TO HYPHENATE  
25 NONNETWORK.—Section 111 is amended by striking

1 “nonnetwork” each place it appears and inserting  
2 “non-network”.

3 (3) PREVIOUSLY UNDESIGNATED PARA-  
4 GRAPH.—Section 111(e)(1) is amended by striking  
5 “second paragraph of subsection (f)” and inserting  
6 “subsection (f)(2)”.

7 (4) REMOVAL OF SUPERFLUOUS ANDS.—Sec-  
8 tion 111(e) is amended—

9 (A) in paragraph (1)(A), by striking “and”  
10 at the end;

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

13 (C) in paragraph (1)(C), by striking “and”  
14 at the end;

15 (D) in paragraph (1)(D), by striking  
16 “and” at the end; and

17 (E) in paragraph (2)(A), by striking “and”  
18 at the end.

19 (5) REMOVAL OF VARIANT FORMS REF-  
20 ERENCES.—Section 111 is amended—

21 (A) in subsection (e)(4), by striking “, and  
22 each of its variant forms,”; and

23 (B) in subsection (f), by striking “and  
24 their variant forms”.

1 (6) CORRECTION TO TERRITORY REFERENCE.—

2 Section 111(e)(2) is amended in the matter pre-  
3 ceding subparagraph (A) by striking “three terri-  
4 tories” and inserting “five entities”.

5 (h) EFFECTIVE DATE WITH RESPECT TO  
6 MULTICAST STREAMS.—

7 (1) IN GENERAL.—Subject to paragraphs (2)  
8 and (3), the amendments made by this section, to  
9 the extent such amendments assign a distant signal  
10 equivalent value to the secondary transmission of the  
11 multicast stream of a primary transmitter, shall take  
12 effect on the date of the enactment of this Act.

13 (2) DELAYED APPLICABILITY.—

14 (A) SECONDARY TRANSMISSIONS OF A  
15 MULTICAST STREAM BEYOND THE LOCAL SERV-  
16 ICE AREA OF ITS PRIMARY TRANSMITTER BE-  
17 FORE 2009 ACT.—In any case in which a cable  
18 system was making secondary transmissions of  
19 a multicast stream beyond the local service area  
20 of its primary transmitter before the date of the  
21 enactment of this Act, a distant signal equiva-  
22 lent value (referred to in paragraph (1)) shall  
23 not be assigned to secondary transmissions of  
24 such multicast stream that are made on or be-  
25 fore June 30, 2010.

1           (B) MULTICAST STREAMS SUBJECT TO  
2           PREEXISTING WRITTEN AGREEMENTS FOR THE  
3           SECONDARY TRANSMISSION OF SUCH  
4           STREAMS.—In any case in which the secondary  
5           transmission of a multicast stream of a primary  
6           transmitter is the subject of a written agree-  
7           ment entered into on or before June 30, 2009,  
8           between a cable system or an association rep-  
9           resenting the cable system and a primary trans-  
10          mitter or an association representing the pri-  
11          mary transmitter, a distant signal equivalent  
12          value (referred to in paragraph (1)) shall not be  
13          assigned to secondary transmissions of such  
14          multicast stream beyond the local service area  
15          of its primary transmitter that are made on or  
16          before the date on which such written agree-  
17          ment expires.

18          (C) NO REFUNDS OR OFFSETS FOR PRIOR  
19          STATEMENTS OF ACCOUNT.—A cable system  
20          that has reported secondary transmissions of a  
21          multicast stream beyond the local service area  
22          of its primary transmitter on a statement of ac-  
23          count deposited under section 111 of title 17,  
24          United States Code, before the date of the en-  
25          actment of this Act shall not be entitled to any

1 refund, or offset, of royalty fees paid on ac-  
2 count of such secondary transmissions of such  
3 multicast stream.

4 (3) DEFINITIONS.—In this subsection, the  
5 terms “cable system”, “secondary transmission”,  
6 “multicast stream”, and “local service area of a pri-  
7 mary transmitter” have the meanings given those  
8 terms in section 111(f) of title 17, United States  
9 Code, as amended by this section.

10 **SEC. 905. CERTAIN WAIVERS GRANTED TO PROVIDERS OF**  
11 **LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

12 Section 119 is amended by adding at the end the fol-  
13 lowing new subsection:

14 “(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF  
15 LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

16 “(1) INJUNCTION WAIVER.—A court that issued  
17 an injunction pursuant to subsection (a)(7)(B) be-  
18 fore the date of the enactment of this subsection  
19 shall waive such injunction if the court recognizes  
20 the entity against which the injunction was issued as  
21 a qualified carrier.

22 “(2) LIMITED TEMPORARY WAIVER.—

23 “(A) IN GENERAL.—Upon a request made  
24 by a satellite carrier, a court that issued an in-  
25 junction against such carrier under subsection

1 (a)(7)(B) before the date of the enactment of  
2 this subsection shall waive such injunction with  
3 respect to the statutory license provided under  
4 subsection (a)(2) to the extent necessary to  
5 allow such carrier to make secondary trans-  
6 missions of primary transmissions made by a  
7 network station to unserved households located  
8 in short markets in which such carrier was not  
9 providing local service pursuant to the license  
10 under section 122 as of December 31, 2009.

11 “(B) EXPIRATION OF TEMPORARY WAIV-  
12 ER.—A temporary waiver of an injunction  
13 under subparagraph (A) shall expire after the  
14 end of the 120-day period beginning on the  
15 date such temporary waiver is issued unless ex-  
16 tended for good cause by the court making the  
17 temporary waiver.

18 “(C) FAILURE TO PROVIDE LOCAL-INTO-  
19 LOCAL SERVICE TO ALL DMAS.—

20 “(i) FAILURE TO ACT REASONABLY  
21 AND IN GOOD FAITH.—If the court issuing  
22 a temporary waiver under subparagraph  
23 (A) determines that the satellite carrier  
24 that made the request for such waiver has  
25 failed to act reasonably or has failed to



1                   “(II) the quality of the carrier’s  
2                   efforts to remedy the failure; and

3                   “(III) the severity and duration  
4                   of any service interruption.

5                   “(D) SINGLE TEMPORARY WAIVER AVAIL-  
6                   ABLE.—An entity may only receive one tem-  
7                   porary waiver under this paragraph.

8                   “(E) SHORT MARKET DEFINED.—For pur-  
9                   poses of this paragraph, the term ‘short mar-  
10                  ket’ means a local market in which program-  
11                  ming of one or more of the four most widely  
12                  viewed television networks nationwide as meas-  
13                  ured on the date of the enactment of this sub-  
14                  section is not offered on the primary stream  
15                  transmitted by any local television broadcast  
16                  station.

