

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To perfect the bill.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.**

**H. R. 4154**

To amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, to retain the estate tax with a \$3,500,000 exemption, to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by  
\_\_\_\_\_

Viz:

1 Strike all after the first word and insert the following:

1           **A—GENERAL PROVISIONS**

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

4           (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “American Workers, State, and Business Relief Act of  
 6 2010”.

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

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

DIVISION A—GENERAL PROVISIONS

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

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

#### PART II—LOW-INCOME HOUSING CREDITS

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

#### Subtitle C—Business Tax Relief

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

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- Sec. 157. Empowerment zone tax incentives.
- Sec. 158. Tax incentives for investment in the District of Columbia.
- Sec. 159. Renewal community tax incentives.
- Sec. 160. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 161. American Samoa economic development credit.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

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

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

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

SUBPART B—GO ZONE

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

SUBPART C—MIDWESTERN DISASTER AREAS

- Sec. 185. Special rules for use of retirement funds.
- Sec. 186. Exclusion of cancellation of mortgage indebtedness.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

- Sec. 201. Extension of unemployment insurance provisions.

Subtitle B—Health Provisions

- Sec. 211. Extension and improvement of premium assistance for COBRA benefits.
- Sec. 212. Extension of therapy caps exceptions process.
- Sec. 213. Treatment of pharmacies under durable medical equipment accreditation requirements.
- Sec. 214. Enhanced payment for mental health services.
- Sec. 215. Extension of ambulance add-ons.
- Sec. 216. Extension of geographic floor for work.
- Sec. 217. Extension of payment for technical component of certain physician pathology services.
- Sec. 218. Extension of outpatient hold harmless provision.

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- Sec. 219. EHR Clarification.
- Sec. 220. Extension of reimbursement for all Medicare part B services furnished by certain indian hospitals and clinics.
- Sec. 221. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.
- Sec. 222. Extension of the Medicare rural hospital flexibility program.
- Sec. 223. Extension of section 508 hospital reclassifications.
- Sec. 224. Technical correction related to critical access hospital services.
- Sec. 225. Extension for specialized MA plans for special needs individuals.
- Sec. 226. Extension of reasonable cost contracts.
- Sec. 227. Extension of particular waiver policy for employer group plans.
- Sec. 228. Extension of continuing care retirement community program.
- Sec. 229. Funding outreach and assistance for low-income programs.
- Sec. 230. Family-to-family health information centers.
- Sec. 231. Implementation funding.
- Sec. 232. Extension of ARRA increase in FMAP.

#### Subtitle C—Other Provisions

- Sec. 241. Extension of use of 2009 poverty guidelines.
- Sec. 242. Refunds disregarded in the administration of Federal programs and federally assisted programs.
- Sec. 243. State court improvement program.
- Sec. 244. Extension of national flood insurance program.
- Sec. 245. Extension of intelligence authority sunsets.
- Sec. 246. Emergency disaster assistance.
- Sec. 247. Small business loan guarantee enhancement extensions.

### TITLE III—PENSION FUNDING RELIEF

#### Subtitle A—Single Employer Plans

- Sec. 301. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.
- Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.
- Sec. 303. Lookback for benefit accrual restriction.

#### Subtitle B—Multiemployer Plans

- Sec. 311. Adjustments to funding standard account rules.

### TITLE IV—OFFSET PROVISIONS

#### Subtitle A—Black Liquor

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

#### Subtitle B—Homebuyer Credit

- Sec. 411. Technical modifications to homebuyer credit.

#### Subtitle C—Economic Substance

## 6

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

Subtitle D—Additional Provisions

Sec. 431. Revision to the Medicare Improvement Fund.

TITLE V—SATELLITE TELEVISION EXTENSION

Sec. 501. Short title.

Subtitle A—Statutory Licenses

Sec. 501. Reference.

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

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

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

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

Sec. 506. Copyright Office fees.

Sec. 507. Termination of license.

Sec. 508. Construction.

Subtitle B—Communications Provisions

Sec. 521. Reference.

Sec. 522. Extension of authority.

Sec. 523. Significantly viewed stations.

Sec. 524. Digital television transition conforming amendments.

Sec. 525. Application pending completion of rulemakings.

Sec. 526. Process for issuing qualified carrier certification.

Sec. 527. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.

Sec. 528. Savings clause regarding definitions.

Sec. 529. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision

Sec. 531. Definition.

Sec. 532. Report on market based alternatives to statutory licensing.

Sec. 533. Report on communications implications of statutory licensing modifications.

Sec. 534. Report on in-state broadcast programming.

Sec. 535. Local network channel broadcast reports.

Sec. 536. Savings provision regarding use of negotiated licenses.

Subtitle D—Severability

Sec. 541. Severability.

TITLE VI—OTHER PROVISIONS

Sec. 601. Increase in the Medicare physician payment update.

DIVISION B—DETERMINATION OF BUDGETARY EFFECTS

Sec. 701. Determination of budgetary effects.

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

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

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

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

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

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

20          (b) **EXCISE TAX CREDITS AND OUTLAY PAYMENTS**  
21 **FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIX-**  
22 **TURES.**—

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





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

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

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

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

11 (a) IN GENERAL.—Paragraph (1) of section 45K(g)  
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. 107. NEW ENERGY EFFICIENT HOME CREDIT.**

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

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

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

4 (a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3),  
5 and 6427(e)(6)(C) are each amended by striking “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. 109. SPECIAL RULE FOR SALES OR DISPOSITIONS TO**  
11 **IMPLEMENT FERC OR STATE ELECTRIC RE-**  
12 **STRUCTURING POLICY FOR QUALIFIED ELEC-**  
13 **TRIC UTILITIES.**

14 (a) IN GENERAL.—Paragraph (3) of section 451(i)  
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. 110. 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. 111. 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. 112. 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. 113. 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. 114. 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. 115. 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. 116. 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. 117. 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. 131. 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. 132. 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. 133. 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. 134. 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. 135. 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. 136. 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. 137. 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. 138. 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. 139. 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. 140. 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. 141. 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. 142. 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. 143. 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. 144. 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. 145. 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. 146. 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. 147. 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. 148. 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. 149. 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. 150. 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 on or 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. 151. 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. 152. 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. 153. 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. 154. 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. 155. REDUCTION IN CORPORATE RATE FOR QUALI-**  
17 **FIED 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  
25 exceed the qualified timber gain which would be de-

1       terminated by not taking into account any portion of  
2       such taxable year after December 31, 2010.”.

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

6 **SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**  
7 **ING CHARITABLE CONTRIBUTIONS OF PROP-**  
8 **ERTY.**

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

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

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

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

17               (1) by striking “December 31, 2009” in sub-  
18 section (d)(1)(A)(i) and inserting “December 31,  
19 2010”, and

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

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

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

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

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

19           (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to periods after December 31,  
21 2009.

1 **SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
2 **TRICT OF COLUMBIA.**

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

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

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

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

15 (2) LIMITATION ON PERIOD OF GAINS.—

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

18 (i) by striking “December 31, 2014”  
19 and inserting “December 31, 2015”, and

20 (ii) by striking “2014” in the heading  
21 and inserting “2015”.

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

1 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection  
2 (i) of section 1400C is amended by striking “January 1,  
3 2010” and inserting “January 1, 2011”.

4 (e) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as otherwise pro-  
6 vided in this subsection, the amendments made by  
7 this section shall apply to periods after December  
8 31, 2009.

9 (2) TAX-EXEMPT DC EMPOWERMENT ZONE  
10 BONDS.—The amendment made by subsection (b)  
11 shall apply to bonds issued after December 31,  
12 2009.

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

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

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

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

23 (1) by striking “December 31, 2009” in para-  
24 graphs (1)(A) and (3) and inserting “December 31,  
25 2010”, and

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

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

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

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

10           (A) by striking “December 31, 2014” and  
11           inserting “December 31, 2015”, and

12           (B) by striking “2014” in the heading and  
13           inserting “2015”.

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

17           (c) COMMERCIAL REVITALIZATION DEDUCTION.—

18           (1) IN GENERAL.—Subsection (g) of section  
19           1400I is amended by striking “December 31, 2009”  
20           and inserting “December 31, 2010”.

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

1           (d) INCREASED EXPENSING UNDER SECTION 179.—  
2 Subparagraph (A) of section 1400J(b)(1) is amended by  
3 striking “January 1, 2010” and inserting “January 1,  
4 2011”.

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

19           (f) EFFECTIVE DATES.—

20           (1) IN GENERAL.—Except as otherwise pro-  
21 vided in this subsection, the amendments made by  
22 this section shall apply to periods after December  
23 31, 2009.



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

4           (3) COMMERCIAL REVITALIZATION DEDUC-  
5 TION.—

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

9           (B) CONFORMING AMENDMENT.—The  
10 amendment made by subsection (c)(2) shall  
11 apply to calendar years beginning after Decem-  
12 ber 31, 2009.

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

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

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

1 **SEC. 161. 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. 171. 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. 172. 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. 173. 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. 174. 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. 175. 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. 181. 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. 182. 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 **Subpart B—GO Zone**

2 **SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.**

3 (a) IN GENERAL.—Paragraph (6) of section  
4 1400N(d)(6) is amended by striking subparagraph (D).

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

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

9 (a) IN GENERAL.—Subsection (h) of section 1400N  
10 is amended by striking “December 31, 2009” and insert-  
11 ing “December 31, 2010”.

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

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

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

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall apply to individuals hired after August  
24 27, 2009.

1                   **Subpart C—Midwestern Disaster Areas**

2   **SEC. 185. SPECIAL RULES FOR USE OF RETIREMENT**  
3                   **FUNDS.**

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

7                   (1) by striking “January 1, 2010” both places  
8 it appears and inserting “January 1, 2011”, and

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

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

16   **SEC. 186. EXCLUSION OF CANCELLATION OF MORTGAGE IN-**  
17                   **DEBTEDNESS.**

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

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

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

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

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

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

11 (A) by striking “February 28, 2010” each place  
12 it appears and inserting “December 31, 2010”;

13 (B) in the heading for subsection (b)(2), by  
14 striking “FEBRUARY 28, 2010” and inserting “DE-  
15 CEMBER 31, 2010”; and

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

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

22 (A) in paragraph (1)(B), by striking “February  
23 28, 2010” and inserting “December 31, 2010”;



1           (B) in the heading for paragraph (2), by strik-  
2           ing “FEBRUARY 28, 2010” and inserting “DECEMBER  
3           31, 2010”; and

4           (C) in paragraph (3), by striking “August 31,  
5           2010” and inserting “June 30, 2011”.

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

10           (A) by striking “February 28, 2010” each place  
11           it appears and inserting “January 1, 2011”; and

12           (B) in subsection (e), by striking “July 31,  
13           2010” and inserting “June 1, 2011”.

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

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

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

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

1           (3) by inserting after subparagraph (C) the fol-  
2           lowing new subparagraph:

3                   “(D) the amendments made by section  
4                   201(a)(1) of the American Workers, State, and  
5                   Business Relief Act of 2010; and”.

## 6           **Subtitle B—Health Provisions**

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

9           (a) EXTENSION OF ELIGIBILITY PERIOD.—Sub-  
10           section (a)(3)(A) of section 3001 of division B of the  
11           American Recovery and Reinvestment Act of 2009 (Public  
12           Law 111–5) is amended by striking “February 28, 2010”  
13           and inserting “December 31, 2010”.

14           (b) CLARIFICATIONS RELATING TO SECTION 3001 OF  
15           ARRA.—

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

21                           (A) in paragraph (3)(C), by inserting be-  
22                           fore the period at the end the following: “or  
23                           consists of a reduction of hours followed by  
24                           such an involuntary termination of employment  
25                           during such period”;

1 (B) in paragraph (16)—

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

4 “(ii) such individual pays, by the lat-  
5 est of 60 days after the date of the enact-  
6 ment of this paragraph, 30 days after the  
7 date of provision of the notification re-  
8 quired under subparagraph (D)(ii), or the  
9 period described in section  
10 4980B(f)(2)(B)(iii) of the Internal Rev-  
11 enue Code of 1986, the amount of such  
12 premium, after the application of para-  
13 graph (1)(A).”; and

14 (ii) by striking subclause (I) of sub-  
15 paragraph (C)(i), and inserting the fol-  
16 lowing:

17 “(I) such assistance eligible indi-  
18 vidual experienced an involuntary ter-  
19 mination that was a qualifying event  
20 prior to the date of enactment of the  
21 Department of Defense Appropria-  
22 tions Act, 2010; and”;

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

1           “(17) SPECIAL RULES IN CASE OF INDIVIDUALS  
2           LOSING COVERAGE BECAUSE OF A REDUCTION OF  
3           HOURS.—

4           “(A) NEW ELECTION PERIOD.—

5           “(i) IN GENERAL.—For purposes of  
6           the COBRA continuation provisions, in the  
7           case of an individual described in subpara-  
8           graph (C) who did not make (or who made  
9           and discontinued) an election of COBRA  
10          continuation coverage on the basis of the  
11          reduction of hours of employment, the in-  
12          voluntary termination of employment of  
13          such individual after the date of the enact-  
14          ment of the American Workers, State, and  
15          Business Relief Act of 2010 shall be treat-  
16          ed as a qualifying event.

17          “(ii) COUNTING COBRA DURATION PE-  
18          RIOD FROM PREVIOUS QUALIFYING  
19          EVENT.—In any case of an individual re-  
20          ferred to in clause (i), the period of such  
21          individual’s continuation coverage shall be  
22          determined as though the qualifying event  
23          were the reduction of hours of employ-  
24          ment.

