

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

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

H. R. 4213

To amend the Internal Revenue Code of 1986 to extend certain expiring provisions, 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 IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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

4 **TABLE OF CONTENTS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “American Workers, State, and Business Relief Act of
7 2010”.

8 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
9 wise expressly provided, whenever in this Act an amend-
10 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

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

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

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

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

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

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

PART II—LOW-INCOME HOUSING CREDITS

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

Subtitle C—Business Tax Relief

- Sec. 131. Research credit.
- Sec. 132. Indian employment tax credit.
- Sec. 133. New markets tax credit.

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

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

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

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

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

SUBPART B—GO ZONE

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

SUBPART C—MIDWESTERN DISASTER AREAS

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

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

- Sec. 201. Extension of unemployment insurance provisions.

Subtitle B—Health Provisions

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

Subtitle C—Other Provisions

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

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

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

Subtitle B—Multiemployer Plans

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

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

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

Subtitle B—Homebuyer Credit

- Sec. 411. Technical modifications to homebuyer credit.

Subtitle C—Economic Substance

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

Subtitle D—Additional Provisions

- Sec. 431. Revision to the Medicare Improvement Fund.

TITLE V—SATELLITE TELEVISION EXTENSION

- Sec. 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.

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Sec. 508. Construction.

Subtitle B—Communications Provisions

Sec. 521. Reference.

Sec. 522. Extension of authority.

Sec. 523. Significantly viewed stations.

Sec. 524. Digital television transition conforming amendments.

Sec. 525. Application pending completion of rulemakings.

Sec. 526. Process for issuing qualified carrier certification.

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

Sec. 528. Savings clause regarding definitions.

Sec. 529. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision

Sec. 531. Definition.

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

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

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

Sec. 535. Local network channel broadcast reports.

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

Sec. 537. Effective date; noninfringement of copyright.

Subtitle D—Severability

Sec. 541. Severability.

TITLE VI—OTHER PROVISIONS

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

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

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to fuel sold or used after December
6 31, 2009.

7 **SEC. 103. CREDIT FOR ELECTRICITY PRODUCED AT CER-**
8 **TAIN OPEN-LOOP BIOMASS FACILITIES.**

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

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

15 **SEC. 104. CREDIT FOR REFINED COAL FACILITIES.**

16 (a) IN GENERAL .—Subparagraphs (A) and (B) of
17 section 45(d)(8) are each amended by striking “January
18 1, 2010” and inserting “January 1, 2011”.

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

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

2 **SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUS-**
3 **ING CREDIT FOR 2010.**

4 (a) IN GENERAL.—Section 42 is amended by redesignig-
5 nating subsection (n) as subsection (o) and by inserting
6 after subsection (m) the following new subsection:

7 “(n) ELECTION FOR REFUNDABLE CREDITS.—

8 “(1) IN GENERAL.—The housing credit agency
9 of each State shall be allowed a credit in an amount
10 equal to such State’s 2010 low-income housing re-
11 fundable credit election amount, which shall be pay-
12 able by the Secretary as provided in paragraph (5).

13 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
14 CREDIT ELECTION AMOUNT.—For purposes of this
15 subsection, the term ‘2010 low-income housing re-
16 fundable credit election amount’ means, with respect
17 to any State, such amount as the State may elect
18 which does not exceed 85 percent of the product
19 of—

20 “(A) the sum of—

21 “(i) 100 percent of the State housing
22 credit ceiling for 2010 which is attrib-
23 utable to amounts described in clauses (i)
24 and (iii) of subsection (h)(3)(C), and

25 “(ii) 40 percent of the State housing
26 credit ceiling for 2010 which is attrib-

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 C—Midwestern Disaster Areas**

2 **SEC. 191. 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. 192. 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 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect as if included in the enact-
8 ment of the Department of Defense Appropriations Act,
9 2010 (Public Law 111–118).

10 **Subtitle B—Health Provisions**

11 **SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM AS-** 12 **SISTANCE FOR COBRA BENEFITS.**

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

18 (b) CLARIFICATIONS RELATING TO SECTION 3001 OF
19 ARRA.—

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

1 (A) in paragraph (3)(C), by inserting be-
2 fore the period at the end the following: “or
3 consists of a reduction of hours followed by
4 such an involuntary termination of employment
5 during such period”;

6 (B) in paragraph (16)—

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

9 “(ii) such individual pays, by the lat-
10 est of 60 days after the date of the enact-
11 ment of this paragraph, 30 days after the
12 date of provision of the notification re-
13 quired under subparagraph (D)(ii), or the
14 period described in section
15 4980B(f)(2)(B)(iii) of the Internal Rev-
16 enue Code of 1986, the amount of such
17 premium, after the application of para-
18 graph (1)(A).”; and

19 (ii) by striking subclause (I) of sub-
20 paragraph (C)(i), and inserting the fol-
21 lowing:

22 “(I) such assistance eligible indi-
23 vidual experienced an involuntary ter-
24 mination that was a qualifying event
25 prior to the date of enactment of the

1 Department of Defense Appropria-
2 tions Act, 2010; and”;

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

4 “(17) SPECIAL RULES IN CASE OF INDIVIDUALS
5 LOSING COVERAGE BECAUSE OF A REDUCTION OF
6 HOURS.—

7 “(A) NEW ELECTION PERIOD.—

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

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

1 were the reduction of hours of employ-
2 ment.

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

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

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

1 paragraph (7) shall apply with respect to such
2 notification.

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

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

17 (3) ENFORCEMENT.—Subsection (a)(5) of such
18 section is amended by adding at the end the fol-
19 lowing: “In addition to civil actions that may be
20 brought to enforce applicable provisions of such Act
21 or other laws, the appropriate Secretary or an af-
22 fected individual may bring a civil action to enforce
23 such determinations and for appropriate relief. In
24 addition, such Secretary may assess a penalty
25 against a plan sponsor or health insurance issuer of

1 not more than \$110 per day for each failure to com-
2 ply with such determination of such Secretary after
3 10 days after the date of the plan sponsor's or
4 issuer's receipt of the determination.”.

5 (4) AMENDMENTS RELATING TO SECTION 3001
6 OF ARRA.—

7 (A) Subsection (g) of section 35 is amend-
8 ed by striking “section 3002(a) of the Health
9 Insurance Assistance for the Unemployed Act
10 of 2009” and inserting “section 3001(a) of title
11 III of division B of the American Recovery and
12 Reinvestment Act of 2009”.

13 (B) Section 139C is amended by striking
14 “section 3002 of the Health Insurance Assist-
15 ance for the Unemployed Act of 2009” and in-
16 serting “section 3001 of title III of division B
17 of the American Recovery and Reinvestment
18 Act of 2009”.

19 (C) Section 6432 is amended—

20 (i) in subsection (a), by striking “sec-
21 tion 3002(a) of the Health Insurance As-
22 sistance for the Unemployed Act of 2009”
23 and inserting “section 3001(a) of title III
24 of division B of the American Recovery
25 and Reinvestment Act of 2009”;

1 (ii) in subsection (e)(3), by striking
2 “section 3002(a)(1)(A) of such Act” in
3 subsection (e)(3) and inserting “section
4 3001(a)(1)(A) of title III of division B of
5 the American Recovery and Reinvestment
6 Act of 2009”; and

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

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

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

22 “(2) the employer maintains supporting docu-
23 mentation of the determination, including an attes-
24 tation by the employer of involuntary termination
25 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) RULES RELATING TO 2010 EXTENSION.—Sub-
12 section (a) of section 3001 of division B of the American
13 Recovery and Reinvestment Act of 2009 (Public Law 111–
14 5), as amended by subsection (b)(1)(C), is further amend-
15 ed by adding at the end the following:

16 “(18) RULES RELATED TO 2010 EXTENSION.—

17 “(A) ELECTION TO PAY PREMIUMS RETRO-
18 ACTIVELY AND MAINTAIN COBRA COVERAGE.—

19 In the case of any premium for a period of cov-
20 erage during an assistance eligible individual's
21 2010 transition period, such individual shall be
22 treated for purposes of any COBRA continu-
23 ation provision as having timely paid the
24 amount of such premium if—

1 “(i) such individual’s qualifying event
2 was on or after March 1, 2010 and prior
3 to the date of enactment of this paragraph,
4 and

5 “(ii) such individual pays, by the lat-
6 est of 60 days after the date of the enact-
7 ment of this paragraph, 30 days after the
8 date of provision of the notification re-
9 quired under paragraph (16)(D)(ii) (as ap-
10 plied by subparagraph (D) of this para-
11 graph), or the period described in section
12 4980B(f)(2)(B)(iii) of the Internal Rev-
13 enue Code of 1986, the amount of such
14 premium, after the application of para-
15 graph (1)(A).

16 “(B) REFUNDS AND CREDITS FOR RETRO-
17 ACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In
18 the case of an assistance eligible individual who
19 pays, with respect to any period of COBRA
20 continuation coverage during such individual’s
21 2010 transition period, the premium amount
22 for such coverage without regard to paragraph
23 (1)(A), rules similar to the rules of paragraph
24 (12)(E) shall apply.

25 “(C) 2101 TRANSITION PERIOD.—

1 “(i) IN GENERAL.—For purposes of
2 this paragraph, the term ‘transition period’
3 means, with respect to any assistance eligi-
4 ble individual, any period of coverage if—

5 “(I) such assistance eligible indi-
6 vidual experienced an involuntary ter-
7 mination that was a qualifying event
8 prior to the date of enactment of the
9 American Workers, State, and Busi-
10 ness Relief Act of 2010, and

11 “(II) paragraph (1)(A) applies to
12 such period by reason of the amend-
13 ments made by section 211 of the
14 American Workers, State, and Busi-
15 ness Relief Act of 2010.

16 “(ii) CONSTRUCTION.—Any period
17 during the period described in subclauses
18 (I) and (II) of clause (i) for which the ap-
19 plicable premium has been paid pursuant
20 to subparagraph (A) shall be treated as a
21 period of coverage referred to in such para-
22 graph, irrespective of any failure to timely
23 pay the applicable premium (other than
24 pursuant to subparagraph (A)) for such
25 period.

1 “(D) NOTIFICATION.—Notification provi-
2 sions similar to the provisions of paragraph
3 (16)(E) shall apply for purposes of this para-
4 graph.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect as if included in the provisions
7 of section 3001 of division B of the American Recovery
8 and Reinvestment Act of 2009 to which they relate, except
9 that—

10 (1) the amendments made by subsections (b)(1)
11 shall apply to periods of coverage beginning after the
12 date of the enactment of this Act; and

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

16 **SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS**
17 **PROCESS.**

18 Section 1833(g)(5) of the Social Security Act (42
19 U.S.C. 1395l(g)(5)) is amended by striking “December
20 31, 2009” and inserting “December 31, 2010”.

21 **SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE**
22 **MEDICAL EQUIPMENT ACCREDITATION RE-**
23 **QUIREMENTS.**

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

1 (1) in subparagraph (F)—

2 (A) in clause (i)—

3 (i) by striking “clause (ii)” and in-
4 sserting “clauses (ii) and (iii)”;

5 (ii) by striking “January 1, 2010”
6 and inserting “January 1, 2011”; and

7 (iii) by striking “and” at the end;

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

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

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

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

1 cable under this paragraph if the Secretary
2 determines such alternative quality stand-
3 ards and accreditation requirement are ap-
4 propriate for pharmacies.”; and

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

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

13 (2) by adding at the end the following new sub-
14 paragraph:

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

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

24 “(ii) The pharmacy has been enrolled
25 under section 1866(j) as a supplier of du-

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

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

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

1 ing the relevant periods, as requested by
2 the Secretary.”.

3 (b) CONFORMING AMENDMENTS.—Section
4 1834(a)(20)(E) of the Social Security Act (42 U.S.C.
5 1395m(a)(20)(E)) is amended—

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

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

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

23 (d) RULE OF CONSTRUCTION.—Nothing in the provi-
24 sions of, or amendments made by, this section shall be
25 construed as affecting the application of an accreditation

1 requirement for pharmacies to qualify for bidding in a
2 competitive acquisition area under section 1847 of the So-
3 cial Security Act (42 U.S.C. 1395w-3).

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

15 **SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH**
16 **SERVICES.**

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

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

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

24 (1) in subparagraph (A)—

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

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

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

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

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

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

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

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

6 **SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COM-**
7 **PONENT OF CERTAIN PHYSICIAN PATHOL-**
8 **OGY SERVICES.**

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

22 **SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS**
23 **PROVISION.**

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

1 (1) in subclause (II)—

2 (A) in the first sentence, by striking
3 “2010” and inserting “2011”; and

4 (B) in the second sentence, by striking “or
5 2009” and inserting “, 2009, or 2010”; and

6 (2) in subclause (III), by striking “January 1,
7 2010” and inserting “January 1, 2011”.

8 (b) PERMITTING ALL SOLE COMMUNITY HOSPITALS
9 TO BE ELIGIBLE FOR HOLD HARMLESS.—Section
10 1833(t)(7)(D)(i)(III) of the Social Security Act (42
11 U.S.C. 1395l(t)(7)(D)(i)(III)) is amended by adding at
12 the end the following new sentence: “In the case of covered
13 OPD services furnished on or after January 1, 2010, and
14 before January 1, 2011, the preceding sentence shall be
15 applied without regard to the 100-bed limitation.”.

16 **SEC. 219. EHR CLARIFICATION.**

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

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

24 (2) MEDICAID.—Section 1903(t)(3)(D) of the
25 Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is

1 amended by striking “setting (whether inpatient or
2 outpatient)” and inserting “inpatient or emergency
3 room setting”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall be effective as if included in the enact-
6 ment of the HITECH Act (included in the American Re-
7 covery and Reinvestment Act of 2009 (Public Law 111–
8 5)).

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

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

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

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

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

1 ed by section 4302(a) of the American Recovery and Rein-
2 vestment Act (Public Law 111–5), is amended by striking
3 “3-year period” each place it appears and inserting “4-
4 year period”.

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

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

13 Section 1820(j) of the Social Security Act (42 U.S.C.
14 1395i–4(j)) is amended—

15 (1) by striking “2010, and for” and inserting
16 “2010, for”; and

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

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

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

1 Medicare, Medicaid, and SCHIP Extension Act of 2007
2 (Public Law 110–173) and section 124 of the Medicare
3 Improvements for Patients and Providers Act of 2008
4 (Public Law 110–275), is amended by striking “Sep-
5 tember 30, 2009” and inserting “September 30, 2010”.

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

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

22 (a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8)
23 of section 1834 of the Social Security Act (42 U.S.C.
24 1395m) are each amended by inserting “101 percent of”
25 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 **SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.**

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

24 (b) FUNDING.—

1 (1) IN GENERAL.—Subsection (f)(1) of such
2 section is amended by inserting “and for fiscal year
3 2010, \$1,600,000,” after “\$6,000,000,”.

4 (2) AVAILABILITY.—Subsection (f)(2) of such
5 section is amended by striking “2010” and inserting
6 “2014 or until expended”.

7 (c) REPORTS.—

8 (1) QUALITY IMPROVEMENT AND SAVINGS.—
9 Subsection (e)(3) of such section is amended by
10 striking “December 1, 2008” and inserting “18
11 months after the date of the enactment of the Amer-
12 ican Workers, State, and Business Relief Act of
13 2010”.

14 (2) FINAL REPORT.—Subsection (e)(4) of such
15 section is amended by striking “May 1, 2010” and
16 inserting “42 months after the date of the enact-
17 ment of the American Workers, State, and Business
18 Relief Act of 2010”.

19 **Subtitle C—Other Provisions**

20 **SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDE-** 21 **LINES.**

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

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

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

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

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

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

8 Section 438 of the Social Security Act (42 U.S.C.
9 629h) is amended—

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

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

14 **SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE**
15 **PROGRAM.**

16 Section 129 of the Continuing Appropriations Reso-
17 lution, 2010 (Public Law 111-68), as amended by section
18 1005 of Public Law 111-118, is further amended by strik-
19 ing “by substituting” and all that follows through the pe-
20 riod at the end, and inserting “by substituting December
21 31, 2010, for the date specified in each such section.”.

22 **SEC. 245. EMERGENCY DISASTER ASSISTANCE.**

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

1 (1) DISASTER COUNTY.—

2 (A) IN GENERAL.—The term “disaster
3 county” means a county included in the geo-
4 graphic area covered by a qualifying natural
5 disaster declaration for the 2009 crop year.

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

8 (2) ELIGIBLE AQUACULTURE PRODUCER.—The
9 term “eligible aquaculture producer” means an
10 aquaculture producer that during the 2009 calendar
11 year, as determined by the Secretary—

12 (A) produced an aquaculture species for
13 which feed costs represented a substantial per-
14 centage of the input costs of the aquaculture
15 operation; and

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

19 (3) ELIGIBLE PRODUCER.—The term “eligible
20 producer” means an agricultural producer in a dis-
21 aster county.

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

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

3 (B) experienced crop losses in a disaster
4 county due to excessive rainfall or related condi-
5 tion.