17                  “(3) ESTABLISHMENT OF QUALIFIED CARRIER  
18                  RECOGNITION.—

19                  “(A) STATEMENT OF ELIGIBILITY.—An  
20                  entity seeking to be recognized as a qualified  
21                  carrier under this subsection shall file a state-  
22                  ment of eligibility with the court that imposed  
23                  the injunction. A statement of eligibility must  
24                  include—

1                   “(i) an affidavit that the entity is pro-  
2                   viding local-into-local service to all DMAs;

3                   “(ii) a request for a waiver of the in-  
4                   junction; and

5                   “(iii) a certification issued pursuant  
6                   to section 342(a) of Communications Act  
7                   of 1934.

8                   “(B) GRANT OF RECOGNITION AS A QUALI-  
9                   FIED CARRIER.—Upon receipt of a statement of  
10                  eligibility, the court shall recognize the entity as  
11                  a qualified carrier and issue the waiver under  
12                  paragraph (1).

13                  “(C) VOLUNTARY TERMINATION.—At any  
14                  time, an entity recognized as a qualified carrier  
15                  may file a statement of voluntary termination  
16                  with the court certifying that it no longer wish-  
17                  es to be recognized as a qualified carrier. Upon  
18                  receipt of such statement, the court shall rein-  
19                  state the injunction waived under paragraph  
20                  (1).

21                  “(D) LOSS OF RECOGNITION PREVENTS  
22                  FUTURE RECOGNITION.—No entity may be rec-  
23                  ognized as a qualified carrier if such entity had  
24                  previously been recognized as a qualified carrier  
25                  and subsequently lost such recognition or volun-



1 qualified carrier is recognized as such  
2 under paragraph (3)(B) and ending on De-  
3 cember 31, 2011.

4 “(ii) RECORDS OF QUALIFIED CAR-  
5 RIER.—Beginning on the date that is one  
6 year after the date on which the qualified  
7 carrier is recognized as such under para-  
8 graph (3)(B), but not later than October  
9 1, 2011, the qualified carrier shall provide  
10 the Comptroller General with all records  
11 that the Comptroller General, in consulta-  
12 tion with the Register of Copyrights, con-  
13 siders to be directly pertinent to the fol-  
14 lowing requirements under this section:

15 “(I) Proper calculation and pay-  
16 ment of royalties under the statutory  
17 license under this section.

18 “(II) Provision of service under  
19 this license to eligible subscribers  
20 only.

21 “(iii) SUBMISSION OF REPORT.—The  
22 Comptroller General shall file the report  
23 required by clause (i) not later than March  
24 1, 2012, with the court referred to in para-  
25 graph (1) that issued the injunction, the

1 Register of Copyrights, the Committees on  
2 the Judiciary and on Energy and Com-  
3 merce of the House of Representatives,  
4 and the Committees on the Judiciary and  
5 on Commerce, Science, and Transportation  
6 of the Senate.

7 “(iv) EVIDENCE OF INFRINGEMENT.—  
8 The Comptroller General shall include in  
9 the report a statement of whether the ex-  
10 amination by the Comptroller General indi-  
11 cated that there is substantial evidence  
12 that a copyright holder could bring a suc-  
13 cessful action under this section against  
14 the qualified carrier for infringement. The  
15 Comptroller General shall consult with the  
16 Register of Copyrights in preparing such  
17 statement.

18 “(v) SUBSEQUENT EXAMINATION.—If  
19 the report includes the Comptroller Gen-  
20 eral’s statement that there is substantial  
21 evidence that a copyright holder could  
22 bring a successful action under this section  
23 against the qualified carrier for infringe-  
24 ment, the Comptroller General shall, not  
25 later than 6 months after the report under

1 clause (i) is published, initiate another ex-  
2 amination of the qualified carrier's compli-  
3 ance with the royalty payment and house-  
4 hold eligibility requirements of the license  
5 under this section since the last report was  
6 filed under clause (iii). The Comptroller  
7 General shall file a report on such exam-  
8 ination with the court referred to in para-  
9 graph (1) that issued the injunction, the  
10 Register of Copyrights, the Committees on  
11 the Judiciary and on Energy and Com-  
12 merce of the House of Representatives,  
13 and the Committees on the Judiciary and  
14 on Commerce, Science, and Transportation  
15 of the Senate. The report shall include a  
16 statement described in clause (iv), pre-  
17 pared in consultation with the Register of  
18 Copyrights.

19 “(vi) COMPLIANCE.—Upon motion  
20 filed by an aggrieved copyright owner, the  
21 court recognizing an entity as a qualified  
22 carrier shall terminate such designation  
23 upon finding that the entity has failed to  
24 cooperate with the examinations required  
25 by this subparagraph.

1           “(C) AFFIRMATION.—A qualified carrier  
2 shall file an affidavit with the district court and  
3 the Register of Copyrights 30 months after  
4 such status was granted stating that, to the  
5 best of the affiant’s knowledge, it is in compli-  
6 ance with the requirements for a qualified car-  
7 rier.

8           “(D) COMPLIANCE DETERMINATION.—  
9 Upon the motion of an aggrieved television  
10 broadcast station, the court recognizing an enti-  
11 ty as a qualified carrier may make a determina-  
12 tion of whether the entity is providing local-  
13 into-local service to all DMAs.

14           “(E) PLEADING REQUIREMENT.—In any  
15 motion brought under subparagraph (D), the  
16 party making such motion shall specify one or  
17 more designated market areas (as such term is  
18 defined in section 122(j)(2)(C)) for which the  
19 failure to provide service is being alleged, and,  
20 for each such designated market area, shall  
21 plead with particularity the circumstances of  
22 the alleged failure.

23           “(F) BURDEN OF PROOF.—In any pro-  
24 ceeding to make a determination under sub-  
25 paragraph (D), and with respect to a des-

1           ignated market area for which failure to provide  
2           service is alleged, the entity recognized as a  
3           qualified carrier shall have the burden of prov-  
4           ing that the entity provided local-into-local serv-  
5           ice with a good quality satellite signal to at  
6           least 90 percent of the households in such des-  
7           ignated market area (based on the most recent  
8           census data released by the United States Cen-  
9           sus Bureau) at the time and place alleged.

10           “(5) FAILURE TO PROVIDE SERVICE.—

11                   “(A) PENALTIES.—If the court recognizing  
12           an entity as a qualified carrier finds that such  
13           entity has willfully failed to provide local-into-  
14           local service to all DMAs, such finding shall re-  
15           sult in the loss of recognition of the entity as  
16           a qualified carrier and the termination of the  
17           waiver provided under paragraph (1), and the  
18           court may, in its discretion—

19                           “(i) treat such failure as an act of in-  
20           fringement under section 501, and subject  
21           such infringement to the remedies provided  
22           for in sections 502 through 506 and sub-  
23           section (a)(6)(B) of this section; and

24                           “(ii) impose a fine of not less than  
25           \$250,000 and not more than \$5,000,000.