1                   “(iii) CONSTRUCTION.—Nothing in  
2                   this paragraph shall be construed as re-  
3                   quiring an individual referred to in clause  
4                   (i) to make a payment for COBRA con-  
5                   tinuation coverage between the reduction  
6                   of hours and the involuntary termination  
7                   of employment.

8                   “(iv) PREEXISTING CONDITIONS.—  
9                   With respect to an individual referred to in  
10                  clause (i) who elects COBRA continuation  
11                  coverage pursuant to such clause, rules  
12                  similar to the rules in paragraph (4)(C)  
13                  shall apply.

14                  “(B) NOTICES.—In the case of an indi-  
15                  vidual described in subparagraph (C), the ad-  
16                  ministrator of the group health plan (or other  
17                  entity) involved shall provide, during the 60-day  
18                  period beginning on the date of such individ-  
19                  ual’s involuntary termination of employment, an  
20                  additional notification described in paragraph  
21                  (7)(A), including information on the provisions  
22                  of this paragraph. Rules similar to the rules of  
23                  paragraph (7) shall apply with respect to such  
24                  notification.

1           “(C) INDIVIDUALS DESCRIBED.—Individ-  
2           uals described in this subparagraph are individ-  
3           uals who are assistance eligible individuals on  
4           the basis of a qualifying event consisting of a  
5           reduction of hours occurring during the period  
6           described in paragraph (3)(A) followed by an  
7           involuntary termination of employment insofar  
8           as such involuntary termination of employment  
9           occurred after the date of the enactment of the  
10          American Workers, State, and Business Relief  
11          Act of 2010.”.

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

15          (3) ENFORCEMENT.—Subsection (a)(5) of such  
16          section is amended by adding at the end the fol-  
17          lowing: “In addition to civil actions that may be  
18          brought to enforce applicable provisions of such Act  
19          or other laws, the appropriate Secretary or an af-  
20          fected individual may bring a civil action to enforce  
21          such determinations and for appropriate relief. In  
22          addition, such Secretary may assess a penalty  
23          against a plan sponsor or health insurance issuer of  
24          not more than \$110 per day for each failure to com-  
25          ply with such determination of such Secretary after



1 subsection (c)(3) and inserting “section  
2 3001(a)(1)(A) of title III of division B of  
3 the American Recovery and Reinvestment  
4 Act of 2009”; and

5 (iii) by redesignating subsections (e)  
6 and (f) as subsections (f) and (g), respec-  
7 tively, and inserting after subsection (d)  
8 the following new subsection:.

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

12 “(1) based on a reasonable interpretation of  
13 section 3001(a)(3)(C) of division B of the American  
14 Recovery and Reinvestment Act of 2009 and admin-  
15 istrative guidance thereunder, an employer deter-  
16 mines that the qualifying event with respect to  
17 COBRA continuation coverage for an individual was  
18 involuntary termination of a covered employee’s em-  
19 ployment, and

20 “(2) the employer maintains supporting docu-  
21 mentation of the determination, including an attes-  
22 tation by the employer of involuntary termination  
23 with respect to the covered employee,



1 the qualifying event for the individual shall be deemed to  
2 be involuntary termination of the covered employee's em-  
3 ployment.”.

4 (D) Subsection (a) of section 6720C is  
5 amended by striking “section 3002(a)(2)(C) of  
6 the Health Insurance Assistance for the Unem-  
7 ployed Act of 2009” and inserting “section  
8 3001(a)(2)(C) of title III of division B of the  
9 American Recovery and Reinvestment Act of  
10 2009”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect as if included in the provisions  
13 of section 3001 of division B of the American Recovery  
14 and Reinvestment Act of 2009 to which they relate, except  
15 that—

16 (1) the amendments made by subsections (b)(1)  
17 shall apply to periods of coverage beginning after the  
18 date of the enactment of this Act; and

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

1 **SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS**  
2 **PROCESS.**

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

6 **SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE**  
7 **MEDICAL EQUIPMENT ACCREDITATION RE-**  
8 **QUIREMENTS.**

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

11 (1) in subparagraph (F)—

12 (A) in clause (i)—

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

15 (ii) by striking “January 1, 2010”  
16 and inserting “January 1, 2011”; and

17 (iii) by striking “and” at the end;

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

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

22 “(iii)(I) subject to subclause (II), with  
23 respect to items and services furnished on  
24 or after January 1, 2011, the accreditation  
25 requirement of clause (i) shall not apply to

1 a pharmacy described in subparagraph  
2 (G); and

3 “(II) effective with respect to items  
4 and services furnished on or after the date  
5 of the enactment of this subparagraph, the  
6 Secretary may apply to pharmacies quality  
7 standards and an accreditation require-  
8 ment established by the Secretary that are  
9 an alternative to the quality standards and  
10 accreditation requirement otherwise appli-  
11 cable under this paragraph if the Secretary  
12 determines such alternative quality stand-  
13 ards and accreditation requirement are ap-  
14 propriate for pharmacies.”; and

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

17 “If determined appropriate by the Secretary,  
18 any alternative quality standards and accredita-  
19 tion requirement established under clause  
20 (iii)(II) may differ for categories of pharmacies  
21 established by the Secretary (such as phar-  
22 macies described in subparagraph (G)).”; and

23 (2) by adding at the end the following new sub-  
24 paragraph:

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

4                   “(i) The total billings by the phar-  
5                   macy for such items and services under  
6                   this title are less than 5 percent of total  
7                   pharmacy sales for a previous period (of  
8                   not less than 24 months) specified by the  
9                   Secretary.

10                   “(ii) The pharmacy has been enrolled  
11                   under section 1866(j) as a supplier of du-  
12                   rable medical equipment, prosthetics,  
13                   orthotics, and supplies, has been issued  
14                   (which may include the renewal of) a pro-  
15                   vider number for at least 2 years, and for  
16                   which a final adverse action (as defined in  
17                   section 424.57(a) of title 42, Code of Fed-  
18                   eral Regulations) has not been imposed in  
19                   the past 2 years.

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

1                   “(iv) The pharmacy agrees to submit  
2                   materials as requested by the Secretary, or  
3                   during the course of an audit conducted on  
4                   a random sample of pharmacies selected  
5                   annually, to verify that the pharmacy  
6                   meets the criteria described in clauses (i)  
7                   and (ii). Materials submitted under the  
8                   preceding sentence shall include a certifi-  
9                   cation by an independent accountant on  
10                  behalf of the pharmacy or the submission  
11                  of tax returns filed by the pharmacy dur-  
12                  ing the relevant periods, as requested by  
13                  the Secretary.”.

14                  (b)           CONFORMING            AMENDMENTS.—Section  
15   1834(a)(20)(E) of the Social Security Act (42 U.S.C.  
16   1395m(a)(20)(E)) is amended—

17                   (1) in the first sentence, by striking “The” and  
18                   inserting “Except as provided in the third sentence,  
19                   the”; and

20                   (2) by adding at the end the following new sen-  
21                   tences: “Notwithstanding the preceding sentences,  
22                   any alternative quality standards and accreditation  
23                   requirement established under subparagraph  
24                   (F)(iii)(II) shall be established through notice and  
25                   comment rulemaking. The Secretary may implement

1 by program instruction or otherwise subparagraph  
2 (G) after consultation with representatives of rel-  
3 evant parties. The specifications developed by the  
4 Secretary in order to implement subparagraph (G)  
5 shall be posted on the Internet website of the Cen-  
6 ters for Medicare & Medicaid Services.”.

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

9 (d) RULE OF CONSTRUCTION.—Nothing in the provi-  
10 sions of, or amendments made by, this section shall be  
11 construed as affecting the application of an accreditation  
12 requirement for pharmacies to qualify for bidding in a  
13 competitive acquisition area under section 1847 of the So-  
14 cial Security Act (42 U.S.C. 1395w-3).

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

1 **SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH**  
2 **SERVICES.**

3 Section 138(a)(1) of the Medicare Improvements for  
4 Patients and Providers Act of 2008 (Public Law 110–275)  
5 is amended by striking “December 31, 2009” and insert-  
6 ing “December 31, 2010”.

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

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

10 (1) in subparagraph (A)—

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

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

17 (b) **AIR AMBULANCE IMPROVEMENTS.**—Section  
18 146(b)(1) of the Medicare Improvements for Patients and  
19 Providers Act of 2008 (Public Law 110–275) is amended  
20 by striking “ending on December 31, 2009” and inserting  
21 “ending on December 31, 2010”.

22 (c) **SUPER RURAL AMBULANCE.**—Section  
23 1834(l)(12)(A) of the Social Security Act (42 U.S.C.  
24 1395m(l)(12)(A)) is amended—

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

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

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

9           Section 1848(e)(1)(E) of the Social Security Act (42  
10 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before  
11 January 1, 2010” and inserting “before January 1,  
12 2011”.

13 **SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COM-**  
14 **PONENT OF CERTAIN PHYSICIAN PATHOL-**  
15 **OGY SERVICES.**

16           Section 542(c) of the Medicare, Medicaid, and  
17 SCHIP Benefits Improvement and Protection Act of 2000  
18 (as enacted into law by section 1(a)(6) of Public Law 106-  
19 554), as amended by section 732 of the Medicare Prescrip-  
20 tion Drug, Improvement, and Modernization Act of 2003  
21 (42 U.S.C. 1395w-4 note), section 104 of division B of  
22 the Tax Relief and Health Care Act of 2006 (42 U.S.C.  
23 1395w-4 note), section 104 of the Medicare, Medicaid,  
24 and SCHIP Extension Act of 2007 (Public Law 110-  
25 173), and section 136 of the Medicare Improvements for



1 Patients and Providers Act of 2008 (Public Law 110–  
2 275), is amended by striking “and 2009” and inserting  
3 “2009, and 2010”.

4 **SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS**  
5 **PROVISION.**

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

8 (1) in subclause (II)—

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

11 (B) in the second sentence, by striking “or  
12 2009” and inserting “, 2009, or 2010”; and

13 (2) in subclause (III), by striking “January 1,  
14 2010” and inserting “January 1, 2011”.

15 **SEC. 219. EHR CLARIFICATION.**

16 (a) **QUALIFICATION FOR CLINIC-BASED PHYSI-**  
17 **CIANS.—**

18 (1) **MEDICARE.**—Section 1848(o)(1)(C)(ii) of  
19 the Social Security Act (42 U.S.C. 1395w–  
20 4(o)(1)(C)(ii)) is amended by striking “setting  
21 (whether inpatient or outpatient)” and inserting “in-  
22 patient or emergency room setting”.

23 (2) **MEDICAID.**—Section 1903(t)(3)(D) of the  
24 Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is  
25 amended by striking “setting (whether inpatient or

1 outpatient)” and inserting “inpatient or emergency  
2 room setting”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 subsection (a) shall be effective as if included in the enact-  
5 ment of the HITECH Act (included in the American Re-  
6 covery and Reinvestment Act of 2009 (Public Law 111–  
7 5)).

8 (c) IMPLEMENTATION.—Notwithstanding any other  
9 provision of law, the Secretary may implement the amend-  
10 ments made by this section by program instruction or oth-  
11 erwise.

12 **SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDI-**  
13 **CARE PART B SERVICES FURNISHED BY CER-**  
14 **TAIN INDIAN HOSPITALS AND CLINICS.**

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

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

22 (a) EXTENSION OF CERTAIN PAYMENT RULES.—  
23 Section 114(c) of the Medicare, Medicaid, and SCHIP Ex-  
24 tension Act of 2007 (42 U.S.C. 1395ww note), as amend-  
25 ed by section 4302(a) of the American Recovery and Rein-

1 vestment Act (Public Law 111–5), is amended by striking  
2 “3-year period” each place it appears and inserting “4-  
3 year period”.

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

10 **SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL**  
11 **FLEXIBILITY PROGRAM.**

12 Section 1820(j) of the Social Security Act (42 U.S.C.  
13 1395i–4(j)) is amended—

14 (1) by striking “2010, and for” and inserting  
15 “2010, for”; and

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

20 **SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSI-**  
21 **FICATIONS.**

22 (a) IN GENERAL.—Subsection (a) of section 106 of  
23 division B of the Tax Relief and Health Care Act of 2006  
24 (42 U.S.C. 1395 note), as amended by section 117 of the  
25 Medicare, Medicaid, and SCHIP Extension Act of 2007

1 (Public Law 110–173) and section 124 of the Medicare  
2 Improvements for Patients and Providers Act of 2008  
3 (Public Law 110–275), is amended by striking “Sep-  
4 tember 30, 2009” and inserting “September 30, 2010”.

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

19 **SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL**  
20 **ACCESS HOSPITAL SERVICES.**

21 (a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8)  
22 of section 1834 of the Social Security Act (42 U.S.C.  
23 1395m) are each amended by inserting “101 percent of”  
24 before “the reasonable costs”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect as if included in the enact-  
3 ment of section 405(a) of the Medicare Prescription Drug,  
4 Improvement, and Modernization Act of 2003 (Public Law  
5 108–173; 117 Stat. 2266).

6 **SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR**  
7 **SPECIAL NEEDS INDIVIDUALS.**

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

11 (b) TEMPORARY EXTENSION OF AUTHORITY TO OP-  
12 ERATE BUT NO SERVICE AREA EXPANSION FOR DUAL  
13 SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN  
14 REQUIREMENTS.—Section 164(c)(2) of the Medicare Im-  
15 provements for Patients and Providers Act of 2008 (Pub-  
16 lic Law 110–275) is amended by striking “December 31,  
17 2010” and inserting “December 31, 2011”.

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

19 Section 1876(h)(5)(C)(ii) of the Social Security Act  
20 (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the mat-  
21 ter preceding subclause (I), by striking “January 1, 2010”  
22 and inserting “January 1, 2011”.