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

12 (6) SECRETARY.—The term “Secretary” means
13 the Secretary of Agriculture.

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

18 (b) SUPPLEMENTAL DIRECT PAYMENT.—

19 (1) IN GENERAL.—Of the funds of the Com-
20 modity Credit Corporation, the Secretary shall use
21 such sums as are necessary to make supplemental
22 payments under sections 1103 and 1303 of the
23 Food, Conservation, and Energy Act of 2008 (7
24 U.S.C. 8713, 8753) to eligible producers on farms
25 located in disaster counties that had at least 1 crop

1 of economic significance (other than crops intended
2 for grazing) suffer at least a 5-percent crop loss due
3 to a natural disaster, including quality losses, as de-
4 termined by the Secretary, in an amount equal to 90
5 percent of the direct payment the eligible producers
6 received for the 2009 crop year on the farm.

7 (2) ACRE PROGRAM.—Eligible producers that
8 received payments under section 1105 of the Food,
9 Conservation, and Energy Act of 2008 (7 U.S.C.
10 8715) for the 2009 crop year and that otherwise
11 meet the requirements of paragraph (1) shall be eli-
12 gible to receive supplemental payments under that
13 paragraph in an amount equal to 90 percent of the
14 reduced direct payment the eligible producers re-
15 ceived for the 2009 crop year under section 1103 or
16 1303 of the Food, Conservation, and Energy Act of
17 2008 (7 U.S.C. 8713, 8753).

18 (3) INSURANCE REQUIREMENT.—As a condition
19 of receiving assistance under this subsection, eligible
20 producers on a farm that—

21 (A) in the case of an insurable commodity,
22 did not obtain a policy or plan of insurance for
23 the insurable commodity under the Federal
24 Crop Insurance Act (7 U.S.C. 1501 et seq.)
25 (other than for a crop insurance pilot program

1 under that Act) for each crop of economic sig-
2 nificance (other than crops intended for graz-
3 ing), shall obtain such a policy or plan for those
4 crops for the next available crop year, as deter-
5 mined by the Secretary; or

6 (B) in the case of a noninsurable com-
7 modity, did not file the required paperwork, and
8 pay the administrative fee by the applicable
9 State filing deadline, for the noninsurable com-
10 modity under section 196 of the Federal Agri-
11 culture Improvement and Reform Act of 1996
12 (7 U.S.C. 7333) for each crop of economic sig-
13 nificance (other than crops intended for graz-
14 ing), shall obtain such coverage for those crops
15 for the next available crop year, as determined
16 by the Secretary.

17 (4) RELATIONSHIP TO OTHER LAW.—Assistance
18 received under this subsection shall be included in
19 the calculation of farm revenue for the 2009 crop
20 year under section 531(b)(4)(A) of the Federal Crop
21 Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section
22 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.
23 2497(b)(4)(A)).

24 (c) SPECIALTY CROP ASSISTANCE.—

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

8 (2) NOTIFICATION.—Not later than 60 days
9 after the date of enactment of this Act, the Sec-
10 retary shall notify the State department of agri-
11 culture (or similar entity) in each State of the avail-
12 ability of funds to assist eligible specialty crop pro-
13 ducers, including such terms as are determined by
14 the Secretary to be necessary for the equitable treat-
15 ment of eligible specialty crop producers.

16 (3) PROVISION OF GRANTS.—

17 (A) IN GENERAL.—The Secretary shall
18 make grants to States for disaster counties with
19 excessive rainfall and related conditions on a
20 pro rata basis based on the value of specialty
21 crop losses in those counties during the 2008
22 calendar year, as determined by the Secretary.

23 (B) TIMING.—Not later than 120 days
24 after the date of enactment of this Act, the Sec-

1 retary shall make grants to States to provide
2 assistance under this subsection.

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

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

10 (A) use grant funds to assist eligible spe-
11 cialty crop producers;

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

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

20 (i) the manner in which the State pro-
21 vided assistance;

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

1 (iii) the process by which the State
2 determined the levels of assistance to eligi-
3 ble specialty crop producers.

4 (5) RELATION TO OTHER LAW.—Assistance re-
5 ceived under this subsection shall be included in the
6 calculation of farm revenue for the 2009 crop year
7 under section 531(b)(4)(A) of the Federal Crop In-
8 surance 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 (d) COTTONSEED ASSISTANCE.—

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

17 (2) GENERAL TERMS.—Except as otherwise
18 provided in this subsection, the Secretary shall pro-
19 vide disaster assistance under this subsection under
20 the same terms and conditions as assistance pro-
21 vided under section 3015 of the Emergency Agricul-
22 tural Disaster Assistance Act of 2006 (title III of
23 Public Law 109-234; 120 Stat. 477).

24 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-
25 retary shall distribute assistance to first handlers for

1 the benefit of eligible producers in a disaster county
2 in an amount equal to the product obtained by mul-
3 tiplying—

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

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

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

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

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

14 (5) COUNTY-ELIGIBLE PRODUCTION.—The
15 county-eligible production shall be equal to the prod-
16 uct obtained by multiplying—

17 (A) the number of acres planted to cotton
18 in the disaster county, as reported to the Sec-
19 retary by first-handlers;

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

23 (C) the national average seed-to-lint ratio,
24 as determined by the Secretary based on the
25 best available information for the 5 crop years

1 immediately preceding the 2009 crop, excluding
2 the year in which the average ratio was the
3 highest and the year in which the average ratio
4 was the lowest in such period.

5 (e) AQUACULTURE ASSISTANCE.—

6 (1) GRANT PROGRAM.—

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

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

24 (C) PROVISION OF GRANTS.—

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

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

6 (III) the process by which the
7 State determined the levels of assist-
8 ance to eligible aquaculture producers.

9 (2) REDUCTION IN PAYMENTS.—An eligible
10 aquaculture producer that receives assistance under
11 this subsection shall not be eligible to receive any
12 other assistance under the supplemental agricultural
13 disaster assistance program established under sec-
14 tion 531 of the Federal Crop Insurance Act (7
15 U.S.C. 1531) and section 901 of the Trade Act of
16 1974 (19 U.S.C. 2497) for any losses in 2009 relat-
17 ing to the same species of aquaculture.

18 (3) REPORT TO CONGRESS.—Not later than
19 240 days after the date of enactment of this Act, the
20 Secretary shall submit to the appropriate committees
21 of Congress a report that—

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

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

1 (f) HAWAII TRANSPORTATION COOPERATIVE.—Not-
2 withstanding any other provision of law, the Secretary
3 shall use \$21,000,000 of funds of the Commodity Credit
4 Corporation to make a payment to an agricultural trans-
5 portation cooperative in the State of Hawaii, the members
6 of which are eligible to participate in the commodity loan
7 program of the Farm Service Agency, for assistance to
8 maintain and develop employment.

9 (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

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

17 (B) INCLUSION.—The term “disaster
18 county” includes a contiguous county.

19 (2) PAYMENTS.—Of the funds of the Com-
20 modity Credit Corporation, the Secretary shall use
21 not more than \$50,000,000 to carry out a program
22 to make payments to eligible producers that had
23 grazing losses in disaster counties in calendar year
24 2009.

25 (3) CRITERIA.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), assistance under this sub-
3 section shall be determined under the same cri-
4 teria as are used to carry out the programs
5 under section 531(d) of the Federal Crop In-
6 surance Act (7 U.S.C. 1531(d)) and section
7 901(d) of the Trade Act of 1974 (19 U.S.C.
8 2497(d)).

9 (B) DROUGHT INTENSITY.—For purposes
10 of this subsection, an eligible producer shall not
11 be required to meet the drought intensity re-
12 quirements of section 531(d)(3)(D)(ii) of the
13 Federal Crop Insurance Act (7 U.S.C.
14 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)
15 of the Trade Act of 1974 (19 U.S.C.
16 2497(d)(3)(D)(ii)).

17 (4) AMOUNT.—Assistance under this subsection
18 shall be in an amount equal to 1 monthly payment
19 using the monthly payment rate under section
20 531(d)(3)(B) of the Federal Crop Insurance Act (7
21 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of
22 the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

23 (5) RELATION TO OTHER LAW.—An eligible
24 producer that receives assistance under this sub-
25 section shall be ineligible to receive assistance for

1 2009 grazing losses under the program carried out
2 under section 531(d) of the Federal Crop Insurance
3 Act (7 U.S.C. 1531(d)) and section 901(d) of the
4 Trade Act of 1974 (19 U.S.C. 2497(d)) .

5 (h) EMERGENCY LOANS FOR POULTRY PRO-
6 DUCERS.—

7 (1) DEFINITIONS.—In this subsection:

8 (A) ANNOUNCEMENT DATE.—The term
9 “announcement date” means the date on which
10 the Secretary announces the emergency loan
11 program under this subsection.

12 (B) POULTRY INTEGRATOR.—The term
13 “poultry integrator” means a poultry integrator
14 that filed proceedings under chapter 11 of title
15 11, United States Code, in United States Bank-
16 ruptcy Court during the 30-day period begin-
17 ning on December 1, 2008.

18 (2) LOAN PROGRAM.—

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

1 (B) TERMS AND CONDITIONS.—Except as
2 otherwise provided in this subsection, emer-
3 gency loans under this subsection shall be sub-
4 ject to such terms and conditions as are deter-
5 mined by the Secretary.

6 (3) LOANS.—

7 (A) IN GENERAL.—An emergency loan
8 made to a poultry producer under this sub-
9 section shall be for the purpose of providing fi-
10 nancing to the poultry producer in response to
11 financial losses associated with the termination
12 or nonrenewal of any contract between the poul-
13 try producer and a poultry integrator.

14 (B) ELIGIBILITY.—

15 (i) IN GENERAL.—To be eligible for
16 an emergency loan under this subsection,
17 not later than 90 days after the announce-
18 ment date, a poultry producer shall submit
19 to the Secretary evidence that—

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

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

1 (ii) REQUIREMENT TO OFFER
2 LOANS.—Notwithstanding any other provi-
3 sion of law, if a poultry producer meets the
4 eligibility requirements described in clause
5 (i), subject to the availability of funds
6 under paragraph (2)(A), the Secretary
7 shall offer to make a loan under this sub-
8 section to the poultry producer with a min-
9 imum term of 2 years.

10 (4) ADDITIONAL REQUIREMENTS.—

11 (A) IN GENERAL.—A poultry producer
12 that receives an emergency loan under this sub-
13 section may use the emergency loan proceeds
14 only to repay the amount that the poultry pro-
15 ducer owes to any lender.

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

24 (i) ADMINISTRATION.—

25 (1) REGULATIONS.—

1 (A) IN GENERAL.—As soon as practicable
2 after the date of enactment of this Act, the Sec-
3 retary shall promulgate such regulations as are
4 necessary to implement this section.

5 (B) PROCEDURE.—The promulgation of
6 the regulations and administration of this sec-
7 tion shall be made without regard to—

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

11 (ii) the Statement of Policy of the
12 Secretary of Agriculture effective July 24,
13 1971 (36 Fed. Reg. 13804), relating to no-
14 tices of proposed rulemaking and public
15 participation in rulemaking; and

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

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

24 (2) ADMINISTRATIVE COSTS.—Of the funds of
25 the Commodity Credit Corporation, the Secretary

1 Law 111–5; 123 Stat. 152), as amended by this sec-
2 tion; and

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

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

10 (b) EXTENSION OF PROGRAMS.—

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

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

1 **TITLE III—PENSION FUNDING**
2 **RELIEF**
3 **Subtitle A—Single Employer Plans**

4 **SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-**
5 **FINED BENEFIT PLANS TO AMORTIZE CER-**
6 **TAIN SHORTFALL AMORTIZATION BASES.**

7 (a) AMENDMENTS TO ERISA.—

8 (1) IN GENERAL.—Paragraph (2) of section
9 303(c) of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1083(c)) is amended by add-
11 ing at the end the following subparagraph:

12 “(D) SPECIAL ELECTION FOR ELIGIBLE
13 PLAN YEARS.—

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

21 “(I) the shortfall amortization in-
22 stallments with respect to such base
23 shall be determined under clause (ii)
24 or (iii), whichever is specified in the
25 election, and

1 “(II) the shortfall amortization
2 installment for any plan year in the 9-
3 plan-year period described in clause
4 (ii) or the 15-plan-year period de-
5 scribed in clause (iii), respectively,
6 with respect to such shortfall amorti-
7 zation base is the annual installment
8 determined under the applicable
9 clause for that year for that base.

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

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

21 “(II) in the case of the last 7
22 plan years in such 9-plan-year period,
23 the amounts necessary to amortize the
24 remaining balance of the shortfall am-
25 ortization base of the plan for the

1 election year in level annual install-
2 ments over such last 7 plan years
3 (using the segment rates under sub-
4 paragraph (C) for the election year).

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

15 “(iv) ELECTION.—

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

1 “(II) AMORTIZATION SCHED-
2 ULE.—Such election shall specify
3 whether the amortization schedule
4 under clause (ii) or (iii) shall apply to
5 an election year, except that if a plan
6 sponsor elects to have this subpara-
7 graph apply to 2 eligible plan years,
8 the plan sponsor must elect the same
9 schedule for both years.

10 “(III) OTHER RULES.—Such
11 election shall be made at such time,
12 and in such form and manner, as
13 shall be prescribed by the Secretary of
14 the Treasury, and may be revoked
15 only with the consent of the Secretary
16 of the Treasury. The Secretary of the
17 Treasury shall, before granting a rev-
18 ocation request, provide the Pension
19 Benefit Guaranty Corporation an op-
20 portunity to comment on the condi-
21 tions applicable to the treatment of
22 any portion of the election year short-
23 fall amortization base that remains
24 unamortized as of the revocation date.

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

11 “(vi) REPORTING.—A plan sponsor of
12 a plan who makes an election under clause
13 (i) shall inform the Pension Benefit Guar-
14 anty Corporation of such election in such
15 form and manner as the Director of the
16 Pension Benefit Guaranty Corporation
17 may prescribe.

18 “(vii) INCREASES IN REQUIRED IN-
19 STALLMENTS IN CERTAIN CASES.—For in-
20 creases in required contributions in cases
21 of excess compensation or extraordinary
22 dividends or stock redemptions, see para-
23 graph (7).”.

24 (2) INCREASES IN REQUIRED INSTALLMENTS IN
25 CERTAIN CASES.—Section 303(c) of the Employee

1 Retirement Income Security Act of 1974 (29 U.S.C.
2 1083(e)) is amended by adding at the end the fol-
3 lowing paragraph:

4 “(7) INCREASES IN ALTERNATE REQUIRED IN-
5 STALLMENTS IN CASES OF EXCESS COMPENSATION
6 OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-
7 TIONS.—

8 “(A) IN GENERAL.—If there is an install-
9 ment acceleration amount with respect to a
10 plan for any plan year in the restriction period
11 with respect to an election year under para-
12 graph (2)(D), then the shortfall amortization
13 installment otherwise determined and payable
14 under such paragraph for such plan year shall,
15 subject to the limitation under subparagraph
16 (B), be increased by such amount.

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

24 “(i) such increase shall not result in
25 the amount of such installment exceeding

1 the present value of such installment and
2 all succeeding installments with respect to
3 such base (determined without regard to
4 such increase but after application of
5 clause (ii)), and

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

16 “(C) INSTALLMENT ACCELERATION
17 AMOUNT.—For purposes of this paragraph—

18 “(i) IN GENERAL.—The term ‘install-
19 ment acceleration amount’ means, with re-
20 spect to any plan year in a restriction pe-
21 riod with respect to an election year, the
22 sum of—

23 “(I) the aggregate amount of ex-
24 cess employee compensation deter-
25 mined under subparagraph (D) with

1 respect to all employees for the plan
2 year, plus

3 “(II) the aggregate amount of
4 extraordinary dividends and redemp-
5 tions determined under subparagraph
6 (E) for the plan year.

7 “(ii) LIMITATION TO AGGREGATE RE-
8 DUCED REQUIRED CONTRIBUTIONS.—The
9 installment acceleration amount for any
10 plan year shall not exceed the excess (if
11 any) of—

12 “(I) the sum of the shortfall am-
13 ortization installments for the plan
14 year and all preceding plan years in
15 the amortization period elected under
16 paragraph (2)(D) with respect to the
17 shortfall amortization base with re-
18 spect to an election year, determined
19 without regard to paragraph (2)(D)
20 and this paragraph, over

21 “(II) the sum of the shortfall am-
22 ortization installments for such plan
23 year and all such preceding plan
24 years, determined after application of
25 paragraph (2)(D) (and in the case of

1 any preceding plan year, after applica-
2 tion of this paragraph).

3 “(iii) CARRYOVER OF EXCESS IN-
4 STALLMENT ACCELERATION AMOUNTS.—

5 “(I) IN GENERAL.—If the install-
6 ment acceleration amount for any
7 plan year (determined without regard
8 to clause(ii)) exceeds the limitation
9 under clause (ii), then, subject to sub-
10 clause (II), such excess shall be treat-
11 ed as an installment acceleration
12 amount with respect to the succeeding
13 plan year (without regard to whether
14 such succeeding plan year is in the re-
15 striction period).