1           “(B) EXCEPTION FOR NONWILLFUL VIOLA-  
2           TION.—If the court determines that the failure  
3           to provide local-into-local service to all DMAs is  
4           nonwillful, the court may in its discretion im-  
5           pose financial penalties for noncompliance that  
6           reflect—

7                   “(i) the degree of control the entity  
8                   had over the circumstances that resulted in  
9                   the failure;

10                   “(ii) the quality of the entity’s efforts  
11                   to remedy the failure and restore service;  
12                   and

13                   “(iii) the severity and duration of any  
14                   service interruption.

15           “(6) PENALTIES FOR VIOLATIONS OF LI-  
16           CENSE.—A court that finds, under subsection  
17           (a)(6)(A), that an entity recognized as a qualified  
18           carrier has willfully made a secondary transmission  
19           of a primary transmission made by a network sta-  
20           tion and embodying a performance or display of a  
21           work to a subscriber who is not eligible to receive  
22           the transmission under this section shall reinstate  
23           the injunction waived under paragraph (1), and the  
24           court may order statutory damages of not more than  
25           \$2,500,000.

1           “(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS  
2     DEFINED.—For purposes of this subsection:

3           “(A) IN GENERAL.—An entity provides  
4     ‘local-into-local service to all DMAs’ if the enti-  
5     ty provides local service in all designated mar-  
6     ket areas (as such term is defined in section  
7     122(j)(2)(C)) pursuant to the license under sec-  
8     tion 122.

9           “(B) HOUSEHOLD COVERAGE.—For pur-  
10    poses of subparagraph (A), an entity that  
11    makes available local-into-local service with a  
12    good quality satellite signal to at least 90 per-  
13    cent of the households in a designated market  
14    area based on the most recent census data re-  
15    leased by the United States Census Bureau  
16    shall be considered to be providing local service  
17    to such designated market area.

18           “(C) GOOD QUALITY SATELLITE SIGNAL  
19    DEFINED.—The term ‘good quality signal’ has  
20    the meaning given such term under section  
21    342(e)(2) of Communications Act of 1934.”.

22    **SEC. 906. COPYRIGHT OFFICE FEES.**

23    Section 708(a) is amended—

24           (1) in paragraph (8), by striking “and” after  
25    the semicolon;

1           (2) in paragraph (9), by striking the period and  
2           inserting a semicolon;

3           (3) by inserting after paragraph (9) the fol-  
4           lowing:

5           “(10) on filing a statement of account based on  
6           secondary transmissions of primary transmissions  
7           pursuant to section 119 or 122; and

8           “(11) on filing a statement of account based on  
9           secondary transmissions of primary transmissions  
10          pursuant to section 111.”; and

11          (4) by adding at the end the following new sen-  
12          tence: “Fees established under paragraphs (10) and  
13          (11) shall be reasonable and may not exceed one-half  
14          of the cost necessary to cover reasonable expenses  
15          incurred by the Copyright Office for the collection  
16          and administration of the statements of account and  
17          any royalty fees deposited with such statements.”.

18 **SEC. 907. TERMINATION OF LICENSE.**

19          Section 1003(a)(2)(A) of Public Law 111-118 is  
20          amended by striking “February 28, 2010” and inserting  
21          “December 31, 2014”.

22 **SEC. 908. CONSTRUCTION.**

23          Nothing in section 111, 119, or 122 of title 17,  
24          United States Code, including the amendments made to  
25          such sections by this subtitle, shall be construed to affect

1 the meaning of any terms under the Communications Act  
2 of 1934, except to the extent that such sections are specifi-  
3 cally cross-referenced in such Act or the regulations issued  
4 thereunder.

## 5 **Subtitle B—Communications** 6 **Provisions**

### 7 **SEC. 921. REFERENCE.**

8 Except as otherwise provided, whenever in this sub-  
9 title an amendment is made to a section or other provision,  
10 the reference shall be considered to be made to such sec-  
11 tion or provision of the Communications Act of 1934 (47  
12 U.S.C. 151 et seq.).

### 13 **SEC. 922. EXTENSION OF AUTHORITY.**

14 Section 325(b) is amended—

15 (1) in paragraph (2)(C), by striking “February  
16 28, 2010” and inserting “December 31, 2014”; and

17 (2) in paragraph (3)(C), by striking “March 1,  
18 2010” each place it appears in clauses (ii) and (iii)  
19 and inserting “January 1, 2015”.

### 20 **SEC. 923. SIGNIFICANTLY VIEWED STATIONS.**

21 (a) IN GENERAL.—Paragraphs (1) and (2) of section  
22 340(b) are amended to read as follows:

23 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-  
24 ING LOCAL-INTO-LOCAL SERVICE.—This section shall  
25 apply only to retransmissions to subscribers of a sat-

1 elite carrier who receive retransmissions of a signal  
2 from that satellite carrier pursuant to section 338.

3 “(2) SERVICE LIMITATIONS.—A satellite carrier  
4 may retransmit to a subscriber in high definition  
5 format the signal of a station determined by the  
6 Commission to be significantly viewed under sub-  
7 section (a) only if such carrier also retransmits in  
8 high definition format the signal of a station located  
9 in the local market of such subscriber and affiliated  
10 with the same network whenever such format is  
11 available from such station.”.

12 (b) RULEMAKING REQUIRED.—Within 180 days after  
13 the date of the enactment of this Act, the Federal Commu-  
14 nications Commission shall take all actions necessary to  
15 promulgate a rule to implement the amendments made by  
16 subsection (a).

17 **SEC. 924. DIGITAL TELEVISION TRANSITION CONFORMING**  
18 **AMENDMENTS.**

19 (a) SECTION 338.—Section 338 is amended—

20 (1) in subsection (a), by striking “(3) EFFEC-  
21 TIVE DATE.—No satellite” and all that follows  
22 through “until January 1, 2002.”; and

23 (2) by amending subsection (g) to read as fol-  
24 lows:

1           “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE  
2 RECEPTION ANTENNA.—

3           “(1) SINGLE RECEPTION ANTENNA.—Each sat-  
4 ellite carrier that retransmits the signals of local tel-  
5 evision broadcast stations in a local market shall re-  
6 transmit such stations in such market so that a sub-  
7 scriber may receive such stations by means of a sin-  
8 gle reception antenna and associated equipment.

9           “(2) ADDITIONAL RECEPTION ANTENNA.—If  
10 the carrier retransmits the signals of local television  
11 broadcast stations in a local market in high defini-  
12 tion format, the carrier shall retransmit such signals  
13 in such market so that a subscriber may receive  
14 such signals by means of a single reception antenna  
15 and associated equipment, but such antenna and as-  
16 sociated equipment may be separate from the single  
17 reception antenna and associated equipment used to  
18 comply with paragraph (1).”.