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

3 For plan year 2011 and subsequent plan years, to  
4 the extent that the Secretary of Health and Human Serv-  
5 ices is applying the 2008 service area extension waiver pol-  
6 icy (as modified in the April 11, 2008, Centers for Medi-  
7 care & Medicaid Services' memorandum with the subject  
8 "2009 Employer Group Waiver-Modification of the 2008  
9 Service Area Extension Waiver Granted to Certain MA  
10 Local Coordinated Care Plans") to Medicare Advantage  
11 coordinated care plans, the Secretary shall extend the ap-  
12 plication of such waiver policy to employers who contract  
13 directly with the Secretary as a Medicare Advantage pri-  
14 vate fee-for-service plan under section 1857(i)(2) of the  
15 Social Security Act (42 U.S.C. 1395w-27(i)(2)) and that  
16 had enrollment as of January 1, 2010.

17 **SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT**  
18 **COMMUNITY PROGRAM.**

19 Notwithstanding any other provision of law, the Sec-  
20 retary of Health and Human Services shall continue to  
21 conduct the Erickson Advantage Continuing Care Retire-  
22 ment Community (CCRC) program under part C of title  
23 XVIII of the Social Security Act through December 31,  
24 2011.

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

3 (a) ADDITIONAL FUNDING FOR STATE HEALTH IN-  
4 SURANCE PROGRAMS.—Subsection (a)(1)(B) of section  
5 119 of the Medicare Improvements for Patients and Pro-  
6 viders Act of 2008 (42 U.S.C. 1395b–3 note) is amended  
7 by striking “(42 U.S.C. 1395w–23(f))” and all that fol-  
8 lows through the period at the end and inserting “(42  
9 U.S.C. 1395w–23(f)), to the Centers for Medicare & Med-  
10 icaid Services Program Management Account—

11 “(i) for fiscal year 2009, of  
12 \$7,500,000; and

13 “(ii) for fiscal year 2010, of  
14 \$6,000,000.

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

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

23 “(i) for fiscal year 2009, of  
24 \$7,500,000; and

25 “(ii) for fiscal year 2010, of  
26 \$6,000,000.

1           Amounts appropriated under this subparagraph  
2           shall remain available until expended.”.

3           (c) ADDITIONAL FUNDING FOR AGING AND DIS-  
4 ABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of  
5 such section 119 is amended by striking “(42 U.S.C.  
6 1395w–23(f))” and all that follows through the period at  
7 the end and inserting “(42 U.S.C. 1395w–23(f)), to the  
8 Administration on Aging—

9                           “(i) for fiscal year 2009, of  
10                           \$5,000,000; and

11                           “(ii) for fiscal year 2010, of  
12                           \$6,000,000.

13           Amounts appropriated under this subparagraph  
14           shall remain available until expended.”.

15           (d) ADDITIONAL FUNDING FOR CONTRACT WITH  
16 THE NATIONAL CENTER FOR BENEFITS AND OUTREACH  
17 ENROLLMENT.—Subsection (d)(2) of such section 119 is  
18 amended by striking “(42 U.S.C. 1395w–23(f))” and all  
19 that follows through the period at the end and inserting  
20 “(42 U.S.C. 1395w–23(f)), to the Administration on  
21 Aging—

22                           “(i) for fiscal year 2009, of  
23                           \$5,000,000; and

24                           “(ii) for fiscal year 2010, of  
25                           \$2,000,000.





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

3 (B) in paragraph (3)(B)(i), by striking  
4 “July 1, 2010” each place it appears and in-  
5 serting “January 1, 2011”; and

6 (C) in paragraph (4)(C)(ii), by striking  
7 “the 3-consecutive-month period beginning with  
8 January 2010” and inserting “any 3-consecu-  
9 tive-month period that begins after December  
10 2009 and ends before January 2011”;

11 (3) in subsection (g)—

12 (A) in paragraph (1), by striking “Sep-  
13 tember 30, 2011” and inserting “March 31,  
14 2012”;

15 (B) in paragraph (2)—

16 (i) by inserting “of such Act” after  
17 “1923”; and

18 (ii) by adding at the end the following  
19 new sentence: “Voluntary contributions by  
20 a political subdivision to the non-Federal  
21 share of expenditures under the State  
22 Medicaid plan or to the non-Federal share  
23 of payments under section 1923 of the So-  
24 cial Security Act shall not be considered to

1 be required contributions for purposes of  
2 this section.”; and

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

4 “(3) CERTIFICATION BY CHIEF EXECUTIVE OF-  
5 FICER.—No additional Federal funds shall be paid  
6 to a State as a result of this section with respect to  
7 a calendar quarter occurring during the period be-  
8 ginning on January 1, 2011, and ending on June  
9 30, 2011, unless, not later than 45 days after the  
10 date of enactment of this paragraph, the chief execu-  
11 tive officer of the State certifies that the State will  
12 request and use such additional Federal funds.”;  
13 and

14 (4) in subsection (h)(3), by striking “December  
15 31, 2010” and inserting “June 30, 2011”.

## 16 **Subtitle C—Other Provisions**

### 17 **SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDE-** 18 **LINES.**

19 Section 1012 of the Department of Defense Appro-  
20 priations Act, 2010 (Public Law 111–118) is amended—

21 (1) by striking “before March 1, 2010”; and

22 (2) by inserting “for 2011” after “until up-  
23 dated poverty guidelines”.

1 **SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRA-**  
2 **TION OF FEDERAL PROGRAMS AND FEDER-**  
3 **ALLY ASSISTED PROGRAMS.**

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

6 **“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-**  
7 **TION OF FEDERAL PROGRAMS AND FEDER-**  
8 **ALLY ASSISTED PROGRAMS.**

9 “(a) IN GENERAL.—Notwithstanding any other pro-  
10 vision of law, any refund (or advance payment with respect  
11 to a refundable credit) made to any individual under this  
12 title shall not be taken into account as income, and shall  
13 not be taken into account as resources for a period of 12  
14 months from receipt, for purposes of determining the eligi-  
15 bility of such individual (or any other individual) for bene-  
16 fits or assistance (or the amount or extent of benefits or  
17 assistance) under any Federal program or under any State  
18 or local program financed in whole or in part with Federal  
19 funds.

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to amounts received after Decem-  
3 ber 31, 2009.

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

5 Section 438 of the Social Security Act (42 U.S.C.  
6 629h) is amended—

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

9 (2) in subsection (e), by striking “2010” and  
10 inserting “2011”.

11 **SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE**  
12 **PROGRAM.**

13 Section 129 of the Continuing Appropriations Reso-  
14 lution, 2010 (Public Law 111-68), as amended by section  
15 1005 of Public Law 111-118, is further amended by strik-  
16 ing “by substituting” and all that follows through the pe-  
17 riod at the end, and inserting “by substituting December  
18 31, 2010, for the date specified in each such section.”.

19 **SEC. 245. EXTENSION OF INTELLIGENCE AUTHORITY SUN-**  
20 **SETS.**

21 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-  
22 IZATION ACT OF 2005.—Section 102(b)(1) of the USA  
23 PATRIOT Improvement and Reauthorization Act of 2005  
24 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C.  
25 1861 note, and 50 U.S.C. 1862 note) is amended by strik-

1 ing “February 28, 2010” and inserting “February 28,  
2 2011”.

3 (b) INTELLIGENCE REFORM AND TERRORISM PRE-  
4 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-  
5 ligence Reform and Terrorism Prevention Act of 2004  
6 (Public Law 108–458; 118 Stat. 3742; 50 U.S.C. 1801  
7 note) is amended by striking “February 28, 2010” and  
8 inserting “February 28, 2011”.

9 **SEC. 246. EMERGENCY DISASTER ASSISTANCE.**

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

12 (1) DISASTER COUNTY.—

13 (A) IN GENERAL.—The term “disaster  
14 county” means a county included in the geo-  
15 graphic area covered by a qualifying natural  
16 disaster declaration for the 2009 crop year.

17 (B) EXCLUSION.—The term “disaster  
18 county” does not include a contiguous county.

19 (2) ELIGIBLE AQUACULTURE PRODUCER.—The  
20 term “eligible aquaculture producer” means an  
21 aquaculture producer that during the 2009 calendar  
22 year, as determined by the Secretary—

23 (A) produced an aquaculture species for  
24 which feed costs represented a substantial per-

1           centage of the input costs of the aquaculture  
2           operation; and

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

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

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

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

15               (B) experienced crop losses in a disaster  
16               county due to excessive rainfall or related condi-  
17               tion.

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

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

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

5 (b) SUPPLEMENTAL DIRECT PAYMENT.—

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

19           (2) ACRE PROGRAM.—Eligible producers that  
20 received payments under section 1105 of the Food,  
21 Conservation, and Energy Act of 2008 (7 U.S.C.  
22 8715) for the 2009 crop year and that otherwise  
23 meet the requirements of paragraph (1) shall be eli-  
24 gible to receive supplemental payments under that  
25 paragraph in an amount equal to 90 percent of the



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

5 (3) INSURANCE REQUIREMENT.—As a condition  
6 of receiving assistance under this subsection, eligible  
7 producers on a farm that—

8 (A) in the case of an insurable commodity,  
9 did not obtain a policy or plan of insurance for  
10 the insurable commodity under the Federal  
11 Crop Insurance Act (7 U.S.C. 1501 et seq.)  
12 (other than for a crop insurance pilot program  
13 under that Act) for each crop of economic sig-  
14 nificance (other than crops intended for graz-  
15 ing), shall obtain such a policy or plan for those  
16 crops for the next available crop year, as deter-  
17 mined by the Secretary; or

18 (B) in the case of a noninsurable com-  
19 modity, did not file the required paperwork, and  
20 pay the administrative fee by the applicable  
21 State filing deadline, for the noninsurable com-  
22 modity under section 196 of the Federal Agri-  
23 culture Improvement and Reform Act of 1996  
24 (7 U.S.C. 7333) for each crop of economic sig-  
25 nificance (other than crops intended for graz-

1           ing), shall obtain such coverage for those crops  
2           for the next available crop year, as determined  
3           by the Secretary.

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

11          (c) SPECIALTY CROP ASSISTANCE.—

12           (1) IN GENERAL.—Of the funds of the Com-  
13          modity Credit Corporation, the Secretary shall use  
14          not more than \$150,000,000, to remain available  
15          until September 30, 2011, to carry out a program  
16          of grants to States to assist eligible specialty crop  
17          producers for losses due to excessive rainfall and re-  
18          lated conditions affecting the 2009 crops.

19           (2) NOTIFICATION.—Not later than 60 days  
20          after the date of enactment of this Act, the Sec-  
21          retary shall notify the State department of agri-  
22          culture (or similar entity) in each State of the avail-  
23          ability of funds to assist eligible specialty crop pro-  
24          ducers, including such terms as are determined by

1 the Secretary to be necessary for the equitable treat-  
2 ment of eligible specialty crop producers.

3 (3) PROVISION OF GRANTS.—

4 (A) IN GENERAL.—The Secretary shall  
5 make grants to States for disaster counties with  
6 excessive rainfall and related conditions on a  
7 pro rata basis based on the value of specialty  
8 crop losses in those counties during the 2008  
9 calendar year, as determined by the Secretary.

10 (B) TIMING.—Not later than 120 days  
11 after the date of enactment of this Act, the Sec-  
12 retary shall make grants to States to provide  
13 assistance under this subsection.

14 (C) MAXIMUM GRANT.—The maximum  
15 amount of a grant made to a State under this  
16 subsection may not exceed \$40,000,000.

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

21 (A) use grant funds to assist eligible spe-  
22 cialty crop producers;

23 (B) provide assistance to eligible specialty  
24 crop producers not later than 90 days after the

1 date on which the State receives grant funds;  
2 and

3 (C) not later than 30 days after the date  
4 on which the State provides assistance to eligi-  
5 ble specialty crop producers, submit to the Sec-  
6 retary a report that describes—

7 (i) the manner in which the State pro-  
8 vided assistance;

9 (ii) the amounts of assistance pro-  
10 vided by type of specialty crop; and

11 (iii) the process by which the State  
12 determined the levels of assistance to eligi-  
13 ble specialty crop producers.

14 (5) RELATION TO OTHER LAW.—Assistance re-  
15 ceived under this subsection shall be included in the  
16 calculation of farm revenue for the 2009 crop year  
17 under section 531(b)(4)(A) of the Federal Crop In-  
18 surance Act (7 U.S.C. 1531(b)(4)(A)) and section  
19 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.  
20 2497(b)(4)(A)).

21 (d) COTTONSEED ASSISTANCE.—

22 (1) IN GENERAL.—Of the funds of the Com-  
23 modity Credit Corporation, the Secretary shall use  
24 not more than \$42,000,000 to provide supplemental

1 assistance to eligible producers and first-handlers of  
2 the 2009 crop of cottonseed in a disaster county.

3 (2) GENERAL TERMS.—Except as otherwise  
4 provided in this subsection, the Secretary shall pro-  
5 vide disaster assistance under this subsection under  
6 the same terms and conditions as assistance pro-  
7 vided under section 3015 of the Emergency Agricul-  
8 tural Disaster Assistance Act of 2006 (title III of  
9 Public Law 109-234; 120 Stat. 477).

10 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-  
11 retary shall distribute assistance to first handlers for  
12 the benefit of eligible producers in a disaster county  
13 in an amount equal to the product obtained by mul-  
14 tiplying—

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

17 (B) the county-eligible production, as de-  
18 termined under paragraph (5).