16 “(II) CAP TO APPLY.—If any
17 amount treated as an installment ac-
18 celeration amount under subclause (I)
19 or this subclause with respect any
20 succeeding plan year, when added to
21 other installment acceleration
22 amounts (determined without regard
23 to clause (ii)) with respect to the plan
24 year, exceeds the limitation under
25 clause (ii), the portion of such amount

1 representing such excess shall be
2 treated as an installment acceleration
3 amount with respect to the next suc-
4 ceeding plan year (without regard to
5 whether such succeeding plan year is
6 in the restriction period).

7 “(III) ORDERING RULES.—For
8 purposes of applying subclause (II),
9 installment acceleration amounts for
10 the plan year (determined without re-
11 gard to any carryover under this
12 clause) shall be applied first against
13 the limitation under clause (ii) and
14 then carryovers to such plan year
15 shall be applied against such limita-
16 tion on a first-in, first-out basis.

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

19 “(i) IN GENERAL.—The term ‘excess
20 employee compensation’ means, with re-
21 spect to any employee for any plan year,
22 the excess (if any) of—

23 “(I) the aggregate amount in-
24 cludible in income under chapter 1 of
25 the Internal Revenue Code of 1986

1 for remuneration during the calendar
2 year in which such plan year begins
3 for services performed by the em-
4 ployee for the plan sponsor (whether
5 or not performed during such cal-
6 endar year), over

7 “(II) \$1,000,000.

8 “(ii) AMOUNTS SET ASIDE FOR NON-
9 QUALIFIED DEFERRED COMPENSATION.—
10 If during any calendar year assets are set
11 aside or reserved (directly or indirectly) in
12 a trust (or other arrangement as deter-
13 mined by the Secretary of the Treasury),
14 or transferred to such a trust or other ar-
15 rangement, by a plan sponsor for purposes
16 of paying deferred compensation of an em-
17 ployee under a nonqualified deferred com-
18 pensation plan (as defined in section 409A
19 of such Code) of the plan sponsor, then,
20 for purposes of clause (i), the amount of
21 such assets shall be treated as remunera-
22 tion of the employee includible in income
23 for the calendar year unless such amount
24 is otherwise includible in income for such
25 year. An amount to which the preceding

1 sentence applies shall not be taken into ac-
2 count under this paragraph for any subse-
3 quent calendar year.

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

11 “(iv) EXCEPTION FOR CERTAIN EQ-
12 UITY PAYMENTS.—

13 “(I) IN GENERAL.—There shall
14 not be taken into account under
15 clause (i)(I) any amount includible in
16 income with respect to the granting
17 on or after February 4, 2010, of serv-
18 ice recipient stock (within the mean-
19 ing of section 409A of the Internal
20 Revenue Code of 1986) that, upon
21 such grant, is subject to a substantial
22 risk of forfeiture (as defined under
23 section 83(c)(1) of such Code) for at
24 least 5 years from the date of such
25 grant.

1 “(II) SECRETARIAL AUTHOR-
2 ITY.—The Secretary of the Treasury
3 may by regulation provide for the ap-
4 plication of this clause in the case of
5 a person other than a corporation.

6 “(v) OTHER EXCEPTIONS.—The fol-
7 lowing amounts includible in income shall
8 not be taken into account under clause
9 (i)(I):

10 “(I) COMMISSIONS.—Any remu-
11 neration payable on a commission
12 basis solely on account of income di-
13 rectly generated by the individual per-
14 formance of the individual to whom
15 such remuneration is payable.

16 “(II) CERTAIN PAYMENTS UNDER
17 EXISTING CONTRACTS.—Any remu-
18 neration consisting of nonqualified de-
19 ferred compensation, restricted stock,
20 stock options, or stock appreciation
21 rights payable or granted under a
22 written binding contract that was in
23 effect on February 4, 2010, and which
24 was not modified in any material re-

1 spect before such remuneration is
2 paid.

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

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

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section 1(f)(3)
22 of such Code for the calendar year,
23 determined by substituting ‘calendar
24 year 2009’ for ‘calendar year 1992’ in
25 subparagraph (B) thereof.

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

5 “(E) EXTRAORDINARY DIVIDENDS AND
6 REDEMPTIONS.—

7 “(i) IN GENERAL.—The amount de-
8 termined under this subparagraph for any
9 plan year is the excess (if any) of—

10 “(I) the sum of the dividends de-
11 clared during the plan year by the
12 plan sponsor plus the aggregate fair
13 market value of the stock of the plan
14 sponsor redeemed during the plan
15 year, over

16 “(II) the adjusted net income
17 (within the meaning of section 4043)
18 of the plan sponsor for the preceding
19 plan year.

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

22 For purposes of clause (i), there shall only
23 be taken into account dividends declared,
24 and redemptions occurring, after February
25 4, 2010.

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 “(iv) MERGERS AND ACQUISITIONS.—
14 The Secretary of the Treasury shall pre-
15 scribe rules for the application of para-
16 graph (2)(D) and this paragraph in any
17 case where there is a merger or acquisition
18 involving a plan sponsor making the elec-
19 tion under paragraph (2)(D).”.

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

22 (A) in subsection (c)(1), by striking “the
23 shortfall amortization bases for such plan year
24 and each of the 6 preceding plan years” and in-
25 serting “any shortfall amortization base which

1 has not been fully amortized under this sub-
2 section”, and

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

5 “(F) QUARTERLY CONTRIBUTIONS NOT TO
6 INCLUDE CERTAIN INCREASED CONTRIBU-
7 TIONS.—Subparagraph (D) shall be applied
8 without regard to any increase under subsection
9 (c)(7).”.

10 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF
11 1986.—

12 (1) IN GENERAL.—Paragraph (2) of section
13 430(c) is amended by adding at the end the fol-
14 lowing subparagraph:

15 “(D) SPECIAL ELECTION FOR ELIGIBLE
16 PLAN YEARS.—

17 “(i) IN GENERAL.—If a plan sponsor
18 elects to apply this subparagraph with re-
19 spect to the shortfall amortization base of
20 a plan for any eligible plan year (in this
21 subparagraph and paragraph (7) referred
22 to as an ‘election year’), then, notwith-
23 standing subparagraphs (A) and (B)—

24 “(I) the shortfall amortization in-
25 stallments with respect to such base

1 shall be determined under clause (ii)
2 or (iii), whichever is specified in the
3 election, and

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

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

16 “(I) in the case of the first 2
17 plan years in the 9-plan-year period
18 beginning with the election year, in-
19 terest on the shortfall amortization
20 base of the plan for the election year
21 (determined using the effective inter-
22 est rate for the plan for the election
23 year), and

24 “(II) in the case of the last 7
25 plan years in such 9-plan-year period,

1 the amounts necessary to amortize the
2 remaining balance of the shortfall am-
3 ortization base of the plan for the
4 election year in level annual install-
5 ments over such last 7 plan years
6 (using the segment rates under sub-
7 paragraph (C) for the election year).

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

18 “(iv) ELECTION.—

19 “(I) IN GENERAL.—The plan
20 sponsor of a plan may elect to have
21 this subparagraph apply to not more
22 than 2 eligible plan years with respect
23 to the plan, except that in the case of
24 a plan described in section 106 of the
25 Pension Protection Act of 2006, the

1 plan sponsor may only elect to have
2 this subparagraph apply to a plan
3 year beginning in 2011.

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

13 “(III) OTHER RULES.—Such
14 election shall be made at such time,
15 and in such form and manner, as
16 shall be prescribed by the Secretary,
17 and may be revoked only with the
18 consent of the Secretary. The Sec-
19 retary shall, before granting a revoca-
20 tion request, provide the Pension Ben-
21 efit Guaranty Corporation an oppor-
22 tunity to comment on the conditions
23 applicable to the treatment of any
24 portion of the election year shortfall

1 amortization base that remains
2 unamortized as of the revocation date.

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

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

20 “(vii) INCREASES IN REQUIRED IN-
21 STALLMENTS IN CERTAIN CASES.—For in-
22 creases in required contributions in cases
23 of excess compensation or extraordinary
24 dividends or stock redemptions, see para-
25 graph (7).”.

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

5 “(7) INCREASES IN ALTERNATE REQUIRED IN-
6 STALLMENTS IN CASES OF EXCESS COMPENSATION
7 OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMP-
8 TIONS.—

9 “(A) IN GENERAL.—If there is an install-
10 ment acceleration amount with respect to a
11 plan for any plan year in the restriction period
12 with respect to an election year under para-
13 graph (2)(D), then the shortfall amortization
14 installment otherwise determined and payable
15 under such paragraph for such plan year shall,
16 subject to the limitation under subparagraph
17 (B), be increased by such amount.

18 “(B) TOTAL INSTALLMENTS LIMITED TO
19 SHORTFALL BASE.—Subject to rules prescribed
20 by the Secretary, if a shortfall amortization in-
21 stallment with respect to any shortfall amorti-
22 zation base for an election year is required to
23 be increased for any plan year under subpara-
24 graph (A)—

1 “(i) such increase shall not result in
2 the amount of such installment exceeding
3 the present value of such installment and
4 all succeeding installments with respect to
5 such base (determined without regard to
6 such increase but after application of
7 clause (ii)), and

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

18 “(C) INSTALLMENT ACCELERATION
19 AMOUNT.—For purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘install-
21 ment acceleration amount’ means, with re-
22 spect to any plan year in a restriction pe-
23 riod with respect to an election year, the
24 sum of—

1 “(I) the aggregate amount of ex-
2 cess employee compensation deter-
3 mined under subparagraph (D) with
4 respect to all employees for the plan
5 year, plus

6 “(II) the aggregate amount of
7 extraordinary dividends and redemp-
8 tions determined under subparagraph
9 (E) for the plan year.

10 “(ii) LIMITATION TO AGGREGATE RE-
11 DUCED REQUIRED CONTRIBUTIONS.—The
12 installment acceleration amount for any
13 plan year shall not exceed the excess (if
14 any) of—

15 “(I) the sum of the shortfall am-
16 ortization installments for the plan
17 year and all preceding plan years in
18 the amortization period elected under
19 paragraph (2)(D) with respect to the
20 shortfall amortization base with re-
21 spect to an election year, determined
22 without regard to paragraph (2)(D)
23 and this paragraph, over

24 “(II) the sum of the shortfall am-
25 ortization installments for such plan

1 year and all such preceding plan
2 years, determined after application of
3 paragraph (2)(D) (and in the case of
4 any preceding plan year, after applica-
5 tion of this paragraph).

6 “(iii) CARRYOVER OF EXCESS IN-
7 STALLMENT ACCELERATION AMOUNTS.—

8 “(I) IN GENERAL.—If the install-
9 ment acceleration amount for any
10 plan year (determined without regard
11 to clause(ii)) exceeds the limitation
12 under clause (ii), then, subject to sub-
13 clause (II), such excess shall be treat-
14 ed as an installment acceleration
15 amount with respect to the succeeding
16 plan year (without regard to whether
17 such succeeding plan year is in the re-
18 striction period).

19 “(II) CAP TO APPLY.—If any
20 amount treated as an installment ac-
21 celeration amount under subclause (I)
22 or this subclause with respect any
23 succeeding plan year, when added to
24 other installment acceleration
25 amounts (determined without regard

1 to clause (ii)) with respect to the plan
2 year, exceeds the limitation under
3 clause (ii), the portion of such amount
4 representing such excess shall be
5 treated as an installment acceleration
6 amount with respect to the next suc-
7 ceeding plan year (without regard to
8 whether such succeeding plan year is
9 in the restriction period).

10 “(III) ORDERING RULES.—For
11 purposes of applying subclause (II),
12 installment acceleration amounts for
13 the plan year (determined without re-
14 gard to any carryover under this
15 clause) shall be applied first against
16 the limitation under clause (ii) and
17 then carryovers to such plan year
18 shall be applied against such limita-
19 tion on a first-in, first-out basis.

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

22 “(i) IN GENERAL.—The term ‘excess
23 employee compensation’ means, with re-
24 spect to any employee for any plan year,
25 the excess (if any) of—

1 for such year. An amount to which the
2 preceding sentence applies shall not be
3 taken into account under this paragraph
4 for any subsequent calendar year.

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

12 “(iv) EXCEPTION FOR CERTAIN EQ-
13 UITY PAYMENTS.—

14 “(I) IN GENERAL.—There shall
15 not be taken into account under
16 clause (i)(I) any amount includible in
17 income with respect to the granting
18 on or after February 4, 2010, of serv-
19 ice recipient stock (within the mean-
20 ing of section 409A) that, upon such
21 grant, is subject to a substantial risk
22 of forfeiture (as defined under section
23 83(c)(1)) for at least 5 years from the
24 date of such grant.

1 “(II) SECRETARIAL AUTHOR-
2 ITY.—The Secretary may by regula-
3 tion provide for the application of this
4 clause in the case of a person other
5 than a corporation.

6 “(v) OTHER EXCEPTIONS.—The fol-
7 lowing amounts includible in income shall
8 not be taken into account under clause
9 (i)(I):

10 “(I) COMMISSIONS.—Any remu-
11 neration payable on a commission
12 basis solely on account of income di-
13 rectly generated by the individual per-
14 formance of the individual to whom
15 such remuneration is payable.

16 “(II) CERTAIN PAYMENTS UNDER
17 EXISTING CONTRACTS.—Any remu-
18 neration consisting of nonqualified de-
19 ferred compensation, restricted stock,
20 stock options, or stock appreciation
21 rights payable or granted under a
22 written binding contract that was in
23 effect on February 4, 2010, and which
24 was not modified in any material re-

1 spect before such remuneration is
2 paid.

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

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

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section 1(f)(3)
22 for the calendar year, determined by
23 substituting ‘calendar year 2009’ for
24 ‘calendar year 1992’ in subparagraph
25 (B) thereof.

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

5 “(E) EXTRAORDINARY DIVIDENDS AND
6 REDEMPTIONS.—

7 “(i) IN GENERAL.—The amount de-
8 termined under this subparagraph for any
9 plan year is the excess (if any) of—

10 “(I) the sum of the dividends de-
11 clared during the plan year by the
12 plan sponsor plus the aggregate fair
13 market value of the stock of the plan
14 sponsor redeemed during the plan
15 year, over

16 “(II) the adjusted net income
17 (within the meaning of section 4043
18 of the Employee Retirement Income
19 Security Act of 1974) of the plan
20 sponsor for the preceding plan year.

21 “(ii) ONLY CERTAIN POST-2009 DIVI-
22 DENDS AND REDEMPTIONS COUNTED.—
23 For purposes of clause (i), there shall only
24 be taken into account dividends declared,

1 and redemptions occurring, after February
2 4, 2010.

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

9 “(F) OTHER DEFINITIONS AND RULES.—
10 For purposes of this paragraph—

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

15 “(ii) RESTRICTION PERIOD.—The
16 term ‘restriction period’ means, with re-
17 spect to any election year—

18 “(I) except as provided in sub-
19 clause (II), the 4-year period begin-
20 ning with the election year, and

21 “(II) if the plan sponsor elects
22 15-year amortization for the shortfall
23 amortization base for the election
24 year, the 7-year period beginning with
25 the election year.

1 “(iii) ELECTIONS FOR MULTIPLE
2 PLANS.—If a plan sponsor makes elections
3 under paragraph (2)(D) with respect to 2
4 or more plans, the Secretary shall provide
5 rules for the application of this paragraph
6 to such plans, including rules for the rat-
7 able allocation of any installment accelera-
8 tion amount among such plans on the
9 basis of each plan’s relative reduction in
10 the plan’s shortfall amortization install-
11 ment for the first plan year in the amorti-
12 zation period described in subparagraph
13 (A) (determined without regard to this
14 paragraph).

15 “(iv) MERGERS AND ACQUISITIONS.—
16 The Secretary shall prescribe rules for the
17 application of paragraph (2)(D) and this
18 paragraph in any case where there is a
19 merger or acquisition involving a plan
20 sponsor making the election under para-
21 graph (2)(D).”.

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

24 (A) in subsection (c)(1), by striking “the
25 shortfall amortization bases for such plan year

1 and each of the 6 preceding plan years” and in-
2 sserting “any shortfall amortization base which
3 has not been fully amortized under this sub-
4 section”, and

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

7 “(F) QUARTERLY CONTRIBUTIONS NOT TO
8 INCLUDE CERTAIN INCREASED CONTRIBU-
9 TIONS.—Subparagraph (D) shall be applied
10 without regard to any increase under subsection
11 (e)(7).”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to plan years beginning after De-
14 cember 31, 2007.