19           (b) SECTION 339.—Section 339 is amended—

20           (1) in subsection (a)—

21           (A) in paragraph (1)(B), by striking “Such  
22 two network stations” and all that follows  
23 through “more than two network stations.”;  
24 and

25           (B) in paragraph (2)—

1 (i) in the heading for subparagraph  
2 (A), by striking “TO ANALOG SIGNALS”;  
3 (ii) in subparagraph (A)—  
4 (I) in the heading for clause (i),  
5 by striking “ANALOG”;  
6 (II) in clause (i)—  
7 (aa) by striking “analog”  
8 each place it appears; and  
9 (bb) by striking “October 1,  
10 2004” and inserting “October 1,  
11 2009”;  
12 (III) in the heading for clause  
13 (ii), by striking “ANALOG”; and  
14 (IV) in clause (ii)—  
15 (aa) by striking “analog”  
16 each place it appears; and  
17 (bb) by striking “2004” and  
18 inserting “2009”;  
19 (iii) by amending subparagraph (B) to  
20 read as follows:  
21 “(B) RULES FOR OTHER SUBSCRIBERS.—  
22 “(i) IN GENERAL.—In the case of a  
23 subscriber of a satellite carrier who is eligi-  
24 ble to receive the signal of a network sta-  
25 tion under this section (in this subpara-

1 graph referred to as a ‘distant signal’),  
2 other than subscribers to whom subpara-  
3 graph (A) applies, the following shall  
4 apply:

5 “(I) In a case in which the sat-  
6 ellite carrier makes available to that  
7 subscriber, on January 1, 2005, the  
8 signal of a local network station affili-  
9 ated with the same television network  
10 pursuant to section 338, the carrier  
11 may only provide the secondary trans-  
12 missions of the distant signal of a sta-  
13 tion affiliated with the same network  
14 to that subscriber if the subscriber’s  
15 satellite carrier, not later than March  
16 1, 2005, submits to that television  
17 network the list and statement re-  
18 quired by subparagraph (F)(i).

19 “(II) In a case in which the sat-  
20 ellite carrier does not make available  
21 to that subscriber, on January 1,  
22 2005, the signal of a local network  
23 station pursuant to section 338, the  
24 carrier may only provide the sec-  
25 ondary transmissions of the distant

1 signal of a station affiliated with the  
2 same network to that subscriber if—

3 “(aa) that subscriber seeks  
4 to subscribe to such distant sig-  
5 nal before the date on which such  
6 carrier commences to carry pur-  
7 suant to section 338 the signals  
8 of stations from the local market  
9 of such local network station; and

10 “(bb) the satellite carrier,  
11 within 60 days after such date,  
12 submits to each television net-  
13 work the list and statement re-  
14 quired by subparagraph (F)(ii).

15 “(ii) SPECIAL CIRCUMSTANCES.—A  
16 subscriber of a satellite carrier who was  
17 lawfully receiving the distant signal of a  
18 network station on the day before the date  
19 of enactment of the Satellite Television Ex-  
20 tension and Localism Act of 2010 may re-  
21 ceive both such distant signal and the local  
22 signal of a network station affiliated with  
23 the same network until such subscriber  
24 chooses to no longer receive such distant  
25 signal from such carrier, whether or not

## 333

1           such subscriber elects to subscribe to such  
2           local signal.”;

3           (iv) in subparagraph (C)—

4                 (I) by striking “analog”;

5                 (II) in clause (i), by striking “the  
6           Satellite Home Viewer Extension and  
7           Reauthorization Act of 2004; and”  
8           and inserting the following:

9           “the Satellite Television Extension and Lo-  
10          calism Act of 2010 and, at the time such  
11          person seeks to subscribe to receive such  
12          secondary transmission, resides in a local  
13          market where the satellite carrier makes  
14          available to that person the signal of a  
15          local network station affiliated with the  
16          same television network pursuant to sec-  
17          tion 338 (and the retransmission of such  
18          signal by such carrier can reach such sub-  
19          scriber); or”;

20                 (III) by amending clause (ii) to  
21                 read as follows:

22                 “(ii) lawfully subscribes to and re-  
23                 ceives a distant signal on or after the date  
24                 of enactment of the Satellite Television Ex-  
25                 tension and Localism Act of 2010, and,

1           subsequent to such subscription, the sat-  
2           ellite carrier makes available to that sub-  
3           scriber the signal of a local network station  
4           affiliated with the same network as the dis-  
5           tant signal (and the retransmission of such  
6           signal by such carrier can reach such sub-  
7           scriber), unless such person subscribes to  
8           the signal of the local network station  
9           within 60 days after such signal is made  
10          available.”;

11                   (v) in subparagraph (D)—

12                           (I) in the heading, by striking  
13                           “DIGITAL”;

14                           (II) by striking clauses (i), (iii)  
15                           through (v), (vii) through (ix), and  
16                           (xi);

17                           (III) by redesignating clause (vi)  
18                           as clause (i) and transferring such  
19                           clause to appear before clause (ii);

20                           (IV) by amending such clause (i)  
21                           (as so redesignated) to read as fol-  
22                           lows:

23                           “(i) ELIGIBILITY AND SIGNAL TEST-  
24                           ING.—A subscriber of a satellite carrier  
25                           shall be eligible to receive a distant signal

1 of a network station affiliated with the  
2 same network under this section if, with  
3 respect to a local network station, such  
4 subscriber—

5 “(I) is a subscriber whose house-  
6 hold is not predicted by the model  
7 specified in subsection (c)(3) to re-  
8 ceive the signal intensity required  
9 under section 73.622(e)(1) or, in the  
10 case of a low-power station or trans-  
11 lator station transmitting an analog  
12 signal, section 73.683(a) of title 47,  
13 Code of Federal Regulations, or a suc-  
14 cessor regulation;

15 “(II) is determined, based on a  
16 test conducted in accordance with sec-  
17 tion 73.686(d) of title 47, Code of  
18 Federal Regulations, or any successor  
19 regulation, not to be able to receive a  
20 signal that exceeds the signal intensity  
21 standard in section 73.622(e)(1) or,  
22 in the case of a low-power station or  
23 translator station transmitting an  
24 analog signal, section 73.683(a) of

1 such title, or a successor regulation;  
2 or

3 “(III) is in an unserved house-  
4 hold, as determined under section  
5 119(d)(10)(A) of title 17, United  
6 States Code.”;

7 (V) in clause (ii)—

8 (aa) by striking “DIGITAL”  
9 in the heading;

10 (bb) by striking “digital”  
11 the first two places such term ap-  
12 pears;

13 (cc) by striking “Satellite  
14 Home Viewer Extension and Re-  
15 authorization Act of 2004” and  
16 inserting “Satellite Television  
17 Extension and Localism Act of  
18 2010”; and

19 (dd) by striking “, whether  
20 or not such subscriber elects to  
21 subscribe to local digital signals”;

22 (VI) by inserting after clause (ii)  
23 the following new clause:

24 “(iii) TIME-SHIFTING PROHIBITED.—

25 In a case in which the satellite carrier

1 makes available to an eligible subscriber  
2 under this subparagraph the signal of a  
3 local network station pursuant to section  
4 338, the carrier may only provide the dis-  
5 tant signal of a station affiliated with the  
6 same network to that subscriber if, in the  
7 case of any local market in the 48 contig-  
8 uous States of the United States, the dis-  
9 tant signal is the secondary transmission  
10 of a station whose prime time network pro-  
11 gramming is generally broadcast simulta-  
12 neously with, or later than, the prime time  
13 network programming of the affiliate of  
14 the same network in the local market.”;  
15 and

16 (VII) by redesignating clause (x)  
17 as clause (iv); and

18 (vi) in subparagraph (E), by striking  
19 “distant analog signal or” and all that fol-  
20 lows through “(B), or (D))” and inserting  
21 “distant signal”;

22 (2) in subsection (c)—

23 (A) by amending paragraph (3) to read as  
24 follows:

1           “(3) ESTABLISHMENT OF IMPROVED PRE-  
2           DICTIVE MODEL AND ON-LOCATION TESTING RE-  
3           QUIRED.—

4                   “(A) PREDICTIVE MODEL.—Within 180  
5           days after the date of the enactment of the Sat-  
6           ellite Television Extension and Localism Act of  
7           2010, the Commission shall develop and pre-  
8           scribe by rule a point-to-point predictive model  
9           for reliably and presumptively determining the  
10          ability of individual locations, through the use  
11          of an antenna, to receive signals in accordance  
12          with the signal intensity standard in section  
13          73.622(e)(1) of title 47, Code of Federal Regu-  
14          lations, or a successor regulation, including to  
15          account for the continuing operation of trans-  
16          lator stations and low power television stations.  
17          In prescribing such model, the Commission  
18          shall rely on the Individual Location Longley-  
19          Rice model set forth by the Commission in CS  
20          Docket No. 98–201, as previously revised with  
21          respect to analog signals, and as recommended  
22          by the Commission with respect to digital sig-  
23          nals in its Report to Congress in ET Docket  
24          No. 05–182, FCC 05–199 (released December  
25          9, 2005). The Commission shall establish proce-

1           dures for the continued refinement in the appli-  
2           cation of the model by the use of additional  
3           data as it becomes available.

4           “(B) ON-LOCATION TESTING.—The Com-  
5           mission shall issue an order completing its rule-  
6           making proceeding in ET Docket No. 06–94  
7           within 180 days after the date of enactment of  
8           the Satellite Television Extension and Localism  
9           Act of 2010. In conducting such rulemaking,  
10          the Commission shall seek ways to minimize  
11          consumer burdens associated with on-location  
12          testing.”;

13          (B) by amending paragraph (4)(A) to read  
14          as follows:

15          “(A) IN GENERAL.—If a subscriber’s re-  
16          quest for a waiver under paragraph (2) is re-  
17          jected and the subscriber submits to the sub-  
18          scriber’s satellite carrier a request for a test  
19          verifying the subscriber’s inability to receive a  
20          signal of the signal intensity referenced in  
21          clause (i) of subsection (a)(2)(D), the satellite  
22          carrier and the network station or stations as-  
23          serting that the retransmission is prohibited  
24          with respect to that subscriber shall select a  
25          qualified and independent person to conduct the

1 test referenced in such clause. Such test shall  
2 be conducted within 30 days after the date the  
3 subscriber submits a request for the test. If the  
4 written findings and conclusions of a test con-  
5 ducted in accordance with such clause dem-  
6 onstrate that the subscriber does not receive a  
7 signal that meets or exceeds the requisite signal  
8 intensity standard in such clause, the subscriber  
9 shall not be denied the retransmission of a sig-  
10 nal of a network station under section  
11 119(d)(10)(A) of title 17, United States  
12 Code.”;

13 (C) in paragraph (4)(B), by striking “the  
14 signal intensity” and all that follows through  
15 “United States Code” and inserting “such req-  
16 uisite signal intensity standard”; and

17 (D) in paragraph (4)(E), by striking  
18 “Grade B intensity”.

19 (c) SECTION 340.—Section 340(i) is amended by  
20 striking paragraph (4).

21 **SEC. 925. APPLICATION PENDING COMPLETION OF**  
22 **RULEMAKINGS.**

23 (a) IN GENERAL.—During the period beginning on  
24 the date of the enactment of this Act and ending on the  
25 date on which the Federal Communications Commission

1 adopts rules pursuant to the amendments to the Commu-  
2 nications Act of 1934 made by section 923 and section  
3 924 of this title, the Federal Communications Commission  
4 shall follow its rules and regulations promulgated pursu-  
5 ant to sections 338, 339, and 340 of the Communications  
6 Act of 1934 as in effect on the day before the date of  
7 the enactment of this Act.

8 (b) TRANSLATOR STATIONS AND LOW POWER TELE-  
9 VISION STATIONS.—Notwithstanding subsection (a), for  
10 purposes of determining whether a subscriber within the  
11 local market served by a translator station or a low power  
12 television station affiliated with a television network is eli-  
13 gible to receive distant signals under section 339 of the  
14 Communications Act of 1934, the rules and regulations  
15 of the Federal Communications Commission for deter-  
16 mining such subscriber’s eligibility as in effect on the day  
17 before the date of the enactment of this Act shall apply  
18 until the date on which the translator station or low power  
19 television station is licensed to broadcast a digital signal.

20 (c) DEFINITIONS.—As used in this subtitle:

21 (1) LOCAL MARKET; LOW POWER TELEVISION  
22 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-  
23 VISION BROADCAST STATION.—The terms “local  
24 market”, “low power television station”, “satellite  
25 carrier”, “subscriber”, and “television broadcast sta-

1       tion” have the meanings given such terms in section  
2       338(k) of the Communications Act of 1934.

3               (2) NETWORK STATION; TELEVISION NET-  
4       WORK.—The terms “network station” and “tele-  
5       vision network” have the meanings given such terms  
6       in section 339(d) of such Act.

7       **SEC. 926. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**  
8                               **TIFICATION.**

9       Part I of title III is amended by adding at the end  
10      the following new section:

11      **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**  
12                               **CERTIFICATION.**

13              “(a) CERTIFICATION.—The Commission shall issue a  
14      certification for the purposes of section 119(g)(3)(A)(iii)  
15      of title 17, United States Code, if the Commission deter-  
16      mines that—

17                      “(1) a satellite carrier is providing local service  
18              pursuant to the statutory license under section 122  
19              of such title in each designated market area; and

20                      “(2) with respect to each designated market  
21              area in which such satellite carrier was not providing  
22              such local service as of the date of enactment of the  
23              Satellite Television Extension and Localism Act of  
24              2010—

1           “(A) the satellite carrier’s satellite beams  
2           are designed, and predicted by the satellite  
3           manufacturer’s pre-launch test data, to provide  
4           a good quality satellite signal to at least 90 per-  
5           cent of the households in each such designated  
6           market area based on the most recent census  
7           data released by the United States Census Bu-  
8           reau; and

9           “(B) there is no material evidence that  
10          there has been a satellite or sub-system failure  
11          subsequent to the satellite’s launch that pre-  
12          cludes the ability of the satellite carrier to sat-  
13          isfy the requirements of subparagraph (A).