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

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

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

1           (5) COUNTY-ELIGIBLE PRODUCTION.—The  
2 county-eligible production shall be equal to the prod-  
3 uct obtained by multiplying—

4           (A) the number of acres planted to cotton  
5 in the disaster county, as reported to the Sec-  
6 retary by first-handlers;

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

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

17 (e) AQUACULTURE ASSISTANCE.—

18           (1) GRANT PROGRAM.—

19           (A) IN GENERAL.—Of the funds of the  
20 Commodity Credit Corporation, the Secretary  
21 shall use not more than \$25,000,000, to remain  
22 available until September 30, 2011, to carry out  
23 a program of grants to States to assist eligible  
24 aquaculture producers for losses associated with

1 high feed input costs during the 2009 calendar  
2 year.

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

12 (C) PROVISION OF GRANTS.—

13 (i) IN GENERAL.—The Secretary shall  
14 make grants to States under this sub-  
15 section on a pro rata basis based on the  
16 amount of aquaculture feed used in each  
17 State during the 2008 calendar year, as  
18 determined by the Secretary.

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

23 (D) REQUIREMENTS.—The Secretary shall  
24 make grants under this subsection only to

1 States that demonstrate to the satisfaction of  
2 the Secretary that the State will—

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

5 (ii) provide assistance to eligible aqua-  
6 culture producers not later than 60 days  
7 after the date on which the State receives  
8 grant funds; and

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

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

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

18 (III) the process by which the  
19 State determined the levels of assist-  
20 ance to eligible aquaculture producers.

21 (2) REDUCTION IN PAYMENTS.—An eligible  
22 aquaculture producer that receives assistance under  
23 this subsection shall not be eligible to receive any  
24 other assistance under the supplemental agricultural  
25 disaster assistance program established under sec-



1       tion 531 of the Federal Crop Insurance Act (7  
2       U.S.C. 1531) and section 901 of the Trade Act of  
3       1974 (19 U.S.C. 2497) for any losses in 2009 relat-  
4       ing to the same species of aquaculture.

5           (3) REPORT TO CONGRESS.—Not later than  
6       240 days after the date of enactment of this Act, the  
7       Secretary shall submit to the appropriate committees  
8       of Congress a report that—

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

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

13       (f) HAWAII TRANSPORTATION COOPERATIVE.—Not-  
14       withstanding any other provision of law, the Secretary  
15       shall use \$21,000,000 of funds of the Commodity Credit  
16       Corporation to make a payment to an agricultural trans-  
17       portation cooperative in the State of Hawaii, the members  
18       of which are eligible to participate in the commodity loan  
19       program of the Farm Service Agency, for assistance to  
20       maintain and develop employment.

21       (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

24           (A) IN GENERAL.—The term “disaster  
25       county” means a county included in the geo-

1 graphic area covered by a qualifying natural  
2 disaster declaration announced by the Secretary  
3 in calendar year 2009.

4 (B) INCLUSION.—The term “disaster  
5 county” includes a contiguous county.

6 (2) PAYMENTS.—Of the funds of the Com-  
7 modity Credit Corporation, the Secretary shall use  
8 not more than \$50,000,000 to carry out a program  
9 to make payments to eligible producers that had  
10 grazing losses in disaster counties in calendar year  
11 2009.

12 (3) CRITERIA.—

13 (A) IN GENERAL.—Except as provided in  
14 subparagraph (B), assistance under this sub-  
15 section shall be determined under the same cri-  
16 teria as are used to carry out the programs  
17 under section 531(d) of the Federal Crop In-  
18 surance Act (7 U.S.C. 1531(d)) and section  
19 901(d) of the Trade Act of 1974 (19 U.S.C.  
20 2497(d)).

21 (B) DROUGHT INTENSITY.—For purposes  
22 of this subsection, an eligible producer shall not  
23 be required to meet the drought intensity re-  
24 quirements of section 531(d)(3)(D)(ii) of the  
25 Federal Crop Insurance Act (7 U.S.C.

1           1531(d)(3)(D)(ii) and section 901(d)(3)(D)(ii)  
2           of the Trade Act of 1974 (19 U.S.C.  
3           2497(d)(3)(D)(ii)).

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

10          (5) RELATION TO OTHER LAW.—An eligible  
11          producer that receives assistance under this sub-  
12          section shall be ineligible to receive assistance for  
13          2009 grazing losses under the program carried out  
14          under section 531(d) of the Federal Crop Insurance  
15          Act (7 U.S.C. 1531(d)) and section 901(d) of the  
16          Trade Act of 1974 (19 U.S.C. 2497(d)) .

17          (h) EMERGENCY LOANS FOR POULTRY PRO-  
18          DUCERS.—

19           (1) DEFINITIONS.—In this subsection:

20           (A) ANNOUNCEMENT DATE.—The term  
21           “announcement date” means the date on which  
22           the Secretary announces the emergency loan  
23           program under this subsection.

24           (B) POULTRY INTEGRATOR.—The term  
25           “poultry integrator” means a poultry integrator

1 that filed proceedings under chapter 11 of title  
2 11, United States Code, in United States Bank-  
3 ruptcy Court during the 30-day period begin-  
4 ning on December 1, 2008.

5 (2) LOAN PROGRAM.—

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

13 (B) TERMS AND CONDITIONS.—Except as  
14 otherwise provided in this subsection, emer-  
15 gency loans under this subsection shall be sub-  
16 ject to such terms and conditions as are deter-  
17 mined by the Secretary.

18 (3) LOANS.—

19 (A) IN GENERAL.—An emergency loan  
20 made to a poultry producer under this sub-  
21 section shall be for the purpose of providing fi-  
22 nancing to the poultry producer in response to  
23 financial losses associated with the termination  
24 or nonrenewal of any contract between the poul-  
25 try producer and a poultry integrator.

1 (B) ELIGIBILITY.—

2 (i) IN GENERAL.—To be eligible for  
3 an emergency loan under this subsection,  
4 not later than 90 days after the announce-  
5 ment date, a poultry producer shall submit  
6 to the Secretary evidence that—

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

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

13 (ii) REQUIREMENT TO OFFER  
14 LOANS.—Notwithstanding any other provi-  
15 sion of law, if a poultry producer meets the  
16 eligibility requirements described in clause  
17 (i), subject to the availability of funds  
18 under paragraph (2)(A), the Secretary  
19 shall offer to make a loan under this sub-  
20 section to the poultry producer with a min-  
21 imum term of 2 years.

22 (4) ADDITIONAL REQUIREMENTS.—

23 (A) IN GENERAL.—A poultry producer  
24 that receives an emergency loan under this sub-  
25 section may use the emergency loan proceeds

1           only to repay the amount that the poultry pro-  
2           ducer owes to any lender.

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

11       (i) ADMINISTRATION.—

12           (1) REGULATIONS.—

13                   (A) IN GENERAL.—As soon as practicable  
14           after the date of enactment of this Act, the Sec-  
15           retary shall promulgate such regulations as are  
16           necessary to implement this section.

17                   (B) PROCEDURE.—The promulgation of  
18           the regulations and administration of this sec-  
19           tion shall be made without regard to—

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

23                           (ii) the Statement of Policy of the  
24                           Secretary of Agriculture effective July 24,  
25                           1971 (36 Fed. Reg. 13804), relating to no-

1                   tices of proposed rulemaking and public  
2                   participation in rulemaking; and

3                   (iii) chapter 35 of title 44, United  
4                   States Code (commonly known as the “Pa-  
5                   perwork Reduction Act”).

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

11                  (2) ADMINISTRATIVE COSTS.—Of the funds of  
12                  the Commodity Credit Corporation, the Secretary  
13                  may use up to \$15,000,000 to pay administrative  
14                  costs incurred by the Secretary that are directly re-  
15                  lated to carrying out this Act.

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

20 **SEC. 247. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**  
21 **MENT EXTENSIONS.**

22                  (a) APPROPRIATION.—There is appropriated, out of  
23 any funds in the Treasury not otherwise appropriated, for  
24 an additional amount for “Small Business Administration  
25 – Business Loans Program Account”, \$354,000,000, to

1 remain available through December 31, 2010, for the cost  
2 of—

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

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

18 *Provided*, That such costs, including the cost of modifying  
19 such loans, shall be as defined in section 502 of the Con-  
20 gressional Budget Act of 1974.

21           (b) EXTENSION OF PROGRAMS.—

22           (1) FEES.—Section 501 of division A of the  
23 American Recovery and Reinvestment Act of 2009  
24 (Public Law 111–5; 123 Stat. 151) is amended by



1 striking “September 30, 2010” each place it appears  
2 and inserting “December 31, 2010”.

3 (2) LOAN GUARANTEES.—Section 502(f) of di-  
4 vision A of the American Recovery and Reinvest-  
5 ment Act of 2009 (Public Law 111–5; 123 Stat.  
6 153) is amended by striking “February 28, 2010”  
7 and inserting “December 31, 2010”.

8 **TITLE III—PENSION FUNDING**  
9 **RELIEF**

10 **Subtitle A—Single Employer Plans**

11 **SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-**  
12 **FINED BENEFIT PLANS TO AMORTIZE CER-**  
13 **TAIN SHORTFALL AMORTIZATION BASES.**

14 (a) AMENDMENTS TO ERISA.—

15 (1) IN GENERAL.—Paragraph (2) of section  
16 303(c) of the Employee Retirement Income Security  
17 Act of 1974 (29 U.S.C. 1083(c)) is amended by add-  
18 ing at the end the following subparagraph:

19 “(D) SPECIAL ELECTION FOR ELIGIBLE  
20 PLAN YEARS.—

21 “(i) IN GENERAL.—If a plan sponsor  
22 elects to apply this subparagraph with re-  
23 spect to the shortfall amortization base of  
24 a plan for any eligible plan year (in this  
25 subparagraph and paragraph (7) referred

1 to as an ‘election year’), then, notwith-  
2 standing subparagraphs (A) and (B)—

3 “(I) the shortfall amortization in-  
4 stallments with respect to such base  
5 shall be determined under clause (ii)  
6 or (iii), whichever is specified in the  
7 election, and

8 “(II) the shortfall amortization  
9 installment for any plan year in the 9-  
10 plan-year period described in clause  
11 (ii) or the 15-plan-year period de-  
12 scribed in clause (iii), respectively,  
13 with respect to such shortfall amorti-  
14 zation base is the annual installment  
15 determined under the applicable  
16 clause for that year for that base.

17 “(ii) 2 PLUS 7 AMORTIZATION SCHED-  
18 ULE.—The shortfall amortization install-  
19 ments determined under this clause are—

20 “(I) in the case of the first 2  
21 plan years in the 9-plan-year period  
22 beginning with the election year, in-  
23 terest on the shortfall amortization  
24 base of the plan for the election year  
25 (determined using the effective inter-

1 est rate for the plan for the election  
2 year), and

3 “(II) in the case of the last 7  
4 plan years in such 9-plan-year period,  
5 the amounts necessary to amortize the  
6 remaining balance of the shortfall am-  
7 ortization base of the plan for the  
8 election year in level annual install-  
9 ments over such last 7 plan years  
10 (using the segment rates under sub-  
11 paragraph (C) for the election year).

12 “(iii) 15-YEAR AMORTIZATION.—The  
13 shortfall amortization installments deter-  
14 mined under this subparagraph are the  
15 amounts necessary to amortize the short-  
16 fall amortization base of the plan for the  
17 election year in level annual installments  
18 over the 15-plan-year period beginning  
19 with the election year (using the segment  
20 rates under subparagraph (C) for the elec-  
21 tion year).

22 “(iv) ELECTION.—

23 “(I) IN GENERAL.—The plan  
24 sponsor of a plan may elect to have  
25 this subparagraph apply to not more

1 than 2 eligible plan years with respect  
2 to the plan, except that in the case of  
3 a plan described in section 106 of the  
4 Pension Protection Act of 2006, the  
5 plan sponsor may only elect to have  
6 this subparagraph apply to a plan  
7 year beginning in 2011.

8 “(II) AMORTIZATION SCHED-  
9 ULE.—Such election shall specify  
10 whether the amortization schedule  
11 under clause (ii) or (iii) shall apply to  
12 an election year, except that if a plan  
13 sponsor elects to have this subpara-  
14 graph apply to 2 eligible plan years,  
15 the plan sponsor must elect the same  
16 schedule for both years.

17 “(III) OTHER RULES.—Such  
18 election shall be made at such time,  
19 and in such form and manner, as  
20 shall be prescribed by the Secretary of  
21 the Treasury, and may be revoked  
22 only with the consent of the Secretary  
23 of the Treasury. The Secretary of the  
24 Treasury shall, before granting a rev-  
25 ocation request, provide the Pension

1           Benefit Guaranty Corporation an op-  
2           portunity to comment on the condi-  
3           tions applicable to the treatment of  
4           any portion of the election year short-  
5           fall amortization base that remains  
6           unamortized as of the revocation date.

7           “(v) ELIGIBLE PLAN YEAR.—For pur-  
8           poses of this subparagraph, the term ‘eligi-  
9           ble plan year’ means any plan year begin-  
10          ning in 2008, 2009, 2010, or 2011, except  
11          that a plan year shall only be treated as an  
12          eligible plan year if the due date under  
13          subsection (j)(1) for the payment of the  
14          minimum required contribution for such  
15          plan year occurs on or after the date of the  
16          enactment of this subparagraph.

17          “(vi) REPORTING.—A plan sponsor of  
18          a plan who makes an election under clause  
19          (i) shall inform the Pension Benefit Guar-  
20          anty Corporation of such election in such  
21          form and manner as the Director of the  
22          Pension Benefit Guaranty Corporation  
23          may prescribe.

24          “(vii) INCREASES IN REQUIRED IN-  
25          STALLMENTS IN CERTAIN CASES.—For in-

1           creases in required contributions in cases  
2           of excess compensation or extraordinary  
3           dividends or stock redemptions, see para-  
4           graph (7).”.