15 **SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PE-**
16 **RIOD TO PLANS SUBJECT TO PRIOR LAW**
17 **FUNDING RULES.**

18 (a) IN GENERAL.—Title I of the Pension Protection
19 Act of 2006 is amended by redesignating section 107 as
20 section 108 and by inserting the following after section
21 106:

1 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**
2 **RIODS TO PLANS WITH DELAYED EFFECTIVE**
3 **DATE.**

4 “(a) IN GENERAL.—If the plan sponsor of a plan to
5 which section 104, 105, or 106 of this Act applies elects
6 to have this section apply for any eligible plan year (in
7 this section referred to as an ‘election year’), section 302
8 of the Employee Retirement Income Security Act of 1974
9 and section 412 of the Internal Revenue Code of 1986
10 (as in effect before the amendments made by this subtitle
11 and subtitle B) shall apply to such year in the manner
12 described in subsection (b) or (c), whichever is specified
13 in the election. All references in this section to ‘such Act’
14 or ‘such Code’ shall be to such Act or such Code as in
15 effect before the amendments made by this subtitle and
16 subtitle B.

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

19 “(1) 2-YEAR LOOKBACK FOR DETERMINING
20 DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN
21 PLANS.—For purposes of applying section 302(d)(9)
22 of such Act and section 412(l)(9) of such Code, the
23 funded current liability percentage (as defined in
24 subparagraph (C) thereof) for such plan for such
25 plan year shall be such funded current liability per-

1 centage of such plan for the second plan year pre-
2 ceding the first election year of such plan.

3 “(2) CALCULATION OF DEFICIT REDUCTION
4 CONTRIBUTION.—For purposes of applying section
5 302(d) of such Act and section 412(l) of such Code
6 to a plan to which such sections apply (after taking
7 into account paragraph (1))—

8 “(A) in the case of the increased unfunded
9 new liability of the plan, the applicable percent-
10 age described in section 302(d)(4)(C) of such
11 Act and section 412(l)(4)(C) of such Code shall
12 be the third segment rate described in sections
13 104(b), 105(b), and 106(b) of this Act, and

14 “(B) in the case of the excess of the un-
15 funded new liability over the increased un-
16 funded new liability, such applicable percentage
17 shall be determined without regard to this sec-
18 tion.

19 “(c) APPLICATION OF 15-YEAR AMORTIZATION.—In
20 the case of an election year to which this subsection ap-
21 plies, for purposes of applying section 302(d) of such Act
22 and section 412(l) of such Code—

23 “(1) in the case of the increased unfunded new
24 liability of the plan, the applicable percentage de-
25 scribed in section 302(d)(4)(C) of such Act and sec-

1 tion 412(l)(4)(C) of such Code for any pre-effective
2 date plan year beginning with or after the first elec-
3 tion year shall be the ratio of—

4 “(A) the annual installments payable in
5 each year if the increased unfunded new liabil-
6 ity for such plan year were amortized over 15
7 years, using an interest rate equal to the third
8 segment rate described in sections 104(b),
9 105(b), and 106(b) of this Act, to

10 “(B) the increased unfunded new liability
11 for such plan year, and

12 “(2) in the case of the excess of the unfunded
13 new liability over the increased unfunded new liabil-
14 ity, such applicable percentage shall be determined
15 without regard to this section.

16 “(d) ELECTION.—

17 “(1) IN GENERAL.—The plan sponsor of a plan
18 may elect to have this section apply to not more
19 than 2 eligible plan years with respect to the plan,
20 except that in the case of a plan to which section
21 106 of this Act applies, the plan sponsor may only
22 elect to have this section apply to 1 eligible plan
23 year.

24 “(2) AMORTIZATION SCHEDULE.—Such election
25 shall specify whether the rules under subsection (b)

1 or (c) shall apply to an election year, except that if
2 a plan sponsor elects to have this section apply to
3 2 eligible plan years, the plan sponsor must elect the
4 same rule for both years.

5 “(3) OTHER RULES.—Such election shall be
6 made at such time, and in such form and manner,
7 as shall be prescribed by the Secretary of the Treas-
8 ury, and may be revoked only with the consent of
9 the Secretary of the Treasury.

10 “(e) DEFINITIONS.—For purposes of this section—

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

19 “(2) PRE-EFFECTIVE DATE PLAN YEAR.—The
20 term ‘pre-effective date plan year’ means, with re-
21 spect to a plan, any plan year prior to the first year
22 in which the amendments made by this subtitle and
23 subtitle B apply to the plan.

24 “(3) INCREASED UNFUNDED NEW LIABILITY.—
25 The term ‘increased unfunded new liability’ means,

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

12 “(4) OTHER DEFINITIONS.—The terms ‘un-
13 funded new liability’ and ‘current liability’ shall have
14 the meanings set forth in section 302(d) of such Act
15 and section 412(l) of such Code.”.

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

18 (1) by striking “eligible cooperative plan” wher-
19 ever it appears in subsections (a) and (b) and insert-
20 ing “eligible cooperative plan or an eligible charity
21 plan”, and

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

24 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-
25 poses of this section, a plan shall be treated as an eligible

1 charity plan for a plan year if the plan is maintained by
2 more than one employer and 100 percent of the employers
3 are described in section 501(c)(3) of such Code.”.

4 (c) EFFECTIVE DATE.—

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

8 (2) ELIGIBLE CHARITY PLAN.—The amend-
9 ments made by subsection (b) shall apply to plan
10 years beginning after December 31, 2007, except
11 that a plan sponsor may elect to apply such amend-
12 ments to plan years beginning after December 31,
13 2008. Any such election shall be made at such time,
14 and in such form and manner, as shall be prescribed
15 by the Secretary of the Treasury, and may be re-
16 voked only with the consent of the Secretary of the
17 Treasury.

18 **SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRIC-**
19 **TIONS.**

20 (a) IN GENERAL.—

21 (1) AMENDMENT TO ERISA.—Section 206(g)(9)
22 of the Employee Retirement Income Security Act of
23 1974 is amended by adding at the end the following:

1 “(D) SPECIAL RULE FOR CERTAIN
2 YEARS.—Solely for purposes of any applicable
3 provision—

4 “(i) IN GENERAL.—For plan years be-
5 ginning on or after October 1, 2008, and
6 before October 1, 2010, the adjusted fund-
7 ing target attainment percentage of a plan
8 shall be the greater of—

9 “(I) such percentage, as deter-
10 mined without regard to this subpara-
11 graph, or

12 “(II) the adjusted funding target
13 attainment percentage for such plan
14 for the plan year beginning after Oc-
15 tober 1, 2007, and before October 1,
16 2008, as determined under rules pre-
17 scribed by the Secretary of the Treas-
18 ury.

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

22 “(I) clause (i) shall apply to plan
23 years beginning after December 31,
24 2007, and before January 1, 2010,
25 and

1 “(II) clause (i)(II) shall apply
2 based on the last plan year beginning
3 before November 1, 2007, as deter-
4 mined under rules prescribed by the
5 Secretary of the Treasury.

6 “(iii) APPLICABLE PROVISION.—For
7 purposes of this subparagraph, the term
8 ‘applicable provision’ means—

9 “(I) paragraph (3), but only for
10 purposes of applying such paragraph
11 to a payment which, as determined
12 under rules prescribed by the Sec-
13 retary of the Treasury, is a payment
14 under a social security leveling option
15 which accelerates payments under the
16 plan before, and reduces payments
17 after, a participant starts receiving so-
18 cial security benefits in order to pro-
19 vide substantially similar aggregate
20 payments both before and after such
21 benefits are received, and

22 “(II) paragraph (4).”.

23 (2) AMENDMENT TO INTERNAL REVENUE CODE
24 OF 1986.—Section 436(j) of the Internal Revenue

1 Code of 1986 is amended by adding at the end the
2 following:

3 “(3) SPECIAL RULE FOR CERTAIN YEARS.—

4 Solely for purposes of any applicable provision—

5 “(A) IN GENERAL.—For plan years begin-
6 ning on or after October 1, 2008, and before
7 October 1, 2010, the adjusted funding target
8 attainment percentage of a plan shall be the
9 greater of—

10 “(i) such percentage, as determined
11 without regard to this paragraph, or

12 “(ii) the adjusted funding target at-
13 tainment percentage for such plan for the
14 plan year beginning after October 1, 2007,
15 and before October 1, 2008, as determined
16 under rules prescribed by the Secretary.

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

20 “(i) subparagraph (A) shall apply to
21 plan years beginning after December 31,
22 2007, and before January 1, 2010, and

23 “(ii) subparagraph (A)(ii) shall apply
24 based on the last plan year beginning be-

1 fore November 1, 2007, as determined
2 under rules prescribed by the Secretary.

3 “(C) APPLICABLE PROVISION.—For pur-
4 poses of this paragraph, the term ‘applicable
5 provision’ means—

6 “(i) subsection (d), but only for pur-
7 poses of applying such paragraph to a pay-
8 ment which, as determined under rules
9 prescribed by the Secretary, is a payment
10 under a social security leveling option
11 which accelerates payments under the plan
12 before, and reduces payments after, a par-
13 ticipant starts receiving social security ben-
14 efits in order to provide substantially simi-
15 lar aggregate payments both before and
16 after such benefits are received, and

17 “(ii) subsection (e).”.

18 (b) INTERACTION WITH WRERA RULE.—Section 203
19 of the Worker, Retiree, and Employer Recovery Act of
20 2008 shall apply to a plan for any plan year in lieu of
21 the amendments made by this section applying to sections
22 206(g)(4) of the Employee Retirement Income Security
23 Act of 1974 and 436(e) of the Internal Revenue Code of
24 1986 only to the extent that such section produces a high-

1 er adjusted funding target attainment percentage for such
2 plan for such year.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to plan years beginning on or after Octo-
7 ber 1, 2008.

8 (2) SPECIAL RULE.—In the case of a plan for
9 which the valuation date is not the first day of the
10 plan year, the amendments made by this section
11 shall apply to plan years beginning after December
12 31, 2007.

13 **Subtitle B—Multiemployer Plans**

14 **SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT**

15 **RULES.**

16 (a) ADJUSTMENTS.—

17 (1) AMENDMENT TO ERISA.—Section 304(b) of
18 the Employee Retirement Income Security Act of
19 1974 (29 U.S.C. 1084(b)) is amended by adding at
20 the end the following new paragraph:

21 “(8) SPECIAL RELIEF RULES.—Notwith-
22 standing any other provision of this subsection—

23 “(A) AMORTIZATION OF NET INVESTMENT
24 LOSSES.—

1 “(i) IN GENERAL.—A multiemployer
2 plan with respect to which the solvency
3 test under subparagraph (C) is met may
4 treat the portion of its experience loss at-
5 tributable to the net investment losses (if
6 any) incurred in either or both of the first
7 two plan years ending after August 31,
8 2008, as an item separate from other expe-
9 rience losses, to be amortized in equal an-
10 nual installments (until fully amortized)
11 over a period of 30 plan years.

12 “(ii) COORDINATION WITH EXTEN-
13 SIONS.—If this subparagraph applies for
14 any plan year—

15 “(I) no extension of the amorti-
16 zation period under clause (i) shall be
17 allowed under subsection (d), and

18 “(II) if an extension was granted
19 under subsection (d) for any plan year
20 before the election to have this sub-
21 paragraph apply to the plan year,
22 such extension shall not result in such
23 amortization period exceeding 30
24 years.

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 ending after August 31, 2008, over a
7 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 at least as high as such
19 percentage and balances would have
20 been if the benefit increase had not
21 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 ending 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) COORDINATION WITH EXTEN-
4 SIONS.—If this subparagraph applies for
5 any plan year—

6 “(I) no extension of the amorti-
7 zation period under clause (i) shall be
8 allowed under subsection (d), and

9 “(II) if an extension was granted
10 under subsection (d) for any plan year
11 before the election to have this sub-
12 paragraph apply to the plan year,
13 such extension shall not result in such
14 amortization period exceeding 30
15 years.

16 “(iii) NET INVESTMENT LOSSES.—For
17 purposes of this subparagraph—

18 “(I) IN GENERAL.—Net invest-
19 ment losses shall be determined in the
20 manner prescribed by the Secretary
21 on the basis of the difference between
22 actual and expected returns (including
23 any difference attributable to any
24 criminally fraudulent investment ar-
25 rangement).

1 “(II) CRIMINALLY FRAUDULENT
2 INVESTMENT ARRANGEMENTS.—The
3 determination as to whether an ar-
4 rangement is a criminally fraudulent
5 investment arrangement shall be made
6 under rules substantially similar to
7 the rules prescribed by the Secretary
8 for purposes of section 165.

9 “(B) EXPANDED SMOOTHING PERIOD.—

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

15 “(I) spreads the difference be-
16 tween expected and actual returns for
17 either or both of the first 2 plan years
18 ending after August 31, 2008, over a
19 period of not more than 10 years,

20 “(II) provides that for either or
21 both of such 2 plan years the value of
22 plan assets at any time shall not be
23 less than 80 percent or greater than
24 130 percent of the fair market value
25 of such assets at such time, or

1 “(III) makes both changes de-
2 scribed in subclauses (I) and (II) to
3 such method.

4 “(ii) ASSET VALUATION METHODS.—
5 If this subparagraph applies for any plan
6 year—

7 “(I) the Secretary shall not treat
8 the asset valuation method of the plan
9 as unreasonable solely because of the
10 changes in such method described in
11 clause (i), and

12 “(II) such changes shall be
13 deemed approved by the Secretary
14 under section 302(d)(1) of the Em-
15 ployee Retirement Income Security
16 Act of 1974 and section 412(d)(1).

17 “(iii) AMORTIZATION OF REDUCTION
18 IN UNFUNDED ACCRUED LIABILITY.—If
19 this subparagraph and subparagraph (A)
20 both apply for any plan year, the plan shall
21 treat any reduction in unfunded accrued li-
22 ability resulting from the application of
23 this subparagraph as a separate experience
24 amortization base, to be amortized in equal
25 annual installments (until fully amortized)

1 over a period of 30 plan years rather than
2 the period such liability would otherwise be
3 amortized over.

4 “(C) SOLVENCY TEST.—The solvency test
5 under this paragraph is met only if the plan ac-
6 tuary certifies that the plan is projected to have
7 sufficient assets to timely pay expected benefits
8 and anticipated expenditures over the amortiza-
9 tion period, taking into account the changes in
10 the funding standard account under this para-
11 graph.

12 “(D) RESTRICTION ON BENEFIT IN-
13 CREASES.—If subparagraph (A) or (B) apply to
14 a multiemployer plan for any plan year, then, in
15 addition to any other applicable restrictions on
16 benefit increases, a plan amendment increasing
17 benefits may not go into effect during either of
18 the 2 plan years immediately following such
19 plan year unless—

20 “(i) the plan actuary certifies that—

21 “(I) any such increase is paid for
22 out of additional contributions not al-
23 located to the plan immediately before
24 the application of this paragraph to
25 the plan, and

1 “(II) the plan’s funded percent-
2 age and projected credit balances for
3 such 2 plan years are reasonably ex-
4 pected to be at least as high as such
5 percentage and balances would have
6 been if the benefit increase had not
7 been adopted, or

8 “(ii) the amendment is required as a
9 condition of qualification under part I of
10 subchapter D or to comply with other ap-
11 plicable law.

12 “(E) REPORTING.—A plan sponsor of a
13 plan to which this paragraph applies shall in-
14 form the Pension Benefit Guaranty Corporation
15 of such application in such form and manner as
16 the Director of the Pension Benefit Guaranty
17 Corporation may prescribe.”.

18 (b) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall take effect as of the first day of
21 the first plan year ending after August 31, 2008, ex-
22 cept that any election a plan makes pursuant to this
23 section that affects the plan’s funding standard ac-
24 count for the first plan year ending after August 31,
25 2008, shall be disregarded for purposes of applying

1 the provisions of section 305 of the Employee Re-
2 tirement Income Security Act of 1974 and section
3 432 of the Internal Revenue Code of 1986 to such
4 plan year.

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

11 **TITLE IV—OFFSET PROVISIONS**

12 **Subtitle A—Black Liquor**

13 **SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE** 14 **CELLULOSIC BIOFUEL PRODUCER CREDIT.**

15 (a) IN GENERAL.—Subparagraph (E) of section
16 40(b)(6) is amended by adding at the end the following
17 new clause:

18 “(iii) EXCLUSION OF UNPROCESSED
19 FUELS.—The term ‘cellulosic biofuel’ shall
20 not include any fuel if—

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

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

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

7 **SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT**
8 **AND ALTERNATIVE FUEL MIXTURE CREDIT**
9 **FOR BLACK LIQUOR.**

10 (a) **IN GENERAL.**—The last sentence of section
11 6426(d)(2) is amended by striking “or biodiesel” and in-
12 serting “biodiesel, or any fuel (including lignin, wood resi-
13 dues, or spent pulping liquors) derived from the produc-
14 tion of paper or pulp”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 this section shall apply to fuel sold or used after December
17 31, 2009.