14          “(b) INFORMATION REQUIRED.—Any entity seeking  
15          the certification provided for in subsection (a) shall submit  
16          to the Commission the following information:

17                 “(1) An affidavit stating that, to the best of the  
18                 affiant’s knowledge, the satellite carrier provides  
19                 local service in all designated market areas pursuant  
20                 to the statutory license provided for in section 122  
21                 of title 17, United States Code, and listing those  
22                 designated market areas in which local service was  
23                 provided as of the date of enactment of the Satellite  
24                 Television Extension and Localism Act of 2010.

1           “(2) For each designated market area not listed  
2           in paragraph (1):

3                   “(A) Identification of each such designated  
4                   market area and the location of its local receive  
5                   facility.

6                   “(B) Data showing the number of house-  
7                   holds, and maps showing the geographic dis-  
8                   tribution thereof, in each such designated mar-  
9                   ket area based on the most recent census data  
10                  released by the United States Census Bureau.

11                  “(C) Maps, with superimposed effective  
12                  isotropically radiated power predictions ob-  
13                  tained in the satellite manufacturer’s pre-  
14                  launch tests, showing that the contours of the  
15                  carrier’s satellite beams as designed and the ge-  
16                  ographic area that the carrier’s satellite beams  
17                  are designed to cover are predicted to provide  
18                  a good quality satellite signal to at least 90 per-  
19                  cent of the households in such designated mar-  
20                  ket area based on the most recent census data  
21                  released by the United States Census Bureau.

22                  “(D) For any satellite relied upon for cer-  
23                  tification under this section, an affidavit stating  
24                  that, to the best of the affiant’s knowledge,  
25                  there have been no satellite or sub-system fail-

1           ures subsequent to the satellite’s launch that  
2           would degrade the design performance to such  
3           a degree that a satellite transponder used to  
4           provide local service to any such designated  
5           market area is precluded from delivering a good  
6           quality satellite signal to at least 90 percent of  
7           the households in such designated market area  
8           based on the most recent census data released  
9           by the United States Census Bureau.

10           “(E) Any additional engineering, des-  
11           ignated market area, or other information the  
12           Commission considers necessary to determine  
13           whether the Commission shall grant a certifi-  
14           cation under this section.

15           “(c) CERTIFICATION ISSUANCE.—

16           “(1) PUBLIC COMMENT.—The Commission shall  
17           provide 30 days for public comment on a request for  
18           certification under this section.

19           “(2) DEADLINE FOR DECISION.—The Commis-  
20           sion shall grant or deny a request for certification  
21           within 90 days after the date on which such request  
22           is filed.

23           “(d) SUBSEQUENT AFFIRMATION.—An entity grant-  
24           ed qualified carrier status pursuant to section 119(g) of  
25           title 17, United States Code, shall file an affidavit with

1 the Commission 30 months after such status was granted  
2 stating that, to the best of the affiant's knowledge, it is  
3 in compliance with the requirements for a qualified car-  
4 rier.

5 “(e) DEFINITIONS.—For the purposes of this section:

6 “(1) DESIGNATED MARKET AREA.—The term  
7 ‘designated market area’ has the meaning given such  
8 term in section 122(j)(2)(C) of title 17, United  
9 States Code.

10 “(2) GOOD QUALITY SATELLITE SIGNAL.—

11 “(A) IN GENERAL.—The term “good qual-  
12 ity satellite signal” means—

13 “(i) a satellite signal whose power  
14 level as designed shall achieve reception  
15 and demodulation of the signal at an avail-  
16 ability level of at least 99.7 percent  
17 using—

18 “(I) models of satellite antennas  
19 normally used by the satellite carrier's  
20 subscribers; and

21 “(II) the same calculation meth-  
22 odology used by the satellite carrier to  
23 determine predicted signal availability  
24 in the top 100 designated market  
25 areas; and

1                   “(ii) taking into account whether a  
2                   signal is in standard definition format or  
3                   high definition format, compression meth-  
4                   odology, modulation, error correction,  
5                   power level, and utilization of advances in  
6                   technology that do not circumvent the in-  
7                   tent of this section to provide for non-dis-  
8                   crimatory treatment with respect to any  
9                   comparable television broadcast station sig-  
10                  nal, a video signal transmitted by a sat-  
11                  ellite carrier such that—

12                               “(I) the satellite carrier treats all  
13                               television broadcast stations’ signals  
14                               the same with respect to statistical  
15                               multiplexer prioritization; and

16                               “(II) the number of video signals  
17                               in the relevant satellite transponder is  
18                               not more than the then current great-  
19                               est number of video signals carried on  
20                               any equivalent transponder serving  
21                               the top 100 designated market areas.

22                               “(B) DETERMINATION.—For the purposes  
23                               of subparagraph (A), the top 100 designated  
24                               market areas shall be as determined by Nielsen  
25                               Media Research and published in the Nielsen

1 Station Index Directory and Nielsen Station  
2 Index United States Television Household Esti-  
3 mates or any successor publication as of the  
4 date of a satellite carrier's application for cer-  
5 tification under this section.”.

6 **SEC. 927. NONDISCRIMINATION IN CARRIAGE OF HIGH DEF-**  
7 **INITION DIGITAL SIGNALS OF NONCOMMER-**  
8 **CIAL EDUCATIONAL TELEVISION STATIONS.**

9 (a) IN GENERAL.—Section 338(a) is amended by  
10 adding at the end the following new paragraph:

11 “(5) NONDISCRIMINATION IN CARRIAGE OF  
12 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL  
13 EDUCATIONAL TELEVISION STATIONS.—

14 “(A) EXISTING CARRIAGE OF HIGH DEF-  
15 INITION SIGNALS.—If, before the date of enact-  
16 ment of the Satellite Television Extension and  
17 Localism Act of 2010, an eligible satellite car-  
18 rier is providing, under section 122 of title 17,  
19 United States Code, any secondary trans-  
20 missions in high definition format to sub-  
21 scribers located within the local market of a tel-  
22 evision broadcast station of a primary trans-  
23 mission made by that station, then such sat-  
24 ellite carrier shall carry the signals in high-defi-  
25 nition format of qualified noncommercial edu-

1 educational television stations located within that  
2 local market in accordance with the following  
3 schedule:

4 “(i) By December 31, 2010, in at  
5 least 50 percent of the markets in which  
6 such satellite carrier provides such sec-  
7 ondary transmissions in high definition  
8 format.

9 “(ii) By December 31, 2011, in every  
10 market in which such satellite carrier pro-  
11 vides such secondary transmissions in high  
12 definition format.