5           (2) INCREASES IN REQUIRED INSTALLMENTS IN  
6           CERTAIN CASES.—Section 303(c) of the Employee  
7           Retirement Income Security Act of 1974 (29 U.S.C.  
8           1083(c)) is amended by adding at the end the fol-  
9           lowing paragraph:

10           “(7) INCREASES IN ALTERNATE REQUIRED IN-  
11           STALLMENTS IN CASES OF EXCESS COMPENSATION  
12           OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-  
13           TIONS.—

14           “(A) IN GENERAL.—If there is an install-  
15           ment acceleration amount with respect to a  
16           plan for any plan year in the 9-plan-year or 15-  
17           plan-year period, whichever is applicable, with  
18           respect to an election year under paragraph  
19           (2)(D), then the shortfall amortization install-  
20           ment otherwise determined and payable under  
21           such paragraph for such payment year shall,  
22           subject to the limitation under subparagraph  
23           (B), be increased by such amount.

24           “(B) TOTAL INSTALLMENTS LIMITED TO  
25           SHORTFALL BASE.—Subject to rules prescribed

1           by the Secretary of the Treasury, if a shortfall  
2           amortization installment with respect to any  
3           shortfall amortization base for an election year  
4           is required to be increased for any plan year  
5           under subparagraph (A)—

6                   “(i) such increase shall not result in  
7                   the amount of such installment exceeding  
8                   the present value of such installment and  
9                   all succeeding installments with respect to  
10                  such base (determined without regard to  
11                  such increase but after application of  
12                  clause (ii)), and

13                   “(ii) subsequent shortfall amortization  
14                   installments with respect to such base  
15                   shall, in reverse order of the otherwise re-  
16                   quired installments, be reduced to the ex-  
17                   tent necessary to limit the present value of  
18                   such subsequent shortfall amortization in-  
19                   stallments (after application of this para-  
20                   graph) to the present value of the remain-  
21                   ing unamortized shortfall amortization  
22                   base.

23                   “(C)       INSTALLMENT       ACCELERATION  
24                   AMOUNT.—For purposes of this paragraph, the

1 term ‘installment acceleration amount’ means,  
2 with respect to any plan year, the sum of—

3 “(i) the aggregate amount of excess  
4 employee compensation determined under  
5 subparagraph (D) with respect to all em-  
6 ployees for the plan year, plus

7 “(ii) the aggregate amount of extraor-  
8 dinary dividends and redemptions deter-  
9 mined under subparagraph (E) for the  
10 plan year.

11 “(D) EXCESS EMPLOYEE COMPENSA-  
12 TION.—For purposes of this paragraph—

13 “(i) IN GENERAL.—The term ‘excess  
14 employee compensation’ means, with re-  
15 spect to any employee for any plan year,  
16 the excess (if any) of—

17 “(I) the aggregate amount in-  
18 cludible in income under chapter 1 of  
19 the Internal Revenue Code of 1986  
20 for remuneration during the calendar  
21 year in which such plan year begins  
22 for services performed by the em-  
23 ployee for the plan sponsor (whether  
24 or not performed during such cal-  
25 endar year), over



1 “(II) \$1,000,000.

2 “(ii) AMOUNTS SET ASIDE FOR NON-

3 QUALIFIED DEFERRED COMPENSATION.—

4 If during any calendar year assets are set

5 aside or reserved (directly or indirectly) in

6 a trust (or other arrangement as deter-

7 mined by the Secretary of the Treasury),

8 or transferred to such a trust or other ar-

9 rangement, by a plan sponsor for purposes

10 of paying deferred compensation of an em-

11 ployee under a nonqualified deferred com-

12 pensation plan (as defined in section 409A

13 of such Code) of the plan sponsor, then,

14 for purposes of clause (i), the amount of

15 such assets shall be treated as remunera-

16 tion of the employee includible in income

17 for the calendar year unless such amount

18 is otherwise includible in income for such

19 year. An amount to which the preceding

20 sentence applies shall not be taken into ac-

21 count under this paragraph for any subse-

22 quent calendar year.

23 “(iii) ONLY REMUNERATION FOR CER-

24 TAIN POST-2009 SERVICES COUNTED.—Re-

25 muneration shall be taken into account

1 under clause (i) only to the extent attrib-  
2 utable to services performed by the em-  
3 ployee for the plan sponsor after February  
4 4, 2010.

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

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

20 “(I) such dollar amount, multi-  
21 plied by

22 “(II) the cost-of-living adjust-  
23 ment determined under section 1(f)(3)  
24 of such Code for the calendar year,  
25 determined by substituting ‘calendar



1 of the plan sponsor, the aggregate fair  
2 market value of the stock so re-  
3 deemed.

4 “(ii) ONLY CERTAIN POST-2009 DIVI-  
5 DENDS AND REDEMPTIONS COUNTED.—

6 For purposes of clause (i)—

7 “(I) dividends shall be taken into  
8 account only if declared after Feb-  
9 ruary 4, 2010, and

10 “(II) if clause (i)(II) otherwise  
11 applies for any plan year (determined  
12 without regard to this subclause), only  
13 the fair market value of redemptions  
14 occurring after February 4, 2010,  
15 shall be taken into account in deter-  
16 mining the amount under such clause  
17 for the plan year.

18 “(F) OTHER DEFINITIONS AND RULES.—

19 For purposes of this paragraph—

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

24 “(ii) ELECTIONS FOR MULTIPLE  
25 PLANS.—If a plan sponsor makes elections

1 under paragraph (2)(D) with respect to 2  
2 or more plans, the Secretary of the Treas-  
3 ury shall provide rules for the application  
4 of this paragraph to such plans, including  
5 rules for the ratable allocation of any in-  
6 stallment acceleration amount among such  
7 plans on the basis of each plan’s relative  
8 reduction in the plan’s shortfall amortiza-  
9 tion installment for the first plan year in  
10 the amortization period described in sub-  
11 paragraph (A) (determined without regard  
12 to this paragraph).”.

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

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

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

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

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

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

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

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

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

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

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

1 scribed in clause (iii), respectively,  
2 with respect to such shortfall amorti-  
3 zation base is the annual installment  
4 determined under the applicable  
5 clause for that year for that base.

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

9 “(I) in the case of the first 2  
10 plan years in the 9-plan-year period  
11 beginning with the election year, in-  
12 terest on the shortfall amortization  
13 base of the plan for the election year  
14 (determined using the effective inter-  
15 est rate for the plan for the election  
16 year), and

17 “(II) in the case of the last 7  
18 plan years in such 9-plan-year period,  
19 the amounts necessary to amortize the  
20 remaining balance of the shortfall am-  
21 ortization base of the plan for the  
22 election year in level annual install-  
23 ments over such last 7 plan years  
24 (using the segment rates under sub-  
25 paragraph (C) for the election year).

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

11          “(iv) ELECTION.—

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

22           “(II) AMORTIZATION SCHED-  
23           ULE.—Such election shall specify  
24           whether the amortization schedule  
25           under clause (ii) or (iii) shall apply to



1 an election year, except that if a plan  
2 sponsor elects to have this subpara-  
3 graph apply to 2 eligible plan years,  
4 the plan sponsor must elect the same  
5 schedule for both years.

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

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

1 subsection (j)(1) for the payment of the  
2 minimum required contribution for such  
3 plan year occurs on or after the date of the  
4 enactment of this subparagraph.

5 “(vi) REPORTING.—A plan sponsor of  
6 a plan who makes an election under clause  
7 (i) shall inform the Pension Benefit Guar-  
8 anty Corporation of such election in such  
9 form and manner as the Director of the  
10 Pension Benefit Guaranty Corporation  
11 may prescribe.

12 “(vii) INCREASES IN REQUIRED IN-  
13 STALLMENTS IN CERTAIN CASES.—For in-  
14 creases in required contributions in cases  
15 of excess compensation or extraordinary  
16 dividends or stock redemptions, see para-  
17 graph (7).”.

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

22 “(7) INCREASES IN ALTERNATE REQUIRED IN-  
23 STALLMENTS IN CASES OF EXCESS COMPENSATION  
24 OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-  
25 TIONS.—

1           “(A) IN GENERAL.—If there is an install-  
2           ment acceleration amount with respect to a  
3           plan for any plan year in the 9-plan-year or 15-  
4           plan-year period, whichever is applicable, with  
5           respect to an election year under paragraph  
6           (2)(D), then the shortfall amortization install-  
7           ment otherwise determined and payable under  
8           such paragraph for such payment year shall,  
9           subject to the limitation under subparagraph  
10          (B), be increased by such amount.

11          “(B) TOTAL INSTALLMENTS LIMITED TO  
12          SHORTFALL BASE.—Subject to rules prescribed  
13          by the Secretary, if a shortfall amortization in-  
14          stallment with respect to any shortfall amorti-  
15          zation base for an election year is required to  
16          be increased for any plan year under subpara-  
17          graph (A)—

18                 “(i) such increase shall not result in  
19                 the amount of such installment exceeding  
20                 the present value of such installment and  
21                 all succeeding installments with respect to  
22                 such base (determined without regard to  
23                 such increase but after application of  
24                 clause (ii)), and

1           “(ii) subsequent shortfall amortization  
2           installments with respect to such base  
3           shall, in reverse order of the otherwise re-  
4           quired installments, be reduced to the ex-  
5           tent necessary to limit the present value of  
6           such subsequent shortfall amortization in-  
7           stallments (after application of this para-  
8           graph) to the present value of the remain-  
9           ing unamortized shortfall amortization  
10          base.

11          “(C)     INSTALLMENT     ACCELERATION  
12          AMOUNT.—For purposes of this paragraph, the  
13          term ‘installment acceleration amount’ means,  
14          with respect to any plan year, the sum of—

15                 “(i) the aggregate amount of excess  
16                 employee compensation determined under  
17                 subparagraph (D) with respect to all em-  
18                 ployees for the plan year, plus

19                 “(ii) the aggregate amount of extraor-  
20                 dinary dividends and redemptions deter-  
21                 mined under subparagraph (E) for the  
22                 plan year.

23          “(D)     EXCESS     EMPLOYEE     COMPENSA-  
24          TION.—For purposes of this paragraph—

1                   “(i) IN GENERAL.—The term ‘excess  
2                   employee compensation’ means, with re-  
3                   spect to any employee for any plan year,  
4                   the excess (if any) of—

5                                 “(I) the aggregate amount in-  
6                                 cludible in income under this chapter  
7                                 for remuneration during the calendar  
8                                 year in which such plan year begins  
9                                 for services performed by the em-  
10                                ployee for the plan sponsor (whether  
11                                or not performed during such cal-  
12                                endar year), over

13                               “(II) \$1,000,000.

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

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

9 “(iii) ONLY REMUNERATION FOR CER-  
10 TAIN POST-2009 SERVICES COUNTED.—Re-  
11 munerations shall be taken into account  
12 under clause (i) only to the extent attrib-  
13 utable to services performed by the em-  
14 ployee for the plan sponsor after February  
15 4, 2010.

16 “(iv) SELF-EMPLOYED INDIVIDUAL  
17 TREATED AS EMPLOYEE.—The term ‘em-  
18 ployee’ includes, with respect to a calendar  
19 year, a self-employed individual who is  
20 treated as an employee under section  
21 401(c) for the taxable year ending during  
22 such calendar year, and the term ‘com-  
23 pensation’ shall include earned income of  
24 such individual with respect to such self-  
25 employment.

1                   “(v) INDEXING OF AMOUNT.—In the  
2 case of any calendar year beginning after  
3 2010, the dollar amount under clause  
4 (i)(II) shall be increased by an amount  
5 equal to—

6                   “(I) such dollar amount, multi-  
7 plied by

8                   “(II) the cost-of-living adjust-  
9 ment determined under section 1(f)(3)  
10 for the calendar year, determined by  
11 substituting ‘calendar year 2009’ for  
12 ‘calendar year 1992’ in subparagraph  
13 (B) thereof.

14 If the amount of any increase under clause  
15 (i) is not a multiple of \$1,000, such in-  
16 crease shall be rounded to the next lowest  
17 multiple of \$1,000.

18                   “(E) EXTRAORDINARY DIVIDENDS AND  
19 REDEMPTIONS.—

20                   “(i) IN GENERAL.—The amount de-  
21 termined under this subparagraph for any  
22 plan year is the sum of—

23                   “(I) the aggregate amount of ex-  
24 traordinary dividends declared during  
25 the plan year by the plan sponsor and

1 required to be reported under section  
2 4043(c)(11) of the Employee Retirement  
3 Income Security Act of 1974  
4 (without regard to any waiver under  
5 such section), plus

6 “(II) if the plan sponsor re-  
7 deems, in any 12-month period ending  
8 during the plan year, an aggregate of  
9 10 percent or more of the total com-  
10 bined voting power of all classes of  
11 stock entitled to vote, or an aggregate  
12 of 10 percent or more of the total  
13 value of shares of all classes of stock,  
14 of the plan sponsor, the aggregate fair  
15 market value of the stock so re-  
16 deemed.

17 “(ii) ONLY CERTAIN POST-2009 DIVI-  
18 DENDS AND REDEMPTIONS COUNTED.—  
19 For purposes of clause (i)—

20 “(I) dividends shall be taken into  
21 account only if declared after Feb-  
22 ruary 4, 2010, and

23 “(II) if clause (i)(II) otherwise  
24 applies for any plan year (determined  
25 without regard to this subclause), only



1 the fair market value of redemptions  
2 occurring after February 4, 2010,  
3 shall be taken into account in deter-  
4 mining the amount under such clause  
5 for the plan year.