18 **Subtitle B—Homebuyer Credit**

19 **SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER**
20 **CREDIT.**

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

1 (1) by striking “or” at the end of paragraph
2 (3),

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

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

7 “(5) in the case of a taxpayer to whom such a
8 credit would be allowed (but for this paragraph) by
9 reason of subsection (c)(6), the taxpayer fails to at-
10 tach to the return of tax for such taxable year a
11 copy of such property tax bills or other documenta-
12 tion as are required by the Secretary to demonstrate
13 compliance with the requirements of subsection
14 (c)(6), or

15 “(6) in the case of a taxpayer to whom such a
16 credit would be allowed (but for this paragraph) by
17 reason of subsection (h)(2), the taxpayer fails to at-
18 tach to the return of tax for such taxable year a
19 copy of the binding contract which meets the re-
20 quirements of subsection (h)(2).”.

21 (b) MODIFICATION OF EFFECTIVE DATE OF DOCU-
22 MENTATION REQUIREMENTS.—Paragraph (2) of section
23 12(e) of the Worker, Homeownership, and Business As-
24 sistance Act of 2009 is amended by striking “returns for
25 taxable years ending after the date of the enactment of

1 this Act” and inserting “returns filed after the date of
2 the enactment of this Act”.

3 (c) EFFECTIVE DATES.—

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

8 (2) EFFECTIVE DATE OF WORKER, HOMEOWN-
9 ERSHIP, AND BUSINESS ASSISTANCE ACT.—The
10 amendment made by subsection (b) shall apply to
11 purchases of a principal residence on or after the
12 date of the enactment of the Worker, Homeowner-
13 ship, and Business Assistance Act of 2009.

14 **Subtitle C—Economic Substance**

15 **SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOC-** 16 **TRINE; PENALTIES.**

17 (a) IN GENERAL.—Section 7701 is amended by re-
18 designating subsection (o) as subsection (p) and by insert-
19 ing after subsection (n) the following new subsection:

20 “(o) CLARIFICATION OF ECONOMIC SUBSTANCE
21 DOCTRINE.—

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

1 “(A) the transaction changes in a mean-
2 ingful way (apart from Federal income tax ef-
3 fects) the taxpayer’s economic position, and

4 “(B) the taxpayer has a substantial pur-
5 pose (apart from Federal income tax effects)
6 for entering into such transaction.

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

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

19 “(B) TREATMENT OF FEES AND FOREIGN
20 TAXES.—Fees and other transaction expenses
21 shall be taken into account as expenses in de-
22 termining pre-tax profit under subparagraph
23 (A). The Secretary may issue regulations re-
24 quiring foreign taxes to be treated as expenses

1 in determining pre-tax profit in appropriate
2 cases.

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

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

14 “(5) DEFINITIONS AND SPECIAL RULES.—For
15 purposes of this subsection—

16 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
17 The term ‘economic substance doctrine’ means
18 the common law doctrine under which tax bene-
19 fits under subtitle A with respect to a trans-
20 action are not allowable if the transaction does
21 not have economic substance or lacks a business
22 purpose.

23 “(B) EXCEPTION FOR PERSONAL TRANS-
24 ACTIONS OF INDIVIDUALS.—In the case of an
25 individual, paragraph (1) shall apply only to

1 transactions entered into in connection with a
2 trade or business or an activity engaged in for
3 the production of income.

4 “(C) OTHER COMMON LAW DOCTRINES
5 NOT AFFECTED.—Except as specifically pro-
6 vided in this subsection, the provisions of this
7 subsection shall not be construed as altering or
8 supplanting any other rule of law, and the re-
9 quirements of this subsection shall be construed
10 as being in addition to any such other rule of
11 law.

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

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

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

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

1 (1) IN GENERAL.—Subsection (b) of section
2 6662 is amended by inserting after paragraph (5)
3 the following new paragraph:

4 “(6) Any disallowance of claimed tax benefits
5 by reason of a transaction lacking economic sub-
6 stance (within the meaning of section 7701(o)) or
7 failing to meet the requirements of any similar rule
8 of law.”.

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

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

14 “(1) IN GENERAL.—In the case of any portion
15 of an underpayment which is attributable to one or
16 more nondisclosed noneconomic substance trans-
17 actions, subsection (a) shall be applied with respect
18 to such portion by substituting ‘40 percent’ for ‘20
19 percent’.

20 “(2) NONDISCLOSED NONECONOMIC SUB-
21 STANCE TRANSACTIONS.—For purposes of this sub-
22 section, the term ‘nondisclosed noneconomic sub-
23 stance transaction’ means any portion of a trans-
24 action described in subsection (b)(6) with respect to
25 which the relevant facts affecting the tax treatment

1 are not adequately disclosed in the return nor in a
2 statement attached to the return.

3 “(3) SPECIAL RULE FOR AMENDED RE-
4 TURNS.—Except as provided in regulations, in no
5 event shall any amendment or supplement to a re-
6 turn of tax be taken into account for purposes of
7 this subsection if the amendment or supplement is
8 filed after the earlier of the date the taxpayer is first
9 contacted by the Secretary regarding the examina-
10 tion of the return or such other date as is specified
11 by the Secretary.”.

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

14 (A) by striking “section 6662(h)” and in-
15 serting “subsections (h) or (i) of section 6662”;
16 and

17 (B) by striking “GROSS VALUATION
18 MISSTATEMENT PENALTY” in the heading and
19 inserting “CERTAIN INCREASED UNDER-
20 PAYMENT PENALTIES”.

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

23 (1) REASONABLE CAUSE EXCEPTION FOR UN-
24 DERPAYMENTS.—Subsection (c) of section 6664 is
25 amended—

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

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

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

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

12 (2) REASONABLE CAUSE EXCEPTION FOR RE-
13 PORTABLE TRANSACTION UNDERSTATEMENTS.—
14 Subsection (d) of section 6664 is amended—

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

17 (B) by striking “paragraph (2)(C)” in
18 paragraph (4), as so redesignated, and inserting
19 “paragraph (3)(C)”; and

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

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

1 (d) APPLICATION OF PENALTY FOR ERRONEOUS
2 CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUB-
3 STANCE TRANSACTIONS.—Section 6676 is amended by re-
4 designating subsection (e) as subsection (d) and inserting
5 after subsection (b) the following new subsection:

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

11 (e) EFFECTIVE DATE.—

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

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

20 (3) UNDERSTATEMENTS.—The amendments
21 made by subsection (c)(2) shall apply to understate-
22 ments attributable to transactions entered into after
23 the date of the enactment of this Act.

24 (4) REFUNDS AND CREDITS.—The amendment
25 made by subsection (d) shall apply to refunds and

1 credits attributable to transactions entered into after
2 the date of the enactment of this Act.

3 **Subtitle D—Additional Provisions**

4 **SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT** 5 **FUND.**

6 Section 1898(b)(1)(A) of the Social Security Act (42
7 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b)
8 of the Department of Defense Appropriations Act, 2010
9 (Public Law 111–118), is amended by striking
10 “\$20,740,000,000” and inserting “\$12,740,000,000”.

11 **TITLE V—SATELLITE** 12 **TELEVISION EXTENSION**

13 **SEC. 501. SHORT TITLE.**

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

16 **Subtitle A—Statutory Licenses**

17 **SEC. 501. REFERENCE.**

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

22 **SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR** 23 **SATELLITE CARRIERS.**

24 (a) **HEADING RENAMED.—**

1 (1) IN GENERAL.—The heading of section 119
2 is amended by striking “**superstations and net-**
3 **work stations for private home viewing**”
4 and inserting “**distant television program-**
5 **ming by satellite**”.

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

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

9 (b) UNSERVED HOUSEHOLD DEFINED.—

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

12 (A) by striking subparagraph (A) and in-
13 sserting the following:

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

20 “(i) if the signal originates as an ana-
21 log signal, Grade B intensity as defined by
22 the Federal Communications Commission
23 in section 73.683(a) of title 47, Code of

1 Federal Regulations, as in effect on Janu-
2 ary 1, 1999; or

3 “(ii) if the signal originates as a dig-
4 ital signal, intensity defined in the values
5 for the digital television noise-limited serv-
6 ice contour, as defined in regulations
7 issued by the Federal Communications
8 Commission (section 73.622(e) of title 47,
9 Code of Federal Regulations), as such reg-
10 ulations may be amended from time to
11 time;”;

12 (B) in subparagraph (B)—

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

15 (ii) by striking “Satellite Home View-
16 er Extension and Reauthorization Act of
17 2004” and inserting “Satellite Television
18 Extension and Localism Act of 2010”; and

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

21 (2) QUALIFYING DATE DEFINED.—Section
22 119(d) is amended by adding at the end the fol-
23 lowing:

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

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

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

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

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

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

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

14 “(C) a filing fee, as determined by the
15 Register of Copyrights pursuant to section
16 708(a).”.

17 (d) DEPOSIT OF STATEMENTS AND FEES;

18 VERIFICATION PROCEDURES.—Section 119(b) is amend-
19 ed—

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

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

1 “(B) a royalty fee payable to copyright
2 owners pursuant to paragraph (4) for that 6-
3 month period, computed by multiplying the
4 total number of subscribers receiving each sec-
5 ondary transmission of a primary stream or
6 multicast stream of each non-network station or
7 network station during each calendar year
8 month by the appropriate rate in effect under
9 this subsection; and”;

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

12 (4) by inserting after paragraph (1) the fol-
13 lowing:

14 “(2) VERIFICATION OF ACCOUNTS AND FEE
15 PAYMENTS.—The Register of Copyrights shall issue
16 regulations to permit interested parties to verify and
17 audit the statements of account and royalty fees
18 submitted by satellite carriers under this sub-
19 section.”;

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

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

1 (B) by striking “paragraph (4)” and in-
2 serting “paragraph (5)”;

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

4 (A) by striking “paragraph (2)” and in-
5 serting “paragraph (3)”;

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

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

10 (e) ADJUSTMENT OF ROYALTY FEES.—Section
11 119(e) is amended as follows:

12 (1) Paragraph (1) is amended—

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

15 (B) in subparagraph (A)—

16 (i) by striking “primary analog trans-
17 missions” and inserting “primary trans-
18 missions”;

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

21 (C) in subparagraph (B)—

22 (i) by striking “January 2, 2005, the
23 Librarian of Congress” and inserting
24 “March 1, 2010, the Copyright Royalty
25 Judges”;

1 (ii) by striking “primary analog trans-
2 mission” and inserting “primary trans-
3 missions”;

4 (D) in subparagraph (C), by striking “Li-
5 brarian of Congress” and inserting “Copyright
6 Royalty Judges”;

7 (E) in subparagraph (D)—

8 (i) in clause (i)—

9 (I) by striking “(i) Voluntary
10 agreements” and inserting the fol-
11 lowing:

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

14 (II) by striking “that a parties”
15 and inserting “that are parties”; and

16 (ii) in clause (ii)—

17 (I) by striking “(ii)(I) Within”
18 and inserting the following:

19 “(ii) PROCEDURE FOR ADOPTION OF
20 FEES.—

21 “(I) PUBLICATION OF NOTICE.—
22 Within”;

23 (II) in subclause (I), by striking
24 “an arbitration proceeding pursuant
25 to subparagraph (E)” and inserting

1 “a proceeding under subparagraph
2 (F)”;

3 (III) in subclause (II), by strik-
4 ing “(II) Upon receiving a request
5 under subclause (I), the Librarian of
6 Congress” and inserting the following:

7 “(II) PUBLIC NOTICE OF
8 FEES.—Upon receiving a request
9 under subclause (I), the Copyright
10 Royalty Judges”; and

11 (IV) in subclause (III)—

12 (aa) by striking “(III) The
13 Librarian” and inserting the fol-
14 lowing:

15 “(III) ADOPTION OF FEES.—The
16 Copyright Royalty Judges”;

17 (bb) by striking “an arbitra-
18 tion proceeding” and inserting
19 “the proceeding under subpara-
20 graph (F)”;

21 (cc) by striking “the arbitra-
22 tion proceeding” and inserting
23 “that proceeding”;

24 (F) in subparagraph (E)—

1 (i) by striking “Copyright Office” and
2 inserting “Copyright Royalty Judges”; and

3 (ii) by striking “February 28, 2010”
4 and inserting “December 31, 2014”; and
5 (G) in subparagraph (F)—

6 (i) in the heading, by striking “COM-
7 PULSORY ARBITRATION” and inserting “
8 COPYRIGHT ROYALTY JUDGES PRO-
9 CEEDING”;

10 (ii) in clause (i)—

11 (I) in the heading, by striking
12 “PROCEEDINGS” and inserting “THE
13 PROCEEDING”;

14 (II) in the matter preceding sub-
15 clause (I)—

16 (aa) by striking “May 1,
17 2005, the Librarian of Congress”
18 and inserting “May 3, 2010, the
19 Copyright Royalty Judges”;

20 (bb) by striking “arbitration
21 proceedings” and inserting “a
22 proceeding”;

23 (cc) by striking “fee to be
24 paid” and inserting “fees to be
25 paid”;

1 (dd) by striking “primary
2 analog transmission” and insert-
3 ing “the primary transmissions”;
4 and

5 (ee) by striking “distribu-
6 tors” and inserting “distribu-
7 tors—”;

8 (III) in subclause (II)—

9 (aa) by striking “Librarian
10 of Congress” and inserting
11 “Copyright Royalty Judges”; and

12 (bb) by striking “arbitra-
13 tion”; and

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

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

21 “(ii) ESTABLISHMENT OF ROYALTY
22 FEES.—In determining royalty fees under
23 this subparagraph, the Copyright Royalty
24 Judges shall establish fees for the sec-
25 ondary transmissions of the primary trans-

1 missions of network stations and non-net-
2 work stations that most clearly represent
3 the fair market value of secondary trans-
4 missions, except that the Copyright Roy-
5 alty Judges shall adjust royalty fees to ac-
6 count for the obligations of the parties
7 under any applicable voluntary agreement
8 filed with the Copyright Royalty Judges in
9 accordance with subparagraph (D). In de-
10 termining the fair market value, the
11 Judges shall base their decision on eco-
12 nomic, competitive, and programming in-
13 formation presented by the parties, includ-
14 ing—”;

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

17 “(iii) EFFECTIVE DATE FOR DECISION
18 OF COPYRIGHT ROYALTY JUDGES.—The
19 obligation to pay the royalty fees estab-
20 lished under a determination that is made
21 by the Copyright Royalty Judges in a pro-
22 ceeding under this paragraph shall be ef-
23 fective as of January 1, 2010.”; and

24 (v) in clause (iv)—

1 (I) in the heading, by striking
2 “FEE” and inserting “FEES”; and
3 (II) by striking “fee referred to
4 in (iii)” and inserting “fees referred
5 to in clause (iii)”.

6 (2) Paragraph (2) is amended to read as fol-
7 lows:

8 “(2) ANNUAL ROYALTY FEE ADJUSTMENT.—
9 Effective January 1 of each year, the royalty fee
10 payable under subsection (b)(1)(B) for the sec-
11 ondary transmission of the primary transmissions of
12 network stations and non-network stations shall be
13 adjusted by the Copyright Royalty Judges to reflect
14 any changes occurring in the cost of living as deter-
15 mined by the most recent Consumer Price Index (for
16 all consumers and for all items) published by the
17 Secretary of Labor before December 1 of the pre-
18 ceding year. Notification of the adjusted fees shall
19 be published in the Federal Register at least 25 days
20 before January 1.”.

21 (f) DEFINITIONS.—

22 (1) SUBSCRIBER.—Section 119(d)(8) is amend-
23 ed to read as follows:

24 “(8) SUBSCRIBER; SUBSCRIBE.—

1 “(A) SUBSCRIBER.—The term ‘subscriber’
2 means a person or entity that receives a sec-
3 ondary transmission service from a satellite car-
4 rier and pays a fee for the service, directly or
5 indirectly, to the satellite carrier or to a dis-
6 tributor.

7 “(B) SUBSCRIBE.—The term ‘subscribe’
8 means to elect to become a subscriber.”.

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

11 “(11) LOCAL MARKET.—The term ‘local mar-
12 ket’ has the meaning given such term under section
13 122(j).”.

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

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

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

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

4 “(15) PRIMARY STREAM.—The term ‘primary
5 stream’ means—

6 “(A) the single digital stream of program-
7 ming as to which a television broadcast station
8 has the right to mandatory carriage with a sat-
9 ellite carrier under the rules of the Federal
10 Communications Commission in effect on July
11 1, 2009; or

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

14 “(i) the single digital stream of pro-
15 gramming associated with the network last
16 transmitted by the station as an analog
17 signal; or

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

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

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

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

9 (2) by striking “superstations” each place it ap-
10 pears in a heading and each place it appears in text
11 and inserting “non-network stations”.

12 (h) REMOVAL OF CERTAIN PROVISIONS.—

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

15 (A) in paragraph (2), by striking subpara-
16 graph (C) and redesignating subparagraph (D)
17 as subparagraph (C);

18 (B) by striking paragraph (3) and redesi-
19 gnating paragraphs (4) through (14) as para-
20 graphs (3) through (13), respectively; and

21 (C) by striking paragraph (15) and redesi-
22 gnating paragraph (16) as paragraph (14).