13 “(B) NEW INITIATION OF SERVICE.—If, on  
14 or after the date of enactment of the Satellite  
15 Television Extension and Localism Act of 2010,  
16 an eligible satellite carrier initiates the provi-  
17 sion, under section 122 of title 17, United  
18 States Code, of any secondary transmissions in  
19 high definition format to subscribers located  
20 within the local market of a television broadcast  
21 station of a primary transmission made by that  
22 station, then such satellite carrier shall carry  
23 the signals in high-definition format of all  
24 qualified noncommercial educational television  
25 stations located within that local market.”.

1 (b) DEFINITIONS.—Section 338(k) is amended—

2 (1) by redesignating paragraphs (2) through  
3 (8) as paragraphs (3) through (9), respectively;

4 (2) by inserting after paragraph (1) the fol-  
5 lowing new paragraph:

6 “(2) ELIGIBLE SATELLITE CARRIER.—The term  
7 ‘eligible satellite carrier’ means any satellite carrier  
8 that is not a party to a carriage contract that—

9 “(A) governs carriage of at least 30 quali-  
10 fied noncommercial educational television sta-  
11 tions; and

12 “(B) is in force and effect within 60 days  
13 after the date of enactment of the Satellite Tel-  
14 evision Extension and Localism Act of 2010.”;

15 (3) by redesignating paragraphs (6) through  
16 (9) (as previously redesignated) as paragraphs (7)  
17 through (10), respectively; and

18 (4) by inserting after paragraph (5) (as so re-  
19 designated) the following new paragraph:

20 “(6) QUALIFIED NONCOMMERCIAL EDU-  
21 CATIONAL TELEVISION STATION.—The term ‘quali-  
22 fied noncommercial educational television station’  
23 means any full-power television broadcast station  
24 that—

1           “(A) under the rules and regulations of the  
2 Commission in effect on March 29, 1990, is li-  
3 censed by the Commission as a noncommercial  
4 educational broadcast station and is owned and  
5 operated by a public agency, nonprofit founda-  
6 tion, nonprofit corporation, or nonprofit asso-  
7 ciation; and

8           “(B) has as its licensee an entity that is el-  
9 igible to receive a community service grant, or  
10 any successor grant thereto, from the Corpora-  
11 tion for Public Broadcasting, or any successor  
12 organization thereto, on the basis of the for-  
13 mula set forth in section 396(k)(6)(B) of this  
14 title.”.

15 **SEC. 928. SAVINGS CLAUSE REGARDING DEFINITIONS.**

16       Nothing in this subtitle or the amendments made by  
17 this subtitle shall be construed to affect—

18           (1) the meaning of the terms “program re-  
19 lated” and “primary video” under the Communica-  
20 tions Act of 1934; or

21           (2) the meaning of the term “multicast” in any  
22 regulations issued by the Federal Communications  
23 Commission.

24 **SEC. 929. STATE PUBLIC AFFAIRS BROADCASTS.**

25       Section 335(b) is amended—

1           (1) by inserting “**STATE PUBLIC AFFAIRS,**”  
2 after “**EDUCATIONAL,**” in the heading;

3           (2) by striking paragraph (1) and inserting the  
4 following:

5           “(1) CHANNEL CAPACITY REQUIRED.—

6                   “(A) IN GENERAL.—Except as provided in  
7 subparagraph (B), the Commission shall re-  
8 quire, as a condition of any provision, initial au-  
9 thorization, or authorization renewal for a pro-  
10 vider of direct broadcast satellite service pro-  
11 viding video programming, that the provider of  
12 such service reserve a portion of its channel ca-  
13 pacity, equal to not less than 4 percent nor  
14 more than 7 percent, exclusively for non-  
15 commercial programming of an educational or  
16 informational nature.

17                   “(B) REQUIREMENT FOR QUALIFIED SAT-  
18 ELLITE PROVIDER.—The Commission shall re-  
19 quire, as a condition of any provision, initial au-  
20 thorization, or authorization renewal for a  
21 qualified satellite provider of direct broadcast  
22 satellite service providing video programming,  
23 that such provider reserve a portion of its chan-  
24 nel capacity, equal to not less than 3.5 percent  
25 nor more than 7 percent, exclusively for non-

1 commercial programming of an educational or  
2 informational nature.”;

3 (3) in paragraph (5), by striking “For purposes  
4 of the subsection—” and inserting “For purposes of  
5 this subsection:”; and

6 (4) by adding at the end of paragraph (5) the  
7 following:

8 “(C) The term ‘qualified satellite provider’  
9 means any provider of direct broadcast satellite  
10 service that—

11 “(i) provides the retransmission of the  
12 State public affairs networks of at least 15  
13 different States;

14 “(ii) offers the programming of State  
15 public affairs networks upon reasonable  
16 prices, terms, and conditions as determined  
17 by the Commission under paragraph (4);  
18 and

19 “(iii) does not delete any noncommer-  
20 cial programming of an educational or in-  
21 formational nature in connection with the  
22 carriage of a State public affairs network.

23 “(D) The term ‘State public affairs net-  
24 work’ means a non-commercial non-broadcast

1 network or a noncommercial educational tele-  
2 vision station—

3 “(i) whose programming consists of  
4 information about State government delib-  
5 erations and public policy events; and

6 “(ii) that is operated by—

7 “(I) a State government or sub-  
8 division thereof;

9 “(II) an organization described  
10 in section 501(c)(3) of the Internal  
11 Revenue Code of 1986 that is exempt  
12 from taxation under section 501(a) of  
13 such Code and that is governed by an  
14 independent board of directors; or

15 “(III) a cable system.”.

16 **Subtitle C—Reports and Savings**  
17 **Provision**

18 **SEC. 931. DEFINITION.**

19 In this subtitle, the term “appropriate Congressional  
20 committees” means the Committees on the Judiciary and  
21 on Commerce, Science, and Transportation of the Senate  
22 and the Committees on the Judiciary and on Energy and  
23 Commerce of the House of Representatives.

1 **SEC. 932. REPORT ON MARKET BASED ALTERNATIVES TO**  
2 **STATUTORY LICENSING.**

3 Not later than 1 year after the date of the enactment  
4 of this Act, and after consultation with the Federal Com-  
5 munications Commission, the Register of Copyrights shall  
6 submit to the appropriate Congressional committees a re-  
7 port containing—

8 (1) proposed mechanisms, methods, and rec-  
9 ommendations on how to implement a phase-out of  
10 the statutory licensing requirements set forth in sec-  
11 tions 111, 119, and 122 of title 17, United States  
12 Code, by making such sections inapplicable to the  
13 secondary transmission of a performance or display  
14 of a work embodied in a primary transmission of a  
15 broadcast station that is authorized to license the  
16 same secondary transmission directly with respect to  
17 all of the performances and displays embodied in  
18 such primary transmission;

19 (2) any recommendations for alternative means  
20 to implement a timely and effective phase-out of the  
21 statutory licensing requirements set forth in sections  
22 111, 119, and 122 of title 17, United States Code;  
23 and

24 (3) any recommendations for legislative or ad-  
25 ministrative actions as may be appropriate to  
26 achieve such a phase-out.