6 “(F) OTHER DEFINITIONS AND RULES.—

7 For purposes of this paragraph—

8 “(i) PLAN SPONSOR.—The term ‘ plan  
9 sponsor’ includes any member of the plan  
10 sponsor’s controlled group (as defined in  
11 section 412(d)(3)).

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



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. 303. 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. 311. 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

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 IV—OFFSET PROVISIONS**  
5 **Subtitle A—Black Liquor**

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

8 (a) IN GENERAL.—Subparagraph (E) of section  
9 40(b)(6) is amended by adding at the end the following  
10 new clause:

11 “(iii) EXCLUSION OF UNPROCESSED  
12 FUELS.—The term ‘cellulosic biofuel’ shall  
13 not include any fuel if—

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

17 “(II) the ash content of such fuel  
18 is more than 1 percent (determined by  
19 weight).”.

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

1 **SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT**  
2 **AND ALTERNATIVE FUEL MIXTURE CREDIT**  
3 **FOR BLACK LIQUOR.**

4 (a) IN GENERAL.—The last sentence of section  
5 6426(d)(2) is amended by striking “or biodiesel” and in-  
6 serting “biodiesel, or any fuel (including lignin, wood resi-  
7 dues, or spent pulping liquors) derived from the produc-  
8 tion of paper or pulp”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to fuel sold or used after December  
11 31, 2009.

12 **Subtitle B—Homebuyer Credit**

13 **SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER**  
14 **CREDIT.**

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

19 (1) by striking “or” at the end of paragraph

20 (3),

21 (2) by striking the period at the end of para-  
22 graph (4) and inserting a comma, and

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

25 “(5) in the case of a taxpayer to whom such a  
26 credit would be allowed (but for this paragraph) by



1 reason of subsection (c)(6), the taxpayer fails to at-  
2 tach to the return of tax for such taxable year a  
3 copy of such property tax bills or other documenta-  
4 tion as are required by the Secretary to demonstrate  
5 compliance with the requirements of subsection  
6 (c)(6), or

7 “(6) in the case of a taxpayer to whom such a  
8 credit would be allowed (but for this paragraph) by  
9 reason of subsection (h)(2), the taxpayer fails to at-  
10 tach to the return of tax for such taxable year a  
11 copy of the binding contract which meets the re-  
12 quirements of subsection (h)(2).”.

13 (b) MODIFICATION OF EFFECTIVE DATE OF DOCU-  
14 MENTATION REQUIREMENTS.—Paragraph (2) of section  
15 12(e) of the Worker, Homeownership, and Business As-  
16 sistance Act of 2009 is amended by striking “returns for  
17 taxable years ending after the date of the enactment of  
18 this Act” and inserting “returns filed after the date of  
19 the enactment of this Act”.

20 (c) EFFECTIVE DATES.—

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



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

3           “(A) IN GENERAL.—The potential for  
4 profit of a transaction shall be taken into ac-  
5 count in determining whether the requirements  
6 of subparagraphs (A) and (B) of paragraph (1)  
7 are met with respect to the transaction only if  
8 the present value of the reasonably expected  
9 pre-tax profit from the transaction is substan-  
10 tial in relation to the present value of the ex-  
11 pected net tax benefits that would be allowed if  
12 the transaction were respected.

13           “(B) TREATMENT OF FEES AND FOREIGN  
14 TAXES.—Fees and other transaction expenses  
15 shall be taken into account as expenses in de-  
16 termining pre-tax profit under subparagraph  
17 (A). The Secretary may issue regulations re-  
18 quiring foreign taxes to be treated as expenses  
19 in determining pre-tax profit in appropriate  
20 cases.

21           “(3) STATE AND LOCAL TAX BENEFITS.—For  
22 purposes of paragraph (1), any State or local income  
23 tax effect which is related to a Federal income tax  
24 effect shall be treated in the same manner as a Fed-  
25 eral income tax effect.

1           “(4) FINANCIAL ACCOUNTING BENEFITS.—For  
2 purposes of paragraph (1)(B), achieving a financial  
3 accounting benefit shall not be taken into account as  
4 a purpose for entering into a transaction if the ori-  
5 gin of such financial accounting benefit is a reduc-  
6 tion of Federal income tax.

7           “(5) DEFINITIONS AND SPECIAL RULES.—For  
8 purposes of this subsection—

9           “(A) ECONOMIC SUBSTANCE DOCTRINE.—  
10           The term ‘economic substance doctrine’ means  
11 the common law doctrine under which tax bene-  
12 fits under subtitle A with respect to a trans-  
13 action are not allowable if the transaction does  
14 not have economic substance or lacks a business  
15 purpose.

16           “(B) EXCEPTION FOR PERSONAL TRANS-  
17 ACTIONS OF INDIVIDUALS.—In the case of an  
18 individual, paragraph (1) shall apply only to  
19 transactions entered into in connection with a  
20 trade or business or an activity engaged in for  
21 the production of income.

22           “(C) OTHER COMMON LAW DOCTRINES  
23 NOT AFFECTED.—Except as specifically pro-  
24 vided in this subsection, the provisions of this  
25 subsection shall not be construed as altering or

1           supplanting any other rule of law, and the re-  
2           quirements of this subsection shall be construed  
3           as being in addition to any such other rule of  
4           law.

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

11          “(E) TRANSACTION.—The term ‘trans-  
12          action’ includes a series of transactions.

13          “(6) REGULATIONS.—The Secretary shall pre-  
14          scribe such regulations as may be necessary or ap-  
15          propriate to carry out the purposes of this sub-  
16          section.”.

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

19                 (1) IN GENERAL.—Subsection (b) of section  
20                 6662 is amended by inserting after paragraph (5)  
21                 the following new paragraph:

22                 “(6) Any disallowance of claimed tax benefits  
23                 by reason of a transaction lacking economic sub-  
24                 stance (within the meaning of section 7701(o)) or

1 failing to meet the requirements of any similar rule  
2 of law.”.

3 (2) INCREASED PENALTY FOR NONDISCLOSED  
4 TRANSACTIONS.—Section 6662 is amended by add-  
5 ing at the end the following new subsection:

6 “(i) INCREASE IN PENALTY IN CASE OF NONDIS-  
7 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

8 “(1) IN GENERAL.—In the case of any portion  
9 of an underpayment which is attributable to one or  
10 more nondisclosed noneconomic substance trans-  
11 actions, subsection (a) shall be applied with respect  
12 to such portion by substituting ‘40 percent’ for ‘20  
13 percent’.

14 “(2) NONDISCLOSED NONECONOMIC SUB-  
15 STANCE TRANSACTIONS.—For purposes of this sub-  
16 section, the term ‘nondisclosed noneconomic sub-  
17 stance transaction’ means any portion of a trans-  
18 action described in subsection (b)(6) with respect to  
19 which the relevant facts affecting the tax treatment  
20 are not adequately disclosed in the return nor in a  
21 statement attached to the return.

22 “(3) SPECIAL RULE FOR AMENDED RE-  
23 TURNS.—Except as provided in regulations, in no  
24 event shall any amendment or supplement to a re-  
25 turn of tax be taken into account for purposes of

1 this subsection if the amendment or supplement is  
2 filed after the earlier of the date the taxpayer is first  
3 contacted by the Secretary regarding the examina-  
4 tion of the return or such other date as is specified  
5 by the Secretary.”.

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

8 (A) by striking “section 6662(h)” and in-  
9 serting “subsections (h) or (i) of section 6662”;  
10 and

11 (B) by striking “GROSS VALUATION  
12 MISSTATEMENT PENALTY” in the heading and  
13 inserting “CERTAIN INCREASED UNDER-  
14 PAYMENT PENALTIES”.

15 (c) REASONABLE CAUSE EXCEPTION NOT APPLICA-  
16 BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

17 (1) REASONABLE CAUSE EXCEPTION FOR UN-  
18 DERPAYMENTS.—Subsection (c) of section 6664 is  
19 amended—

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

22 (B) by striking “paragraph (2)” in para-  
23 graph (4)(A), as so redesignated, and inserting  
24 “paragraph (3)”; and

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

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

7 (2) REASONABLE CAUSE EXCEPTION FOR RE-  
8 PORTABLE TRANSACTION UNDERSTATEMENTS.—  
9 Subsection (d) of section 6664 is amended—

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

12 (B) by striking “paragraph (2)(C)” in  
13 paragraph (4), as so redesignated, and inserting  
14 “paragraph (3)(C)”; and

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

17 “(2) EXCEPTION.—Paragraph (1) shall not  
18 apply to any portion of a reportable transaction un-  
19 derstatement which is attributable to one or more  
20 transactions described in section 6662(b)(6).”.

21 (d) APPLICATION OF PENALTY FOR ERRONEOUS  
22 CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-  
23 STANCE TRANSACTIONS.—Section 6676 is amended by re-  
24 designating subsection (c) as subsection (d) and inserting  
25 after subsection (b) the following new subsection:



1       “(c) NONECONOMIC SUBSTANCE TRANSACTIONS  
2 TREATED AS LACKING REASONABLE BASIS.—For pur-  
3 poses of this section, any excessive amount which is attrib-  
4 utable to any transaction described in section 6662(b)(6)  
5 shall not be treated as having a reasonable basis.”.

6       (e) EFFECTIVE DATE.—

7           (1) IN GENERAL.—Except as otherwise pro-  
8 vided in this subsection, the amendments made by  
9 this section shall apply to transactions entered into  
10 after the date of the enactment of this Act.

11          (2) UNDERPAYMENTS.—The amendments made  
12 by subsections (b) and (c)(1) shall apply to under-  
13 payments attributable to transactions entered into  
14 after the date of the enactment of this Act.

15          (3) UNDERSTATEMENTS.—The amendments  
16 made by subsection (c)(2) shall apply to understate-  
17 ments attributable to transactions entered into after  
18 the date of the enactment of this Act.

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

## 1 **Subtitle D—Additional Provisions**

### 2 **SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT** 3 **FUND.**

4 Section 1898(b)(1)(A) of the Social Security Act (42  
5 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b)  
6 of the Department of Defense Appropriations Act, 2010  
7 (Public Law 111–118), is amended by striking  
8 “\$20,740,000,000” and inserting “\$12,740,000,000”.

## 9 **TITLE V—SATELLITE** 10 **TELEVISION EXTENSION**

### 11 **SEC. 501. SHORT TITLE.**

12 This title may be cited as the “Satellite Television  
13 Extension and Localism Act of 2010”.

## 14 **Subtitle A—Statutory Licenses**

### 15 **SEC. 501. REFERENCE.**

16 Except as otherwise provided, whenever in this sub-  
17 title an amendment is made to a section or other provision,  
18 the reference shall be considered to be made to such sec-  
19 tion or provision of title 17, United States Code.

### 20 **SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR** 21 **SATELLITE CARRIERS.**

22 (a) **HEADING RENAMED.—**

23 (1) **IN GENERAL.—**The heading of section 119  
24 is amended by striking “**superstations and net-**  
25 **work stations for private home viewing**”

1 and inserting “**distant television program-**  
2 **ming by satellite**”.

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

“119. Limitations on exclusive rights: Secondary transmissions of distant tele-  
vision programming by satellite.”.

6 (b) UNSERVED HOUSEHOLD DEFINED.—

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

9 (A) by striking subparagraph (A) and in-  
10 serting the following:

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

17 “(i) if the signal originates as an ana-  
18 log signal, Grade B intensity as defined by  
19 the Federal Communications Commission  
20 in section 73.683(a) of title 47, Code of  
21 Federal Regulations, as in effect on Janu-  
22 ary 1, 1999; or

23 “(ii) if the signal originates as a dig-  
24 ital signal, intensity defined in the values

1 for the digital television noise-limited serv-  
2 ice contour, as defined in regulations  
3 issued by the Federal Communications  
4 Commission (section 73.622(e) of title 47,  
5 Code of Federal Regulations), as such reg-  
6 ulations may be amended from time to  
7 time;”;

8 (B) in subparagraph (B)—

9 (i) by striking “subsection (a)(14)”  
10 and inserting “subsection (a)(13),”; and

11 (ii) by striking “Satellite Home View-  
12 er Extension and Reauthorization Act of  
13 2004” and inserting “Satellite Television  
14 Extension and Localism Act of 2010”; and

15 (C) in subparagraph (D), by striking  
16 “(a)(12)” and inserting “(a)(11)”.

17 (2) QUALIFYING DATE DEFINED.—Section  
18 119(d) is amended by adding at the end the fol-  
19 lowing:

20 “(14) QUALIFYING DATE.—The term ‘quali-  
21 fying date’, for purposes of paragraph (10)(A),  
22 means—

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

1                   “(B) January 1, 2011, for all other  
2                   multicast streams.”.

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

4                   (1) in subparagraph (A), by striking “and”  
5                   after the semicolon at the end;

6                   (2) in subparagraph (B), by striking the period  
7                   and inserting “; and”; and

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

9                   “(C) a filing fee, as determined by the  
10                   Register of Copyrights pursuant to section  
11                   708(a).”.