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

25 (A) in subsection (a)—

1 (i) in paragraph (1), by striking “(5),
2 (6), and (8)” and inserting “(4), (5), and
3 (7)”;

4 (ii) in paragraph (2)—

5 (I) in subparagraph (A), by strik-
6 ing “subparagraphs (B) and (C) of
7 this paragraph and paragraphs (5),
8 (6), (7), and (8)” and inserting “sub-
9 paragraph (B) of this paragraph and
10 paragraphs (4), (5), (6), and (7)”;

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

13 (III) in subparagraph (C) (as re-
14 designated), by striking clauses (i)
15 and (ii) and inserting the following:

16 “(i) INITIAL LISTS.—A satellite car-
17 rier that makes secondary transmissions of
18 a primary transmission made by a network
19 station pursuant to subparagraph (A)
20 shall, not later than 90 days after com-
21 mencing such secondary transmissions,
22 submit to the network that owns or is af-
23 filiated with the network station a list
24 identifying (by name and address, includ-
25 ing street or rural route number, city,

1 State, and 9-digit zip code) all subscribers
2 to which the satellite carrier makes sec-
3 ondary transmissions of that primary
4 transmission to subscribers in unserved
5 households.

6 “(ii) MONTHLY LISTS.—After the sub-
7 mission of the initial lists under clause (i),
8 the satellite carrier shall, not later than
9 the 15th of each month, submit to the net-
10 work a list, aggregated by designated mar-
11 ket area, identifying (by name and ad-
12 dress, including street or rural route num-
13 ber, city, State, and 9-digit zip code) any
14 persons who have been added or dropped
15 as subscribers under clause (i) since the
16 last submission under this subparagraph.”;
17 and

18 (iii) in subparagraph (E) of para-
19 graph (3) (as redesignated)—

20 (I) by striking “under paragraph
21 (3) or”; and

22 (II) by striking “paragraph (12)”
23 and inserting “paragraph (11)”; and

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

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

3 (1) PREDICTIVE MODEL.—Section
4 119(a)(2)(B)(ii) is amended by adding at the end
5 the following:

6 “(III) ACCURATE PREDICTIVE
7 MODEL WITH RESPECT TO DIGITAL
8 SIGNALS.—Notwithstanding subclause
9 (I), in determining presumptively
10 whether a person resides in an
11 unserved household under subsection
12 (d)(10)(A) with respect to digital sig-
13 nals, a court shall rely on a predictive
14 model set forth by the Federal Com-
15 munications Commission pursuant to
16 a rulemaking as provided in section
17 339(c)(3) of the Communications Act
18 of 1934 (47 U.S.C. 339(c)(3)), as
19 that model may be amended by the
20 Commission over time under such sec-
21 tion to increase the accuracy of that
22 model. Until such time as the Com-
23 mission sets forth such model, a court
24 shall rely on the predictive model as
25 recommended by the Commission with

1 respect to digital signals in its Report
2 to Congress in ET Docket No. 05–
3 182, FCC 05–199 (released December
4 9, 2005).”.

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

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

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

13 “(B) RULES FOR LAWFUL SUBSCRIBERS
14 AS OF DATE OF ENACTMENT OF 2010 ACT.—In
15 the case of a subscriber of a satellite carrier
16 who, on the day before the date of the enact-
17 ment of the Satellite Television Extension and
18 Localism Act of 2010, was lawfully receiving
19 the secondary transmission of the primary
20 transmission of a network station under the
21 statutory license under paragraph (2) (in this
22 subparagraph referred to as the ‘distant sig-
23 nal’), other than subscribers to whom subpara-
24 graph (A) applies, the statutory license under
25 paragraph (2) shall apply to secondary trans-

1 missions by that satellite carrier to that sub-
2 scriber of the distant signal of a station affili-
3 ated with the same television network, and the
4 subscriber's household shall continue to be con-
5 sidered to be an unserved household with re-
6 spect to such network, until such time as the
7 subscriber elects to terminate such secondary
8 transmissions, whether or not the subscriber
9 elects to subscribe to receive the secondary
10 transmission of the primary transmission of a
11 local network station affiliated with the same
12 network pursuant to the statutory license under
13 section 122.

14 “(C) FUTURE APPLICABILITY.—

15 “(i) WHEN LOCAL SIGNAL AVAILABLE
16 AT TIME OF SUBSCRIPTION.—The statu-
17 tory license under paragraph (2) shall not
18 apply to the secondary transmission by a
19 satellite carrier of the primary trans-
20 mission of a network station to a person
21 who is not a subscriber lawfully receiving
22 such secondary transmission as of the date
23 of the enactment of the Satellite Television
24 Extension and Localism Act of 2010 and,
25 at the time such person seeks to subscribe

1 to receive such secondary transmission, re-
2 sides in a local market where the satellite
3 carrier makes available to that person the
4 secondary transmission of the primary
5 transmission of a local network station af-
6 filiated with the same network pursuant to
7 the statutory license under section 122.

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

1 network, until such time as the subscriber
2 elects to terminate such secondary trans-
3 missions, but only if such subscriber sub-
4 scribes to the secondary transmission of
5 the primary transmission of a local net-
6 work station affiliated with the same net-
7 work within 60 days after the satellite car-
8 rier makes available to the subscriber such
9 secondary transmission of the primary
10 transmission of such local network sta-
11 tion.”;

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

15 (D) in subparagraph (E) (as redesignated),
16 by striking “(C) or (D)” and inserting “(B) or
17 (C)”;

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

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

23 (A) in subparagraph (A)(ii), by striking
24 “\$5” and inserting “\$250”;

25 (B) in subparagraph (B)——

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

5 (ii) in clause (ii), by striking
6 “\$250,000” and inserting “\$2,500,000”;
7 and

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

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

20 (4) TECHNICAL AMENDMENT.—Section
21 119(a)(4) (as redesignated) is amended by striking
22 “and 509”.

23 (5) CLERICAL AMENDMENT.—Section
24 119(a)(2)(B)(iii)(II) is amended by striking “In this
25 clause” and inserting “In this clause,”.

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

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

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

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

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

13 (a) HEADING RENAMED.—

14 (1) IN GENERAL.—The heading of section 122
15 is amended by striking “**by satellite carriers**
16 **within local markets**” and inserting “**of local**
17 **television programming by satellite**”.

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

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

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

23 “(a) SECONDARY TRANSMISSIONS INTO LOCAL MAR-
24 KETS.—

1 “(1) SECONDARY TRANSMISSIONS OF TELE-
2 VISION BROADCAST STATIONS WITHIN A LOCAL MAR-
3 KET.—A secondary transmission of a performance
4 or display of a work embodied in a primary trans-
5 mission of a television broadcast station into the sta-
6 tion’s local market shall be subject to statutory li-
7 censing under this section if—

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

10 “(B) with regard to secondary trans-
11 missions, the satellite carrier is in compliance
12 with the rules, regulations, or authorizations of
13 the Federal Communications Commission gov-
14 erning the carriage of television broadcast sta-
15 tion signals; and

16 “(C) the satellite carrier makes a direct or
17 indirect charge for the secondary transmission
18 to—

19 “(i) each subscriber receiving the sec-
20 ondary transmission; or

21 “(ii) a distributor that has contracted
22 with the satellite carrier for direct or indi-
23 rect delivery of the secondary transmission
24 to the public.

25 “(2) SIGNIFICANTLY VIEWED STATIONS.—

1 “(A) IN GENERAL.—A secondary trans-
2 mission of a performance or display of a work
3 embodied in a primary transmission of a tele-
4 vision broadcast station to subscribers who re-
5 ceive secondary transmissions of primary trans-
6 missions under paragraph (1) shall be subject
7 to statutory licensing under this paragraph if
8 the secondary transmission is of the primary
9 transmission of a network station or a non-net-
10 work station to a subscriber who resides outside
11 the station’s local market but within a commu-
12 nity in which the signal has been determined by
13 the Federal Communications Commission to be
14 significantly viewed in such community, pursu-
15 ant to the rules, regulations, and authorizations
16 of the Federal Communications Commission in
17 effect on April 15, 1976, applicable to deter-
18 mining with respect to a cable system whether
19 signals are significantly viewed in a community.

20 “(B) WAIVER.—A subscriber who is denied
21 the secondary transmission of the primary
22 transmission of a network station or a non-net-
23 work station under subparagraph (A) may re-
24 quest a waiver from such denial by submitting
25 a request, through the subscriber’s satellite car-

1 rier, to the network station or non-network sta-
2 tion in the local market affiliated with the same
3 network or non-network where the subscriber is
4 located. The network station or non-network
5 station shall accept or reject the subscriber's re-
6 quest for a waiver within 30 days after receipt
7 of the request. If the network station or non-
8 network station fails to accept or reject the sub-
9 scriber's request for a waiver within that 30-
10 day period, that network station or non-network
11 station shall be deemed to agree to the waiver
12 request.

13 “(3) SECONDARY TRANSMISSION OF LOW
14 POWER PROGRAMMING.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B) and (C), a secondary transmission
17 of a performance or display of a work embodied
18 in a primary transmission of a television broad-
19 cast station to subscribers who receive sec-
20 ondary transmissions of primary transmissions
21 under paragraph (1) shall be subject to statu-
22 tory licensing under this paragraph if the sec-
23 ondary transmission is of the primary trans-
24 mission of a television broadcast station that is
25 licensed as a low power television station, to a

1 subscriber who resides within the same des-
2 igned market area as the station that origi-
3 nates the transmission.

4 “(B) NO APPLICABILITY TO REPEATERS
5 AND TRANSLATORS.—Secondary transmissions
6 provided for in subparagraph (A) shall not
7 apply to any low power television station that
8 retransmits the programs and signals of an-
9 other television station for more than 2 hours
10 each day.

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

19 “(4) SPECIAL EXCEPTIONS.—A secondary
20 transmission of a performance or display of a work
21 embodied in a primary transmission of a television
22 broadcast station to subscribers who receive sec-
23 ondary transmissions of primary transmissions
24 under paragraph (1) shall, if the secondary trans-
25 mission is made by a satellite carrier that complies

1 with the requirements of paragraph (1), be subject
2 to statutory licensing under this paragraph as fol-
3 lows:

4 “(A) STATES WITH SINGLE FULL-POWER
5 NETWORK STATION.—In a State in which there
6 is licensed by the Federal Communications
7 Commission a single full-power station that was
8 a network station on January 1, 1995, the stat-
9 utory license provided for in this paragraph
10 shall apply to the secondary transmission by a
11 satellite carrier of the primary transmission of
12 that station to any subscriber in a community
13 that is located within that State and that is not
14 within the first 50 television markets as listed
15 in the regulations of the Commission as in ef-
16 fect on such date (47 C.F.R. 76.51).

17 “(B) STATES WITH ALL NETWORK STA-
18 TIONS AND NON-NETWORK STATIONS IN SAME
19 LOCAL MARKET.—In a State in which all net-
20 work stations and non-network stations licensed
21 by the Federal Communications Commission
22 within that State as of January 1, 1995, are
23 assigned to the same local market and that
24 local market does not encompass all counties of
25 that State, the statutory license provided under

1 this paragraph shall apply to the secondary
2 transmission by a satellite carrier of the pri-
3 mary transmissions of such station to all sub-
4 scribers in the State who reside in a local mar-
5 ket that is within the first 50 major television
6 markets as listed in the regulations of the Com-
7 mission as in effect on such date (section 76.51
8 of title 47, Code of Federal Regulations).

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

12 “(i) on January 1, 2004, were in local
13 markets principally comprised of counties
14 in another State, and

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

19 the statutory license provided under this para-
20 graph shall apply to secondary transmissions by
21 a satellite carrier to subscribers in any such
22 county of the primary transmissions of any net-
23 work station located in that State, if the sat-
24 ellite carrier was making such secondary trans-

1 missions to any subscribers in that county on
2 January 1, 2004.

3 “(D) CERTAIN ADDITIONAL STATIONS.—If
4 2 adjacent counties in a single State are in a
5 local market comprised principally of counties
6 located in another State, the statutory license
7 provided for in this paragraph shall apply to
8 the secondary transmission by a satellite carrier
9 to subscribers in those 2 counties of the pri-
10 mary transmissions of any network station lo-
11 cated in the capital of the State in which such
12 2 counties are located, if—

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

17 “(ii) the total number of television
18 households in the 2 counties combined did
19 not exceed 10,000 for the year 2003 ac-
20 cording to Nielsen Media Research.

21 “(E) NETWORKS OF NONCOMMERCIAL
22 EDUCATIONAL BROADCAST STATIONS.—In the
23 case of a system of three or more noncommer-
24 cial educational broadcast stations licensed to a
25 single State, public agency, or political, edu-

1 cational, or special purpose subdivision of a
2 State, the statutory license provided for in this
3 paragraph shall apply to the secondary trans-
4 mission of the primary transmission of such
5 system to any subscriber in any county or coun-
6 ty equivalent within such State, if such sub-
7 scriber is located in a designated market area
8 that is not otherwise eligible to receive the sec-
9 ondary transmission of the primary trans-
10 mission of a noncommercial educational broad-
11 cast station located within the State pursuant
12 to paragraph (1).

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

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

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

23 “(A) a list identifying (by name in alpha-
24 betical order and street address, including coun-
25 ty and 9-digit zip code) all subscribers to which

1 the satellite carrier makes secondary trans-
2 missions of that primary transmission under
3 subsection (a); and

4 “(B) a separate list, aggregated by des-
5 ignated market area (by name and address, in-
6 cluding street or rural route number, city,
7 State, and 9-digit zip code), which shall indicate
8 those subscribers being served pursuant to
9 paragraph (2) of subsection (a).”; and

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

13 “(A) a list identifying (by name in alpha-
14 betical order and street address, including coun-
15 ty and 9-digit zip code) any subscribers who
16 have been added or dropped as subscribers
17 since the last submission under this subsection;
18 and

19 “(B) a separate list, aggregated by des-
20 ignated market area (by name and street ad-
21 dress, including street or rural route number,
22 city, State, and 9-digit zip code), identifying
23 those subscribers whose service pursuant to
24 paragraph (2) of subsection (a) has been added

1 or dropped since the last submission under this
2 subsection.”.

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

5 (1) in the heading, by inserting “FOR CERTAIN
6 SECONDARY TRANSMISSIONS” after “REQUIRED”;
7 and

8 (2) by striking “subsection (a)” and inserting
9 “paragraphs (1), (2), and (3) of subsection (a)”.

10 (e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

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

13 (A) in paragraph (1)(B), by striking “\$5”
14 and inserting “\$250”; and

15 (B) in paragraph (2), by striking
16 “\$250,000” each place it appears and inserting
17 “\$2,500,000”.

18 (2) CONFORMING AMENDMENTS FOR ADDI-
19 TIONAL STATIONS.—Section 122 is amended—

20 (A) in subsection (f), by striking “section
21 119 or” each place it appears and inserting the
22 following: “section 119, subject to statutory li-
23 censing by reason of paragraph (2)(A), (3), or
24 (4) of subsection (a), or subject to”; and

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

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

6 (1) in paragraph (1), by striking “which con-
7 tracts” and inserting “that contracts”;

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

10 (3) in paragraph (3)—

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

13 (B) in the heading of such paragraph, by
14 inserting “NON-NETWORK STATION;” after
15 “NETWORK STATION;”; and

16 (C) by inserting “‘non-network station’,”
17 after “‘network station’”;

18 (4) by inserting after paragraph (2) the fol-
19 lowing:

20 “(3) LOW POWER TELEVISION STATION.—The
21 term ‘low power television station’ means a low
22 power TV station as defined in section 74.701(f) of
23 title 47, Code of Federal Regulations, as in effect on
24 June 1, 2004. For purposes of this paragraph, the
25 term ‘low power television station’ includes a low

1 power television station that has been accorded pri-
2 mary status as a Class A television licensee under
3 section 73.6001(a) of title 47, Code of Federal Reg-
4 ulations.”;

5 (5) by inserting after paragraph (4) (as redesign-
6 nated) the following:

7 “(5) NONCOMMERCIAL EDUCATIONAL BROAD-
8 CAST STATION.—The term ‘noncommercial edu-
9 cational broadcast station’ means a television broad-
10 cast station that is a noncommercial educational
11 broadcast station as defined in section 397 of the
12 Communications Act of 1934, as in effect on the
13 date of the enactment of the Satellite Television Ex-
14 tension and Localism Act of 2010.”; and

15 (6) by amending paragraph (6) (as redesign-
16 nated) to read as follows:

17 “(6) SUBSCRIBER.—The term ‘subscriber’
18 means a person or entity that receives a secondary
19 transmission service from a satellite carrier and pays
20 a fee for the service, directly or indirectly, to the sat-
21 ellite carrier or to a distributor.”.

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

24 (a) **HEADING RENAMED.—**

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

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

 “111. Limitations on exclusive rights: Secondary transmissions of broadcast pro-
 gramming by cable.”.

7 (b) TECHNICAL AMENDMENT.—Section 111(a)(4) is
8 amended by striking “; or” and inserting “or section
9 122;”.