1 **SEC. 933. REPORT ON COMMUNICATIONS IMPLICATIONS OF**  
2 **STATUTORY LICENSING MODIFICATIONS.**

3 (a) STUDY.—The Comptroller General shall conduct  
4 a study that analyzes and evaluates the changes to the  
5 carriage requirements currently imposed on multichannel  
6 video programming distributors under the Communica-  
7 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-  
8 tions promulgated by the Federal Communications Com-  
9 mission that would be required or beneficial to consumers,  
10 and such other matters as the Comptroller General deems  
11 appropriate, if Congress implemented a phase-out of the  
12 current statutory licensing requirements set forth under  
13 sections 111, 119, and 122 of title 17, United States  
14 Code. Among other things, the study shall consider the  
15 impact such a phase-out and related changes to carriage  
16 requirements would have on consumer prices and access  
17 to programming.

18 (b) REPORT.—Not later than 1 year after the date  
19 of the enactment of this Act, the Comptroller General shall  
20 report to the appropriate Congressional committees the re-  
21 sults of the study, including any recommendations for leg-  
22 islative or administrative actions.

23 **SEC. 934. REPORT ON IN-STATE BROADCAST PROGRAM-**  
24 **MING.**

25 Not later than 1 year after the date of the enactment  
26 of this Act, the Federal Communications Commission shall

1 submit to the appropriate Congressional committees a re-  
2 port containing an analysis of—

3 (1) the number of households in a State that  
4 receive the signals of local broadcast stations as-  
5 signed to a community of license that is located in  
6 a different State;

7 (2) the extent to which consumers in each local  
8 market have access to in-state broadcast program-  
9 ming over the air or from a multichannel video pro-  
10 gramming distributor; and

11 (3) whether there are alternatives to the use of  
12 designated market areas, as defined in section 122  
13 of title 17, United States Code, to define local mar-  
14 kets that would provide more consumers with in-  
15 state broadcast programming.

16 **SEC. 935. LOCAL NETWORK CHANNEL BROADCAST RE-**  
17 **PORTS.**

18 (a) REQUIREMENT.—

19 (1) IN GENERAL.—On the 180th day after the  
20 date of the enactment of this Act, and on each suc-  
21 ceeding anniversary of such 180th day, each satellite  
22 carrier shall submit an annual report to the Federal  
23 Communications Commission setting forth—

24 (A) each local market in which it—

1 (i) retransmits signals of 1 or more  
2 television broadcast stations with a com-  
3 munity of license in that market;

4 (ii) has commenced providing such  
5 signals in the preceding 1-year period; and

6 (iii) has ceased to provide such signals  
7 in the preceding 1-year period; and

8 (B) detailed information regarding the use  
9 and potential use of satellite capacity for the re-  
10 transmission of local signals in each local mar-  
11 ket.

12 (2) TERMINATION.—The requirement under  
13 paragraph (1) shall cease after each satellite carrier  
14 has submitted 5 reports under such paragraph.

15 (b) FCC STUDY; REPORT.—

16 (1) STUDY.—If no satellite carrier files a re-  
17 quest for a certification under section 342 of the  
18 Communications Act of 1934 (as added by section  
19 926 of this title) within 180 days after the date of  
20 the enactment of this Act, the Federal Communica-  
21 tions Commission shall initiate a study of—

22 (A) incentives that would induce a satellite  
23 carrier to provide the signals of 1 or more tele-  
24 vision broadcast stations licensed to provide sig-

1           nals in local markets in which the satellite car-  
2           rier does not provide such signals; and

3                   (B) the economic and satellite capacity  
4           conditions affecting delivery of local signals by  
5           satellite carriers to these markets.

6           (2) REPORT.—Within 1 year after the date of  
7           the initiation of the study under paragraph (1), the  
8           Federal Communications Commission shall submit a  
9           report to the appropriate Congressional committees  
10          containing its findings, conclusions, and rec-  
11          ommendations.

12          (c) DEFINITIONS.—In this section—

13                   (1) the terms “local market” and “satellite car-  
14          rier” have the meaning given such terms in section  
15          339(d) of the Communications Act of 1934 (47  
16          U.S.C. 339(d)); and

17                   (2) the term “television broadcast station” has  
18          the meaning given such term in section 325(b)(7) of  
19          such Act (47 U.S.C. 325(b)(7)).

20   **SEC. 936. SAVINGS PROVISION REGARDING USE OF NEGO-**  
21                   **TIATED LICENSES.**

22          (a) IN GENERAL.—Nothing in this title, title 17,  
23          United States Code, the Communications Act of 1934,  
24          regulations promulgated by the Register of Copyrights  
25          under this title or title 17, United States Code, or regula-

1 tions promulgated by the Federal Communications Com-  
2 mission under this title or the Communications Act of  
3 1934 shall be construed to prevent a multichannel video  
4 programming distributor from retransmitting a perform-  
5 ance or display of a work pursuant to an authorization  
6 granted by the copyright owner or, if within the scope of  
7 its authorization, its licensee.

8 (b) LIMITATION.—Nothing in subsection (a) shall be  
9 construed to affect any obligation of a multichannel video  
10 programming distributor under section 325(b) of the  
11 Communications Act of 1934 to obtain the authority of  
12 a television broadcast station before retransmitting that  
13 station's signal.

## 14 **Subtitle D—Severability**

### 15 **SEC. 941. SEVERABILITY.**

16 If any provision of this title, an amendment made by  
17 this title, or the application of such provision or amend-  
18 ment to any person or circumstance is held to be unconsti-  
19 tutional, the remainder of this title, the amendments made  
20 by this title, and the application of such provision or  
21 amendment to any person or circumstance shall not be af-  
22 fected thereby.

1     **TITLE X—DETERMINATION OF**  
2             **BUDGETARY EFFECTS**

3     **SEC. 1001. DETERMINATION OF BUDGETARY EFFECTS.**

4             (a) IN GENERAL.—The budgetary effects of this Act,  
5 for the purpose of complying with the Statutory Pay-As-  
6 You-Go-Act of 2010, shall be determined by reference to  
7 the latest statement titled “Budgetary Effects of PAYGO  
8 Legislation” for this Act, submitted for printing in the  
9 Congressional Record by the Chairman of the Senate  
10 Budget Committee, provided that such statement has been  
11 submitted prior to the vote on passage.

12             (b) EMERGENCY DESIGNATION.—For all of the pro-  
13 visions in titles V and VI, one-half of the amounts of the  
14 budgetary effects are designated as an emergency require-  
15 ment pursuant to section 4(g) of the Statutory Pay-As-  
16 You-Go Act of 2010, and designated as an emergency re-  
17 quirement pursuant to section 403(a) of S. Con. Res. 13  
18 (111th Congress), the concurrent resolution on the budget  
19 for fiscal year 2010. Notwithstanding the other provisions  
20 of this subsection, section 612 is not designated as an  
21 emergency.