12           (d) DEPOSIT OF STATEMENTS AND FEES;  
13 VERIFICATION PROCEDURES.—Section 119(b) is amend-  
14 ed—

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

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

20                   “(B) a royalty fee payable to copyright  
21                   owners pursuant to paragraph (4) for that 6-  
22                   month period, computed by multiplying the  
23                   total number of subscribers receiving each sec-  
24                   ondary transmission of a primary stream or  
25                   multicast stream of each non-network station or

1 network station during each calendar year  
2 month by the appropriate rate in effect under  
3 this subsection; and”;

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

6 (4) by inserting after paragraph (1) the fol-  
7 lowing:

8 “(2) VERIFICATION OF ACCOUNTS AND FEE  
9 PAYMENTS.—The Register of Copyrights shall issue  
10 regulations to permit interested parties to verify and  
11 audit the statements of account and royalty fees  
12 submitted by satellite carriers under this sub-  
13 section.”;

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

16 (A) by inserting “(including the filing fee  
17 specified in paragraph (1)(C))” after “shall re-  
18 ceive all fees”; and

19 (B) by striking “paragraph (4)” and in-  
20 serting “paragraph (5)”;

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

22 (A) by striking “paragraph (2)” and in-  
23 serting “paragraph (3)”;

24 (B) by striking “paragraph (4)” each place  
25 it appears and inserting “paragraph (5)”;

1 (7) in paragraph (5), as redesignated, by strik-  
2 ing “paragraph (2)” and inserting “paragraph (3)”.

3 (e) ADJUSTMENT OF ROYALTY FEES.—Section  
4 119(c) is amended as follows:

5 (1) Paragraph (1) is amended—

6 (A) in the heading for such paragraph, by  
7 striking “ANALOG”;

8 (B) in subparagraph (A)—

9 (i) by striking “primary analog trans-  
10 missions” and inserting “primary trans-  
11 missions”; and

12 (ii) by striking “July 1, 2004” and in-  
13 serting “July 1, 2009”;

14 (C) in subparagraph (B)—

15 (i) by striking “January 2, 2005, the  
16 Librarian of Congress” and inserting  
17 “March 1, 2010, the Copyright Royalty  
18 Judges”; and

19 (ii) by striking “primary analog trans-  
20 mission” and inserting “primary trans-  
21 missions”;

22 (D) in subparagraph (C), by striking “Li-  
23 brarian of Congress” and inserting “Copyright  
24 Royalty Judges”;

25 (E) in subparagraph (D)—

1 (i) in clause (i)—

2 (I) by striking “(i) Voluntary  
3 agreements” and inserting the fol-  
4 lowing:

5 “(i) VOLUNTARY AGREEMENTS; FIL-  
6 ING.—Voluntary agreements”; and

7 (II) by striking “that a parties”  
8 and inserting “that are parties”; and

9 (ii) in clause (ii)—

10 (I) by striking “(ii)(I) Within”  
11 and inserting the following:

12 “(ii) PROCEDURE FOR ADOPTION OF  
13 FEES.—

14 “(I) PUBLICATION OF NOTICE.—  
15 Within”;

16 (II) in subclause (I), by striking  
17 “an arbitration proceeding pursuant  
18 to subparagraph (E)” and inserting  
19 “a proceeding under subparagraph  
20 (F)”;

21 (III) in subclause (II), by strik-  
22 ing “(II) Upon receiving a request  
23 under subclause (I), the Librarian of  
24 Congress” and inserting the following:



1                   “(II) PUBLIC NOTICE OF  
2 FEES.—Upon receiving a request  
3 under subclause (I), the Copyright  
4 Royalty Judges”; and

5                   (IV) in subclause (III)—

6                   (aa) by striking “(III) The  
7 Librarian” and inserting the fol-  
8 lowing:

9                   “(III) ADOPTION OF FEES.—The  
10 Copyright Royalty Judges”;

11                   (bb) by striking “an arbitra-  
12 tion proceeding” and inserting  
13 “the proceeding under subpara-  
14 graph (F)”;

15                   (cc) by striking “the arbitra-  
16 tion proceeding” and inserting  
17 “that proceeding”;

18                   (F) in subparagraph (E)—

19                   (i) by striking “Copyright Office” and  
20 inserting “Copyright Royalty Judges”; and

21                   (ii) by striking “February 28, 2010”  
22 and inserting “December 31, 2014”; and

23                   (G) in subparagraph (F)—

24                   (i) in the heading, by striking “COM-  
25 PULSORY ARBITRATION” and inserting “

1                   COPYRIGHT   ROYALTY   JUDGES   PRO-  
2                   CEEDING”;

3                   (ii) in clause (i)—

4                   (I) in the heading, by striking  
5                   “PROCEEDINGS” and inserting “THE  
6                   PROCEEDING”;

7                   (II) in the matter preceding sub-  
8                   clause (I)—

9                   (aa) by striking “May 1,  
10                  2005, the Librarian of Congress”  
11                  and inserting “May 3, 2010, the  
12                  Copyright Royalty Judges”;

13                  (bb) by striking “arbitration  
14                  proceedings” and inserting “a  
15                  proceeding”;

16                  (cc) by striking “fee to be  
17                  paid” and inserting “fees to be  
18                  paid”;

19                  (dd) by striking “primary  
20                  analog transmission” and insert-  
21                  ing “the primary transmissions”;  
22                  and

23                  (ee) by striking “distribu-  
24                  tors” and inserting “distribu-  
25                  tors—”;

1 (III) in subclause (II)—

2 (aa) by striking “Librarian  
3 of Congress” and inserting  
4 “Copyright Royalty Judges”; and

5 (bb) by striking “arbitra-  
6 tion”; and

7 (IV) by amending the last sen-  
8 tence to read as follows: “Such pro-  
9 ceeding shall be conducted under  
10 chapter 8.”;

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

14 “(ii) ESTABLISHMENT OF ROYALTY  
15 FEES.—In determining royalty fees under  
16 this subparagraph, the Copyright Royalty  
17 Judges shall establish fees for the sec-  
18 ondary transmissions of the primary trans-  
19 missions of network stations and non-net-  
20 work stations that most clearly represent  
21 the fair market value of secondary trans-  
22 missions, except that the Copyright Roy-  
23 alty Judges shall adjust royalty fees to ac-  
24 count for the obligations of the parties  
25 under any applicable voluntary agreement

1 filed with the Copyright Royalty Judges in  
2 accordance with subparagraph (D). In de-  
3 termining the fair market value, the  
4 Judges shall base their decision on eco-  
5 nomic, competitive, and programming in-  
6 formation presented by the parties, includ-  
7 ing—”;

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

10 “(iii) EFFECTIVE DATE FOR DECISION  
11 OF COPYRIGHT ROYALTY JUDGES.—The  
12 obligation to pay the royalty fees estab-  
13 lished under a determination that is made  
14 by the Copyright Royalty Judges in a pro-  
15 ceeding under this paragraph shall be ef-  
16 fective as of January 1, 2010.”; and

17 (v) in clause (iv)—

18 (I) in the heading, by striking  
19 “FEE” and inserting “FEES”; and

20 (II) by striking “fee referred to  
21 in (iii)” and inserting “fees referred  
22 to in clause (iii)”.

23 (2) Paragraph (2) is amended to read as fol-  
24 lows:



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

3           “(11) LOCAL MARKET.—The term ‘local mar-  
4 ket’ has the meaning given such term under section  
5 122(j).”.

6           (3) LOW POWER TELEVISION STATION.—Sec-  
7 tion 119(d) is amended by striking paragraph (12)  
8 and redesignating paragraphs (13) and (14) as  
9 paragraphs (12) and (13), respectively.

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

13           “(14) MULTICAST STREAM.—The term  
14 ‘multicast stream’ means a digital stream containing  
15 programming and program-related material affili-  
16 ated with a television network, other than the pri-  
17 mary stream.”.

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

21           “(15) PRIMARY STREAM.—The term ‘primary  
22 stream’ means—

23           “(A) the single digital stream of program-  
24 ming as to which a television broadcast station  
25 has the right to mandatory carriage with a sat-

1 elite carrier under the rules of the Federal  
2 Communications Commission in effect on July  
3 1, 2009; or

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

6 “(i) the single digital stream of pro-  
7 gramming associated with the network last  
8 transmitted by the station as an analog  
9 signal; or

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

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

19 (g) SUPERSTATION REDESIGNATED AS NON-NET-  
20 WORK STATION.—Section 119 is amended—

21 (1) by striking “superstation” each place it ap-  
22 pears in a heading and each place it appears in text  
23 and inserting “non-network station”; and





1 paragraph (B) of this paragraph and  
2 paragraphs (4), (5), (6), and (7)”;

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

5 (III) in subparagraph (C) (as re-  
6 designated), by striking clauses (i)  
7 and (ii) and inserting the following:

8 “(i) INITIAL LISTS.—A satellite car-  
9 rier that makes secondary transmissions of  
10 a primary transmission made by a network  
11 station pursuant to subparagraph (A)  
12 shall, not later than 90 days after com-  
13 mencing such secondary transmissions,  
14 submit to the network that owns or is af-  
15 filiated with the network station a list  
16 identifying (by name and address, includ-  
17 ing street or rural route number, city,  
18 State, and 9-digit zip code) all subscribers  
19 to which the satellite carrier makes sec-  
20 ondary transmissions of that primary  
21 transmission to subscribers in unserved  
22 households.

23 “(ii) MONTHLY LISTS.—After the sub-  
24 mission of the initial lists under clause (i),  
25 the satellite carrier shall, not later than

1 the 15th of each month, submit to the net-  
2 work a list, aggregated by designated mar-  
3 ket area, identifying (by name and ad-  
4 dress, including street or rural route num-  
5 ber, city, State, and 9-digit zip code) any  
6 persons who have been added or dropped  
7 as subscribers under clause (i) since the  
8 last submission under this subparagraph.”;  
9 and

10 (iii) in subparagraph (E) of para-  
11 graph (3) (as redesignated)—

12 (I) by striking “under paragraph  
13 (3) or”; and

14 (II) by striking “paragraph (12)”  
15 and inserting “paragraph (11)”; and

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

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

20 (1) PREDICTIVE MODEL.—Section  
21 119(a)(2)(B)(ii) is amended by adding at the end  
22 the following:

23 “(III) ACCURATE PREDICTIVE  
24 MODEL WITH RESPECT TO DIGITAL  
25 SIGNALS.—Notwithstanding subclause

1 (I), in determining presumptively  
2 whether a person resides in an  
3 unserved household under subsection  
4 (d)(10)(A) with respect to digital sig-  
5 nals, a court shall rely on a predictive  
6 model set forth by the Federal Com-  
7 munications Commission pursuant to  
8 a rulemaking as provided in section  
9 339(c)(3) of the Communications Act  
10 of 1934 (47 U.S.C. 339(c)(3)), as  
11 that model may be amended by the  
12 Commission over time under such sec-  
13 tion to increase the accuracy of that  
14 model. Until such time as the Com-  
15 mission sets forth such model, a court  
16 shall rely on the predictive model as  
17 recommended by the Commission with  
18 respect to digital signals in its Report  
19 to Congress in ET Docket No. 05-  
20 182, FCC 05-199 (released December  
21 9, 2005).”.

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

1 (A) by striking “analog” each place it ap-  
2 pears in a heading and text;

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

5 “(B) RULES FOR LAWFUL SUBSCRIBERS  
6 AS OF DATE OF ENACTMENT OF 2009 ACT.—In  
7 the case of a subscriber of a satellite carrier  
8 who, on the day before the date of the enact-  
9 ment of the Satellite Television Extension and  
10 Localism Act of 2010, was lawfully receiving  
11 the secondary transmission of the primary  
12 transmission of a network station under the  
13 statutory license under paragraph (2) (in this  
14 subparagraph referred to as the ‘distant sig-  
15 nal’), other than subscribers to whom subpara-  
16 graph (A) applies, the statutory license under  
17 paragraph (2) shall apply to secondary trans-  
18 missions by that satellite carrier to that sub-  
19 scriber of the distant signal of a station affili-  
20 ated with the same television network, and the  
21 subscriber’s household shall continue to be con-  
22 sidered to be an unserved household with re-  
23 spect to such network, until such time as the  
24 subscriber elects to terminate such secondary  
25 transmissions, whether or not the subscriber

1 elects to subscribe to receive the secondary  
2 transmission of the primary transmission of a  
3 local network station affiliated with the same  
4 network pursuant to the statutory license under  
5 section 122.

6 “(C) FUTURE APPLICABILITY.—

7 “(i) WHEN LOCAL SIGNAL AVAILABLE  
8 AT TIME OF SUBSCRIPTION.—The statu-  
9 tory license under paragraph (2) shall not  
10 apply to the secondary transmission by a  
11 satellite carrier of the primary trans-  
12 mission of a network station to a person  
13 who is not a subscriber lawfully receiving  
14 such secondary transmission as of the date  
15 of the enactment of the Satellite Television  
16 Extension and Localism Act of 2010 and,  
17 at the time such person seeks to subscribe  
18 to receive such secondary transmission, re-  
19 sides in a local market where the satellite  
20 carrier makes available to that person the  
21 secondary transmission of the primary  
22 transmission of a local network station af-  
23 filiated with the same network pursuant to  
24 the statutory license under section 122.

1                   “(ii) WHEN LOCAL SIGNAL AVAILABLE  
2                   AFTER SUBSCRIPTION.—In the case of a  
3                   subscriber who lawfully subscribes to and  
4                   receives the secondary transmission by a  
5                   satellite carrier of the primary trans-  
6                   mission of a network station under the  
7                   statutory license under paragraph (2) (in  
8                   this clause referred to as the ‘distant sig-  
9                   nal’) on or after the date of the enactment  
10                  of the Satellite Television Extension and  
11                  Localism Act of 2010, the statutory license  
12                  under paragraph (2) shall apply to sec-  
13                  ondary transmissions by that satellite car-  
14                  rier to that subscriber of the distant signal  
15                  of a station affiliated with the same tele-  
16                  vision network, and the subscriber’s house-  
17                  hold shall continue to be considered to be  
18                  an unserved household with respect to such  
19                  network, until such time as the subscriber  
20                  elects to terminate such secondary trans-  
21                  missions, but only if such subscriber sub-  
22                  scribes to the secondary transmission of  
23                  the primary transmission of a local net-  
24                  work station affiliated with the same net-  
25                  work within 60 days after the satellite car-

1 rier makes available to the subscriber such  
2 secondary transmission of the primary  
3 transmission of such local network sta-  
4 tion.”;

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

8 (D) in subparagraph (E) (as redesignated),  
9 by striking “(C) or (D)” and inserting “(B) or  
10 (C)”;

11 (E) in subparagraph (F) (as redesignated),  
12 by inserting “9-digit” before “zip code”.