10 (c) STATUTORY LICENSE FOR SECONDARY TRANS-
11 MISSIONS BY CABLE SYSTEMS.—Section 111(d) is amend-
12 ed—

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph

15 (A)—

16 (i) by striking “A cable system whose
17 secondary” and inserting the following:

18 “STATEMENT OF ACCOUNT AND ROYALTY
19 FEES.—Subject to paragraph (5), a cable
20 system whose secondary”; and

21 (ii) by striking “by regulation—” and
22 inserting “by regulation the following:”;

23 (B) in subparagraph (A)—

1 (i) by striking “a statement of ac-
2 count” and inserting “A statement of ac-
3 count”; and

4 (ii) by striking “; and” and inserting
5 a period; and

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

8 “(B) Except in the case of a cable system
9 whose royalty fee is specified in subparagraph
10 (E) or (F), a total royalty fee payable to copy-
11 right owners pursuant to paragraph (3) for the
12 period covered by the statement, computed on
13 the basis of specified percentages of the gross
14 receipts from subscribers to the cable service
15 during such period for the basic service of pro-
16 viding secondary transmissions of primary
17 broadcast transmitters, as follows:

18 “(i) 1.064 percent of such gross re-
19 ceipts for the privilege of further transmit-
20 ting, beyond the local service area of such
21 primary transmitter, any non-network pro-
22 gramming of a primary transmitter in
23 whole or in part, such amount to be ap-
24 plied against the fee, if any, payable pursu-
25 ant to clauses (ii) through (iv);

1 “(ii) 1.064 percent of such gross re-
2 receipts for the first distant signal equiva-
3 lent;

4 “(iii) 0.701 percent of such gross re-
5 cepts for each of the second, third, and
6 fourth distant signal equivalents; and

7 “(iv) 0.330 percent of such gross re-
8 cepts for the fifth distant signal equivalent
9 and each distant signal equivalent there-
10 after.

11 “(C) In computing amounts under clauses
12 (ii) through (iv) of subparagraph (B)—

13 “(i) any fraction of a distant signal
14 equivalent shall be computed at its frac-
15 tional value;

16 “(ii) in the case of any cable system
17 located partly within and partly outside of
18 the local service area of a primary trans-
19 mitter, gross receipts shall be limited to
20 those gross receipts derived from sub-
21 scribers located outside of the local service
22 area of such primary transmitter; and

23 “(iii) if a cable system provides a sec-
24 ondary transmission of a primary trans-

1 mitter to some but not all communities
2 served by that cable system—

3 “(I) the gross receipts and the
4 distant signal equivalent values for
5 such secondary transmission shall be
6 derived solely on the basis of the sub-
7 scribers in those communities where
8 the cable system provides such sec-
9 ondary transmission; and

10 “(II) the total royalty fee for the
11 period paid by such system shall not
12 be less than the royalty fee calculated
13 under subparagraph (B)(i) multiplied
14 by the gross receipts from all sub-
15 scribers to the system.

16 “(D) A cable system that, on a statement
17 submitted before the date of the enactment of
18 the Satellite Television Extension and Localism
19 Act of 2010, computed its royalty fee consistent
20 with the methodology under subparagraph
21 (C)(iii), or that amends a statement filed before
22 such date of enactment to compute the royalty
23 fee due using such methodology, shall not be
24 subject to an action for infringement, or eligible

1 for any royalty refund or offset, arising out of
2 its use of such methodology on such statement.

3 “(E) If the actual gross receipts paid by
4 subscribers to a cable system for the period cov-
5 ered by the statement for the basic service of
6 providing secondary transmissions of primary
7 broadcast transmitters are \$263,800 or less—

8 “(i) gross receipts of the cable system
9 for the purpose of this paragraph shall be
10 computed by subtracting from such actual
11 gross receipts the amount by which
12 \$263,800 exceeds such actual gross re-
13 cepts, except that in no case shall a cable
14 system’s gross receipts be reduced to less
15 than \$10,400; and

16 “(ii) the royalty fee payable under this
17 paragraph to copyright owners pursuant to
18 paragraph (3) shall be 0.5 percent, regard-
19 less of the number of distant signal equiva-
20 lents, if any.

21 “(F) If the actual gross receipts paid by
22 subscribers to a cable system for the period cov-
23 ered by the statement for the basic service of
24 providing secondary transmissions of primary
25 broadcast transmitters are more than \$263,800

1 but less than \$527,600, the royalty fee payable
2 under this paragraph to copyright owners pur-
3 suant to paragraph (3) shall be—

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

7 “(ii) 1 percent of any gross receipts in
8 excess of \$263,800, but less than
9 \$527,600, regardless of the number of dis-
10 tant signal equivalents, if any.

11 “(G) A filing fee, as determined by the
12 Register of Copyrights pursuant to section
13 708(a).”;

14 (2) in paragraph (2), in the first sentence—

15 (A) by striking “The Register of Copy-
16 rights” and inserting the following “HANDLING
17 OF FEES.—The Register of Copyrights”; and

18 (B) by inserting “(including the filing fee
19 specified in paragraph (1)(G))” after “shall re-
20 ceive all fees”;

21 (3) in paragraph (3)—

22 (A) by striking “The royalty fees” and in-
23 serting the following: “DISTRIBUTION OF ROY-
24 ALTY FEES TO COPYRIGHT OWNERS.—The roy-
25 alty fees”;

1 (B) in subparagraph (A)—

2 (i) by striking “any such” and insert-
3 ing “Any such”; and

4 (ii) by striking “; and” and inserting
5 a period;

6 (C) in subparagraph (B)—

7 (i) by striking “any such” and insert-
8 ing “Any such”; and

9 (ii) by striking the semicolon and in-
10 sserting a period; and

11 (D) in subparagraph (C), by striking “any
12 such” and inserting “Any such”;

13 (4) in paragraph (4), by striking “The royalty
14 fees” and inserting the following: “PROCEDURES
15 FOR ROYALTY FEE DISTRIBUTION.—The royalty
16 fees”; and

17 (5) by adding at the end the following new
18 paragraphs:

19 “(5) 3.75 PERCENT RATE AND SYNDICATED EX-
20 CLUSIVITY SURCHARGE NOT APPLICABLE TO
21 MULTICAST STREAMS.—The royalty rates specified
22 in sections 256.2(c) and 256.2(d) of title 37, Code
23 of Federal Regulations (commonly referred to as the
24 ‘3.75 percent rate’ and the ‘syndicated exclusivity
25 surcharge’, respectively), as in effect on the date of

1 the enactment of the Satellite Television Extension
2 and Localism Act of 2010, as such rates may be ad-
3 justed, or such sections redesignated, thereafter by
4 the Copyright Royalty Judges, shall not apply to the
5 secondary transmission of a multicast stream.

6 “(6) VERIFICATION OF ACCOUNTS AND FEE
7 PAYMENTS.—The Register of Copyrights shall issue
8 regulations to provide for the confidential
9 verification by copyright owners whose works were
10 embodied in the secondary transmissions of primary
11 transmissions pursuant to this section of the infor-
12 mation reported on the semiannual statements of ac-
13 count filed under this subsection on or after January
14 1, 2010, in order that the auditor designated under
15 subparagraph (A) is able to confirm the correctness
16 of the calculations and royalty payments reported
17 therein. The regulations shall—

18 “(A) establish procedures for the designa-
19 tion of a qualified independent auditor—

20 “(i) with exclusive authority to re-
21 quest verification of such a statement of
22 account on behalf of all copyright owners
23 whose works were the subject of secondary
24 transmissions of primary transmissions by
25 the cable system (that deposited the state-

1 ment) during the accounting period cov-
2 ered by the statement; and

3 “(ii) who is not an officer, employee,
4 or agent of any such copyright owner for
5 any purpose other than such audit;

6 “(B) establish procedures for safeguarding
7 all non-public financial and business informa-
8 tion provided under this paragraph;

9 “(C)(i) require a consultation period for
10 the independent auditor to review its conclu-
11 sions with a designee of the cable system;

12 “(ii) establish a mechanism for the cable
13 system to remedy any errors identified in the
14 auditor’s report and to cure any underpayment
15 identified; and

16 “(iii) provide an opportunity to remedy any
17 disputed facts or conclusions;

18 “(D) limit the frequency of requests for
19 verification for a particular cable system and
20 the number of audits that a multiple system op-
21 erator can be required to undergo in a single
22 year; and

23 “(E) permit requests for verification of a
24 statement of account to be made only within 3

1 years after the last day of the year in which the
2 statement of account is filed.

3 “(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—
4 Any royalty fee payments received by the Copyright
5 Office from cable systems for the secondary trans-
6 mission of primary transmissions that are in addi-
7 tion to the payments calculated and deposited in ac-
8 cordance with this subsection shall be deemed to
9 have been deposited for the particular accounting pe-
10 riod for which they are received and shall be distrib-
11 uted as specified under this subsection.”.

12 (d) EFFECTIVE DATE OF NEW ROYALTY FEE
13 RATES.—The royalty fee rates established in section
14 111(d)(1)(B) of title 17, United States Code, as amended
15 by subsection (c)(1)(C) of this section, shall take effect
16 commencing with the first accounting period occurring in
17 2010.

18 (e) DEFINITIONS.—Section 111(f) is amended—

19 (1) by striking the first undesignated paragraph
20 and inserting the following:

21 “(1) PRIMARY TRANSMISSION.—A ‘primary
22 transmission’ is a transmission made to the public
23 by a transmitting facility whose signals are being re-
24 ceived and further transmitted by a secondary trans-
25 mission service, regardless of where or when the per-

1 formance or display was first transmitted. In the
2 case of a television broadcast station, the primary
3 stream and any multicast streams transmitted by
4 the station constitute primary transmissions.”;

5 (2) in the second undesignated paragraph—

6 (A) by striking “A ‘secondary trans-
7 mission’” and inserting the following:

8 “(2) SECONDARY TRANSMISSION.—A ‘secondary
9 transmission’”; and

10 (B) by striking “‘cable system’” and in-
11 serting “cable system”;

12 (3) in the third undesignated paragraph—

13 (A) by striking “A ‘cable system’” and in-
14 serting the following:

15 “(3) CABLE SYSTEM.—A ‘cable system’”; and

16 (B) by striking “Territory, Trust Terri-
17 tory, or Possession” and inserting “territory,
18 trust territory, or possession of the United
19 States”;

20 (4) in the fourth undesignated paragraph, in
21 the first sentence—

22 (A) by striking “The ‘local service area of
23 a primary transmitter’, in the case of a tele-
24 vision broadcast station, comprises the area in

1 which such station is entitled to insist” and in-
2 serting the following:

3 “(4) LOCAL SERVICE AREA OF A PRIMARY
4 TRANSMITTER.—The ‘local service area of a primary
5 transmitter’, in the case of both the primary stream
6 and any multicast streams transmitted by a primary
7 transmitter that is a television broadcast station,
8 comprises the area where such primary transmitter
9 could have insisted”;

10 (B) by striking “76.59 of title 47 of the
11 Code of Federal Regulations” and inserting the
12 following: “76.59 of title 47, Code of Federal
13 Regulations, or within the noise-limited contour
14 as defined in 73.622(e)(1) of title 47, Code of
15 Federal Regulations”; and

16 (C) by striking “as defined by the rules
17 and regulations of the Federal Communications
18 Commission,”;

19 (5) by amending the fifth undesignated para-
20 graph to read as follows:

21 “(5) DISTANT SIGNAL EQUIVALENT.—

22 “(A) IN GENERAL.—Except as provided
23 under subparagraph (B), a ‘distant signal
24 equivalent’—

1 “(i) is the value assigned to the sec-
2 ondary transmission of any non-network
3 television programming carried by a cable
4 system in whole or in part beyond the local
5 service area of the primary transmitter of
6 such programming; and

7 “(ii) is computed by assigning a value
8 of one to each primary stream and to each
9 multicast stream (other than a simulcast)
10 that is an independent station, and by as-
11 signing a value of one-quarter to each pri-
12 mary stream and to each multicast stream
13 (other than a simulcast) that is a network
14 station or a noncommercial educational
15 station.

16 “(B) EXCEPTIONS.—The values for inde-
17 pendent, network, and noncommercial edu-
18 cational stations specified in subparagraph (A)
19 are subject to the following:

20 “(i) Where the rules and regulations
21 of the Federal Communications Commis-
22 sion require a cable system to omit the fur-
23 ther transmission of a particular program
24 and such rules and regulations also permit
25 the substitution of another program em-

1 bodying a performance or display of a
2 work in place of the omitted transmission,
3 or where such rules and regulations in ef-
4 fect on the date of the enactment of the
5 Copyright Act of 1976 permit a cable sys-
6 tem, at its election, to effect such omission
7 and substitution of a nonlive program or to
8 carry additional programs not transmitted
9 by primary transmitters within whose local
10 service area the cable system is located, no
11 value shall be assigned for the substituted
12 or additional program.

13 “(ii) Where the rules, regulations, or
14 authorizations of the Federal Communica-
15 tions Commission in effect on the date of
16 the enactment of the Copyright Act of
17 1976 permit a cable system, at its election,
18 to omit the further transmission of a par-
19 ticular program and such rules, regula-
20 tions, or authorizations also permit the
21 substitution of another program embodying
22 a performance or display of a work in
23 place of the omitted transmission, the
24 value assigned for the substituted or addi-
25 tional program shall be, in the case of a

1 live program, the value of one full distant
2 signal equivalent multiplied by a fraction
3 that has as its numerator the number of
4 days in the year in which such substitution
5 occurs and as its denominator the number
6 of days in the year.

7 “(iii) In the case of the secondary
8 transmission of a primary transmitter that
9 is a television broadcast station pursuant
10 to the late-night or specialty programming
11 rules of the Federal Communications Com-
12 mission, or the secondary transmission of a
13 primary transmitter that is a television
14 broadcast station on a part-time basis
15 where full-time carriage is not possible be-
16 cause the cable system lacks the activated
17 channel capacity to retransmit on a full-
18 time basis all signals that it is authorized
19 to carry, the values for independent, net-
20 work, and noncommercial educational sta-
21 tions set forth in subparagraph (A), as the
22 case may be, shall be multiplied by a frac-
23 tion that is equal to the ratio of the broad-
24 cast hours of such primary transmitter re-
25 transmitted by the cable system to the

1 total broadcast hours of the primary trans-
2 mitter.

3 “(iv) No value shall be assigned for
4 the secondary transmission of the primary
5 stream or any multicast streams of a pri-
6 mary transmitter that is a television broad-
7 cast station in any community that is with-
8 in the local service area of the primary
9 transmitter.”;

10 (6) by striking the sixth undesignated para-
11 graph and inserting the following:

12 “(6) NETWORK STATION.—

13 “(A) TREATMENT OF PRIMARY STREAM.—

14 The term ‘network station’ shall be applied to
15 a primary stream of a television broadcast sta-
16 tion that is owned or operated by, or affiliated
17 with, one or more of the television networks in
18 the United States providing nationwide trans-
19 missions, and that transmits a substantial part
20 of the programming supplied by such networks
21 for a substantial part of the primary stream’s
22 typical broadcast day.

23 “(B) TREATMENT OF MULTICAST
24 STREAMS.—The term ‘network station’ shall be
25 applied to a multicast stream on which a tele-

1 vision broadcast station transmits all or sub-
2 stantially all of the programming of an inter-
3 connected program service that—

4 “(i) is owned or operated by, or affili-
5 ated with, one or more of the television
6 networks described in subparagraph (A);
7 and

8 “(ii) offers programming on a regular
9 basis for 15 or more hours per week to at
10 least 25 of the affiliated television licensees
11 of the interconnected program service in
12 10 or more States.”;

13 (7) by striking the seventh undesignated para-
14 graph and inserting the following:

15 “(7) INDEPENDENT STATION.—The term ‘inde-
16 pendent station’ shall be applied to the primary
17 stream or a multicast stream of a television broad-
18 cast station that is not a network station or a non-
19 commercial educational station.”;

20 (8) by striking the eighth undesignated para-
21 graph and inserting the following:

22 “(8) NONCOMMERCIAL EDUCATIONAL STA-
23 TION.—The term ‘noncommercial educational sta-
24 tion’ shall be applied to the primary stream or a
25 multicast stream of a television broadcast station

1 that is a noncommercial educational broadcast sta-
2 tion as defined in section 397 of the Communica-
3 tions Act of 1934, as in effect on the date of the en-
4 actment of the Satellite Television Extension and
5 Localism Act of 2010.”; and

6 (9) by adding at the end the following:

7 “(9) PRIMARY STREAM.—A ‘primary stream’
8 is—

9 “(A) the single digital stream of program-
10 ming that, before June 12, 2009, was substan-
11 tially duplicating the programming transmitted
12 by the television broadcast station as an analog
13 signal; or

14 “(B) if there is no stream described in
15 subparagraph (A), then the single digital
16 stream of programming transmitted by the tele-
17 vision broadcast station for the longest period
18 of time.