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

16 (A) in subparagraph (A)(ii), by striking  
17 “\$5” and inserting “\$250”;

18 (B) in subparagraph (B)—

19 (i) in clause (i), by striking  
20 “\$250,000 for each 6-month period” and  
21 inserting “\$2,500,000 for each 3-month  
22 period”; and

23 (ii) in clause (ii), by striking  
24 “\$250,000” and inserting “\$2,500,000”;

25 and

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

3 “The court shall direct one half of any statu-  
4 tory damages ordered under clause (i) to be de-  
5 posited with the Register of Copyrights for dis-  
6 tribution to copyright owners pursuant to sub-  
7 section (b). The Copyright Royalty Judges shall  
8 issue regulations establishing procedures for  
9 distributing such funds, on a proportional basis,  
10 to copyright owners whose works were included  
11 in the secondary transmissions that were the  
12 subject of the statutory damages.”.

13 (4) TECHNICAL AMENDMENT.—Section  
14 119(a)(4) (as redesignated) is amended by striking  
15 “and 509”.

16 (5) CLERICAL AMENDMENT.—Section  
17 119(a)(2)(B)(iii)(II) is amended by striking “In this  
18 clause” and inserting “In this clause,”.

19 (j) MORATORIUM EXTENSION.—Section 119(e) is  
20 amended by striking “February 28, 2010” and inserting  
21 “December 31, 2014”.

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



1 (1) by striking “of the Code of Federal Regula-  
 2 tions” each place it appears and inserting “, Code  
 3 of Federal Regulations”; and

4 (2) in subsection (d)(6), by striking “or the Di-  
 5 rect” and inserting “, or the Direct”.

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

8 (a) HEADING RENAMED.—

9 (1) IN GENERAL.—The heading of section 122  
 10 is amended by striking “**by satellite carriers**  
 11 **within local markets**” and inserting “**of local**  
 12 **television programming by satellite**”.

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

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

16 (b) STATUTORY LICENSE.—Section 122(a) is amend-  
 17 ed to read as follows:

18 “(a) SECONDARY TRANSMISSIONS INTO LOCAL MAR-  
 19 KETS.—

20 “(1) SECONDARY TRANSMISSIONS OF TELE-  
 21 VISION BROADCAST STATIONS WITHIN A LOCAL MAR-  
 22 KET.—A secondary transmission of a performance  
 23 or display of a work embodied in a primary trans-  
 24 mission of a television broadcast station into the sta-

1           tion’s local market shall be subject to statutory li-  
2           censing under this section if—

3                   “(A) the secondary transmission is made  
4                   by a satellite carrier to the public;

5                   “(B) with regard to secondary trans-  
6                   missions, the satellite carrier is in compliance  
7                   with the rules, regulations, or authorizations of  
8                   the Federal Communications Commission gov-  
9                   erning the carriage of television broadcast sta-  
10                  tion signals; and

11                  “(C) the satellite carrier makes a direct or  
12                  indirect charge for the secondary transmission  
13                  to—

14                           “(i) each subscriber receiving the sec-  
15                           ondary transmission; or

16                           “(ii) a distributor that has contracted  
17                           with the satellite carrier for direct or indi-  
18                           rect delivery of the secondary transmission  
19                           to the public.

20                  “(2) SIGNIFICANTLY VIEWED STATIONS.—

21                           “(A) IN GENERAL.—A secondary trans-  
22                           mission of a performance or display of a work  
23                           embodied in a primary transmission of a tele-  
24                           vision broadcast station to subscribers who re-  
25                           ceive secondary transmissions of primary trans-

1           missions under paragraph (1) shall be subject  
2           to statutory licensing under this paragraph if  
3           the secondary transmission is of the primary  
4           transmission of a network station or a non-net-  
5           work station to a subscriber who resides outside  
6           the station's local market but within a commu-  
7           nity in which the signal has been determined by  
8           the Federal Communications Commission to be  
9           significantly viewed in such community, pursu-  
10          ant to the rules, regulations, and authorizations  
11          of the Federal Communications Commission in  
12          effect on April 15, 1976, applicable to deter-  
13          mining with respect to a cable system whether  
14          signals are significantly viewed in a community.

15                 “(B) WAIVER.—A subscriber who is denied  
16           the secondary transmission of the primary  
17           transmission of a network station or a non-net-  
18           work station under subparagraph (A) may re-  
19           quest a waiver from such denial by submitting  
20           a request, through the subscriber's satellite car-  
21           rier, to the network station or non-network sta-  
22           tion in the local market affiliated with the same  
23           network or non-network where the subscriber is  
24           located. The network station or non-network  
25           station shall accept or reject the subscriber's re-



1 provided for in subparagraph (A) shall not  
2 apply to any low power television station that  
3 retransmits the programs and signals of an-  
4 other television station for more than 2 hours  
5 each day.

6 “(C) NO IMPACT ON OTHER SECONDARY  
7 TRANSMISSIONS OBLIGATIONS.—A satellite car-  
8 rier that makes secondary transmissions of a  
9 primary transmission of a low power television  
10 station under a statutory license provided under  
11 this section is not required, by reason of such  
12 secondary transmissions, to make any other sec-  
13 ondary transmissions.

14 “(4) SPECIAL EXCEPTIONS.—A secondary  
15 transmission of a performance or display of a work  
16 embodied in a primary transmission of a television  
17 broadcast station to subscribers who receive sec-  
18 ondary transmissions of primary transmissions  
19 under paragraph (1) shall, if the secondary trans-  
20 mission is made by a satellite carrier that complies  
21 with the requirements of paragraph (1), be subject  
22 to statutory licensing under this paragraph as fol-  
23 lows:

24 “(A) STATES WITH SINGLE FULL-POWER  
25 NETWORK STATION.—In a State in which there

1 is licensed by the Federal Communications  
2 Commission a single full-power station that was  
3 a network station on January 1, 1995, the stat-  
4 utory license provided for in this paragraph  
5 shall apply to the secondary transmission by a  
6 satellite carrier of the primary transmission of  
7 that station to any subscriber in a community  
8 that is located within that State and that is not  
9 within the first 50 television markets as listed  
10 in the regulations of the Commission as in ef-  
11 fect on such date (47 C.F.R. 76.51).

12 “(B) STATES WITH ALL NETWORK STA-  
13 TIONS AND NON-NETWORK STATIONS IN SAME  
14 LOCAL MARKET.—In a State in which all net-  
15 work stations and non-network stations licensed  
16 by the Federal Communications Commission  
17 within that State as of January 1, 1995, are  
18 assigned to the same local market and that  
19 local market does not encompass all counties of  
20 that State, the statutory license provided under  
21 this paragraph shall apply to the secondary  
22 transmission by a satellite carrier of the pri-  
23 mary transmissions of such station to all sub-  
24 scribers in the State who reside in a local mar-  
25 ket that is within the first 50 major television

1 markets as listed in the regulations of the Com-  
2 mission as in effect on such date (section 76.51  
3 of title 47, Code of Federal Regulations).

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

7 “(i) on January 1, 2004, were in local  
8 markets principally comprised of counties  
9 in another State, and

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

14 the statutory license provided under this para-  
15 graph shall apply to secondary transmissions by  
16 a satellite carrier to subscribers in any such  
17 county of the primary transmissions of any net-  
18 work station located in that State, if the sat-  
19 ellite carrier was making such secondary trans-  
20 missions to any subscribers in that county on  
21 January 1, 2004.

22 “(D) CERTAIN ADDITIONAL STATIONS.—If  
23 2 adjacent counties in a single State are in a  
24 local market comprised principally of counties  
25 located in another State, the statutory license

1 provided for in this paragraph shall apply to  
2 the secondary transmission by a satellite carrier  
3 to subscribers in those 2 counties of the pri-  
4 mary transmissions of any network station lo-  
5 cated in the capital of the State in which such  
6 2 counties are located, if—

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

11 “(ii) the total number of television  
12 households in the 2 counties combined did  
13 not exceed 10,000 for the year 2003 ac-  
14 cording to Nielsen Media Research.

15 “(E) NETWORKS OF NONCOMMERCIAL  
16 EDUCATIONAL BROADCAST STATIONS.—In the  
17 case of a system of three or more noncommer-  
18 cial educational broadcast stations licensed to a  
19 single State, public agency, or political, edu-  
20 cational, or special purpose subdivision of a  
21 State, the statutory license provided for in this  
22 paragraph shall apply to the secondary trans-  
23 mission of the primary transmission of such  
24 system to any subscriber in any county or coun-  
25 ty equivalent within such State, if such sub-



1 scriber is located in a designated market area  
2 that is not otherwise eligible to receive the sec-  
3 ondary transmission of the primary trans-  
4 mission of a noncommercial educational broad-  
5 cast station located within the State pursuant  
6 to paragraph (1).

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

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

14 (1) in paragraph (1), by striking “station a  
15 list” and all that follows through the end and insert-  
16 ing the following: “station—

17 “(A) a list identifying (by name in alpha-  
18 betical order and street address, including coun-  
19 ty and 9-digit zip code) all subscribers to which  
20 the satellite carrier makes secondary trans-  
21 missions of that primary transmission under  
22 subsection (a); and

23 “(B) a separate list, aggregated by des-  
24 ignated market area (by name and address, in-  
25 cluding street or rural route number, city,

1 State, and 9-digit zip code), which shall indicate  
2 those subscribers being served pursuant to  
3 paragraph (2) of subsection (a).”; and

4 (2) in paragraph (2), by striking “network a  
5 list” and all that follows through the end and insert-  
6 ing the following: “network—

7 “(A) a list identifying (by name in alpha-  
8 betical order and street address, including coun-  
9 ty and 9-digit zip code) any subscribers who  
10 have been added or dropped as subscribers  
11 since the last submission under this subsection;  
12 and

13 “(B) a separate list, aggregated by des-  
14 ignated market area (by name and street ad-  
15 dress, including street or rural route number,  
16 city, State, and 9-digit zip code), identifying  
17 those subscribers whose service pursuant to  
18 paragraph (2) of subsection (a) has been added  
19 or dropped since the last submission under this  
20 subsection.”.

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

23 (1) in the heading, by inserting “FOR CERTAIN  
24 SECONDARY TRANSMISSIONS” after “REQUIRED”;  
25 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 ated) 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. 504. 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 receipts 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. 505. 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 make a good faith effort to provide local-  
2 into-local service to all DMAs, such fail-  
3 ure—

4 “(I) is actionable as an act of in-  
5 fringement under section 501 and the  
6 court may in its discretion impose the  
7 remedies provided for in sections 502  
8 through 506 and subsection (a)(6)(B)  
9 of this section; and

10 “(II) shall result in the termi-  
11 nation of the waiver issued under sub-  
12 paragraph (A).

13 “(ii) FAILURE TO PROVIDE LOCAL-  
14 INTO-LOCAL SERVICE.—If the court issuing  
15 a temporary waiver under subparagraph  
16 (A) determines that the satellite carrier  
17 that made the request for such waiver has  
18 failed to provide local-into-local service to  
19 all DMAs, but determines that the carrier  
20 acted reasonably and in good faith, the  
21 court may in its discretion impose financial  
22 penalties that reflect—

23 “(I) the degree of control the  
24 carrier had over the circumstances  
25 that resulted in the failure;

1                   “(II) the quality of the carrier’s  
2                   efforts to remedy the failure; and

3                   “(III) the severity and duration  
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. 506. 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. 507. 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. 508. 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. 521. 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. 522. 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. 523. 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. 524. 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

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. 525. 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 523 and section  
3 524 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. 526. 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. 527. 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           cational 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. 528. 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. 529. 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. 531. 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. 532. 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. 533. 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. 534. 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. 535. 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  
19 526 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. 536. 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. 541. 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 VI—OTHER PROVISIONS**

2     **SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAY-**  
3                   **MENT UPDATE.**

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

8           (1) in subparagraph (A), by striking “February  
9           28, 2010” and inserting “September 30, 2010”; and

10          (2) in subparagraph (B), by striking “March 1,  
11          2010” and inserting “October 1, 2010”.

12     **DIVISION B—DETERMINATION**  
13           **OF BUDGETARY EFFECTS**

14     **SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.**

15          (a) IN GENERAL.—The budgetary effects of this Act,  
16     for the purpose of complying with the Statutory Pay-As-  
17     You-Go-Act of 2010, shall be determined by reference to  
18     the latest statement titled “Budgetary Effects of PAYGO  
19     Legislation” for this Act, submitted for printing in the  
20     Congressional Record by the Chairman of the Senate  
21     Budget Committee, provided that such statement has been  
22     submitted prior to the vote on passage.

23          (b) EMERGENCY DESIGNATION.—Sections 201, 211,  
24     and 232 of this Act are designated as an emergency re-  
25     quirement pursuant to section 4(g) of the Statutory Pay-

1 As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C.  
2 933(g)) and section 403(a) of S. Con. Res. 13 (111th Con-  
3 gress), the concurrent resolution on the budget for fiscal  
4 year 2010. In the House of Representatives, sections 201,  
5 211, and 232 of this Act are designated as an emergency  
6 for purposes of pay-as-you-go principles.

Amend the title so as to read: “An Act to extend relief to unemployed workers, to extend expiring provisions, and for other purposes.”.