19 “(10) PRIMARY TRANSMITTER.—A ‘primary
20 transmitter’ is a television or radio broadcast station
21 licensed by the Federal Communications Commis-
22 sion, or by an appropriate governmental authority of
23 Canada or Mexico, that makes primary trans-
24 missions to the public.

1 “(11) MULTICAST STREAM.—A ‘multicast
2 stream’ is a digital stream of programming that is
3 transmitted by a television broadcast station and is
4 not the station’s primary stream.

5 “(12) SIMULCAST.—A ‘simulcast’ is a multicast
6 stream of a television broadcast station that dupli-
7 cates the programming transmitted by the primary
8 stream or another multicast stream of such station.

9 “(13) SUBSCRIBER; SUBSCRIBE.—

10 “(A) SUBSCRIBER.—The term ‘subscriber’
11 means a person or entity that receives a sec-
12 ondary transmission service from a cable sys-
13 tem and pays a fee for the service, directly or
14 indirectly, to the cable system.

15 “(B) SUBSCRIBE.—The term ‘subscribe’
16 means to elect to become a subscriber.”.

17 (f) TIMING OF SECTION 111 PROCEEDINGS.—Section
18 804(b)(1) is amended by striking “2005” each place it ap-
19 pears and inserting “2015”.

20 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) CORRECTIONS TO FIX LEVEL DESIGNA-
22 TIONS.—Section 111 is amended—

23 (A) in subsections (a), (c), and (e), by
24 striking “clause” each place it appears and in-
25 serting “paragraph”;

1 (B) in subsection (c)(1), by striking
2 “clauses” and inserting “paragraphs”; and

3 (C) in subsection (e)(1)(F), by striking
4 “subclause” and inserting “subparagraph”.

5 (2) CONFORMING AMENDMENT TO HYPHENATE
6 NONNETWORK.—Section 111 is amended by striking
7 “nonnetwork” each place it appears and inserting
8 “non-network”.

9 (3) PREVIOUSLY UNDESIGNATED PARA-
10 GRAPH.—Section 111(e)(1) is amended by striking
11 “second paragraph of subsection (f)” and inserting
12 “subsection (f)(2)”.

13 (4) REMOVAL OF SUPERFLUOUS ANDS.—Sec-
14 tion 111(e) is amended—

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

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

19 (C) in paragraph (1)(C), by striking “and”
20 at the end;

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

23 (E) in paragraph (2)(A), by striking “and”
24 at the end.

1 (5) REMOVAL OF VARIANT FORMS REF-
2 ERENCES.—Section 111 is amended—

3 (A) in subsection (e)(4), by striking “, and
4 each of its variant forms,”; and

5 (B) in subsection (f), by striking “and
6 their variant forms”.

7 (6) CORRECTION TO TERRITORY REFERENCE.—
8 Section 111(e)(2) is amended in the matter pre-
9 ceding subparagraph (A) by striking “three terri-
10 tories” and inserting “five entities”.

11 (h) EFFECTIVE DATE WITH RESPECT TO
12 MULTICAST STREAMS.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), the amendments made by this section, to
15 the extent such amendments assign a distant signal
16 equivalent value to the secondary transmission of the
17 multicast stream of a primary transmitter, shall take
18 effect on the date of the enactment of this Act.

19 (2) DELAYED APPLICABILITY.—

20 (A) SECONDARY TRANSMISSIONS OF A
21 MULTICAST STREAM BEYOND THE LOCAL SERV-
22 ICE AREA OF ITS PRIMARY TRANSMITTER BE-
23 FORE 2010 ACT.—In any case in which a cable
24 system was making secondary transmissions of
25 a multicast stream beyond the local service area

1 of its primary transmitter before the date of the
2 enactment of this Act, a distant signal equiva-
3 lent value (referred to in paragraph (1)) shall
4 not be assigned to secondary transmissions of
5 such multicast stream that are made on or be-
6 fore June 30, 2010.

7 (B) MULTICAST STREAMS SUBJECT TO
8 PREEXISTING WRITTEN AGREEMENTS FOR THE
9 SECONDARY TRANSMISSION OF SUCH
10 STREAMS.—In any case in which the secondary
11 transmission of a multicast stream of a primary
12 transmitter is the subject of a written agree-
13 ment entered into on or before June 30, 2009,
14 between a cable system or an association rep-
15 resenting the cable system and a primary trans-
16 mitter or an association representing the pri-
17 mary transmitter, a distant signal equivalent
18 value (referred to in paragraph (1)) shall not be
19 assigned to secondary transmissions of such
20 multicast stream beyond the local service area
21 of its primary transmitter that are made on or
22 before the date on which such written agree-
23 ment expires.

24 (C) NO REFUNDS OR OFFSETS FOR PRIOR
25 STATEMENTS OF ACCOUNT.—A cable system

1 that has reported secondary transmissions of a
2 multicast stream beyond the local service area
3 of its primary transmitter on a statement of ac-
4 count deposited under section 111 of title 17,
5 United States Code, before the date of the en-
6 actment of this Act shall not be entitled to any
7 refund, or offset, of royalty fees paid on ac-
8 count of such secondary transmissions of such
9 multicast stream.

10 (3) DEFINITIONS.—In this subsection, the
11 terms “cable system”, “secondary transmission”,
12 “multicast stream”, and “local service area of a pri-
13 mary transmitter” have the meanings given those
14 terms in section 111(f) of title 17, United States
15 Code, as amended by this section.

16 **SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF**
17 **LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.**

18 Section 119 is amended by adding at the end the fol-
19 lowing new subsection:

20 “(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF
21 LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

22 “(1) INJUNCTION WAIVER.—A court that issued
23 an injunction pursuant to subsection (a)(7)(B) be-
24 fore the date of the enactment of this subsection
25 shall waive such injunction if the court recognizes

1 the entity against which the injunction was issued as
2 a qualified carrier.

3 “(2) LIMITED TEMPORARY WAIVER.—

4 “(A) IN GENERAL.—Upon a request made
5 by a satellite carrier, a court that issued an in-
6 junction against such carrier under subsection
7 (a)(7)(B) before the date of the enactment of
8 this subsection shall waive such injunction with
9 respect to the statutory license provided under
10 subsection (a)(2) to the extent necessary to
11 allow such carrier to make secondary trans-
12 missions of primary transmissions made by a
13 network station to unserved households located
14 in short markets in which such carrier was not
15 providing local service pursuant to the license
16 under section 122 as of December 31, 2009.

17 “(B) EXPIRATION OF TEMPORARY WAIV-
18 ER.—A temporary waiver of an injunction
19 under subparagraph (A) shall expire after the
20 end of the 120-day period beginning on the
21 date such temporary waiver is issued unless ex-
22 tended for good cause by the court making the
23 temporary waiver.

24 “(C) FAILURE TO PROVIDE LOCAL-INTO-
25 LOCAL SERVICE TO ALL DMAS.—

1 “(i) FAILURE TO ACT REASONABLY
2 AND IN GOOD FAITH.—If the court issuing
3 a temporary waiver under subparagraph
4 (A) determines that the satellite carrier
5 that made the request for such waiver has
6 failed to act reasonably or has failed to
7 make a good faith effort to provide local-
8 into-local service to all DMAs, such fail-
9 ure—

10 “(I) is actionable as an act of in-
11 fringement under section 501 and the
12 court may in its discretion impose the
13 remedies provided for in sections 502
14 through 506 and subsection (a)(6)(B)
15 of this section; and

16 “(II) shall result in the termi-
17 nation of the waiver issued under sub-
18 paragraph (A).

19 “(ii) FAILURE TO PROVIDE LOCAL-
20 INTO-LOCAL SERVICE.—If the court issuing
21 a temporary waiver under subparagraph
22 (A) determines that the satellite carrier
23 that made the request for such waiver has
24 failed to provide local-into-local service to
25 all DMAs, but determines that the carrier

1 acted reasonably and in good faith, the
2 court may in its discretion impose financial
3 penalties that reflect—

4 “(I) the degree of control the
5 carrier had over the circumstances
6 that resulted in the failure;

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

9 “(III) the severity and duration
10 of any service interruption.

11 “(D) SINGLE TEMPORARY WAIVER AVAIL-
12 ABLE.—An entity may only receive one tem-
13 porary waiver under this paragraph.

14 “(E) SHORT MARKET DEFINED.—For pur-
15 poses of this paragraph, the term ‘short mar-
16 ket’ means a local market in which program-
17 ming of one or more of the four most widely
18 viewed television networks nationwide as meas-
19 ured on the date of the enactment of this sub-
20 section is not offered on the primary stream
21 transmitted by any local television broadcast
22 station.

23 “(3) ESTABLISHMENT OF QUALIFIED CARRIER
24 RECOGNITION.—

1 “(A) STATEMENT OF ELIGIBILITY.—An
2 entity seeking to be recognized as a qualified
3 carrier under this subsection shall file a state-
4 ment of eligibility with the court that imposed
5 the injunction. A statement of eligibility must
6 include—

7 “(i) an affidavit that the entity is pro-
8 viding local-into-local service to all DMAs;

9 “(ii) a request for a waiver of the in-
10 junction; and

11 “(iii) a certification issued pursuant
12 to section 342(a) of Communications Act
13 of 1934.

14 “(B) GRANT OF RECOGNITION AS A QUALI-
15 FIED CARRIER.—Upon receipt of a statement of
16 eligibility, the court shall recognize the entity as
17 a qualified carrier and issue the waiver under
18 paragraph (1).

19 “(C) VOLUNTARY TERMINATION.—At any
20 time, an entity recognized as a qualified carrier
21 may file a statement of voluntary termination
22 with the court certifying that it no longer wish-
23 es to be recognized as a qualified carrier. Upon
24 receipt of such statement, the court shall rein-

1 state the injunction waived under paragraph
2 (1).

3 “(D) LOSS OF RECOGNITION PREVENTS
4 FUTURE RECOGNITION.—No entity may be rec-
5 ognized as a qualified carrier if such entity had
6 previously been recognized as a qualified carrier
7 and subsequently lost such recognition or volun-
8 tarily terminated such recognition under sub-
9 paragraph (C).

10 “(4) QUALIFIED CARRIER OBLIGATIONS AND
11 COMPLIANCE.—

12 “(A) CONTINUING OBLIGATIONS.—

13 “(i) IN GENERAL.—An entity recog-
14 nized as a qualified carrier shall continue
15 to provide local-into-local service to all
16 DMAs.

17 “(ii) COOPERATION WITH GAO EXAM-
18 INATION.—An entity recognized as a quali-
19 fied carrier shall fully cooperate with the
20 Comptroller General in the examination re-
21 quired by subparagraph (B).

22 “(B) QUALIFIED CARRIER COMPLIANCE
23 EXAMINATION.—

24 “(i) EXAMINATION AND REPORT.—
25 The Comptroller General shall conduct an

1 examination and publish a report con-
2 cerning the qualified carrier's compliance
3 with the royalty payment and household
4 eligibility requirements of the license under
5 this section. The report shall address the
6 qualified carrier's conduct during the pe-
7 riod beginning on the date on which the
8 qualified carrier is recognized as such
9 under paragraph (3)(B) and ending on De-
10 cember 31, 2011.

11 “(ii) RECORDS OF QUALIFIED CAR-
12 RIER.—Beginning on the date that is one
13 year after the date on which the qualified
14 carrier is recognized as such under para-
15 graph (3)(B), but not later than October
16 1, 2011, the qualified carrier shall provide
17 the Comptroller General with all records
18 that the Comptroller General, in consulta-
19 tion with the Register of Copyrights, con-
20 siders to be directly pertinent to the fol-
21 lowing requirements under this section:

22 “(I) Proper calculation and pay-
23 ment of royalties under the statutory
24 license under this section.

1 “(II) Provision of service under
2 this license to eligible subscribers
3 only.

4 “(iii) SUBMISSION OF REPORT.—The
5 Comptroller General shall file the report
6 required by clause (i) not later than March
7 1, 2012, with the court referred to in para-
8 graph (1) that issued the injunction, the
9 Register of Copyrights, the Committees on
10 the Judiciary and on Energy and Com-
11 merce of the House of Representatives,
12 and the Committees on the Judiciary and
13 on Commerce, Science, and Transportation
14 of the Senate.

15 “(iv) EVIDENCE OF INFRINGEMENT.—
16 The Comptroller General shall include in
17 the report a statement of whether the ex-
18 amination by the Comptroller General indi-
19 cated that there is substantial evidence
20 that a copyright holder could bring a suc-
21 cessful action under this section against
22 the qualified carrier for infringement. The
23 Comptroller General shall consult with the
24 Register of Copyrights in preparing such
25 statement.

1 pared in consultation with the Register of
2 Copyrights.

3 “(vi) COMPLIANCE.—Upon motion
4 filed by an aggrieved copyright owner, the
5 court recognizing an entity as a qualified
6 carrier shall terminate such designation
7 upon finding that the entity has failed to
8 cooperate with the examinations required
9 by this subparagraph.

10 “(C) AFFIRMATION.—A qualified carrier
11 shall file an affidavit with the district court and
12 the Register of Copyrights 30 months after
13 such status was granted stating that, to the
14 best of the affiant’s knowledge, it is in compli-
15 ance with the requirements for a qualified car-
16 rier.

17 “(D) COMPLIANCE DETERMINATION.—
18 Upon the motion of an aggrieved television
19 broadcast station, the court recognizing an enti-
20 ty as a qualified carrier may make a determina-
21 tion of whether the entity is providing local-
22 into-local service to all DMAs.

23 “(E) PLEADING REQUIREMENT.—In any
24 motion brought under subparagraph (D), the
25 party making such motion shall specify one or

1 more designated market areas (as such term is
2 defined in section 122(j)(2)(C)) for which the
3 failure to provide service is being alleged, and,
4 for each such designated market area, shall
5 plead with particularity the circumstances of
6 the alleged failure.

7 “(F) BURDEN OF PROOF.—In any pro-
8 ceeding to make a determination under sub-
9 paragraph (D), and with respect to a des-
10 ignated market area for which failure to provide
11 service is alleged, the entity recognized as a
12 qualified carrier shall have the burden of prov-
13 ing that the entity provided local-into-local serv-
14 ice with a good quality satellite signal to at
15 least 90 percent of the households in such des-
16 ignated market area (based on the most recent
17 census data released by the United States Cen-
18 sus Bureau) at the time and place alleged.

19 “(5) FAILURE TO PROVIDE SERVICE.—

20 “(A) PENALTIES.—If the court recognizing
21 an entity as a qualified carrier finds that such
22 entity has willfully failed to provide local-into-
23 local service to all DMAs, such finding shall re-
24 sult in the loss of recognition of the entity as
25 a qualified carrier and the termination of the

1 waiver provided under paragraph (1), and the
2 court may, in its discretion—

3 “(i) treat such failure as an act of in-
4 fringement under section 501, and subject
5 such infringement to the remedies provided
6 for in sections 502 through 506 and sub-
7 section (a)(6)(B) of this section; and

8 “(ii) impose a fine of not less than
9 \$250,000 and not more than \$5,000,000.

10 “(B) EXCEPTION FOR NONWILLFUL VIOLA-
11 TION.—If the court determines that the failure
12 to provide local-into-local service to all DMAs is
13 nonwillful, the court may in its discretion im-
14 pose financial penalties for noncompliance that
15 reflect—

16 “(i) the degree of control the entity
17 had over the circumstances that resulted in
18 the failure;

19 “(ii) the quality of the entity’s efforts
20 to remedy the failure and restore service;
21 and

22 “(iii) the severity and duration of any
23 service interruption.

24 “(6) PENALTIES FOR VIOLATIONS OF LI-
25 CENSE.—A court that finds, under subsection

1 (a)(6)(A), that an entity recognized as a qualified
2 carrier has willfully made a secondary transmission
3 of a primary transmission made by a network sta-
4 tion and embodying a performance or display of a
5 work to a subscriber who is not eligible to receive
6 the transmission under this section shall reinstate
7 the injunction waived under paragraph (1), and the
8 court may order statutory damages of not more than
9 \$2,500,000.

10 “(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS
11 DEFINED.—For purposes of this subsection:

12 “(A) IN GENERAL.—An entity provides
13 ‘local-into-local service to all DMAs’ if the enti-
14 ty provides local service in all designated mar-
15 ket areas (as such term is defined in section
16 122(j)(2)(C)) pursuant to the license under sec-
17 tion 122.

18 “(B) HOUSEHOLD COVERAGE.—For pur-
19 poses of subparagraph (A), an entity that
20 makes available local-into-local service with a
21 good quality satellite signal to at least 90 per-
22 cent of the households in a designated market
23 area based on the most recent census data re-
24 leased by the United States Census Bureau

1 shall be considered to be providing local service
2 to such designated market area.

3 “(C) GOOD QUALITY SATELLITE SIGNAL
4 DEFINED.—The term ‘good quality signal’ has
5 the meaning given such term under section
6 342(e)(2) of Communications Act of 1934.”.

7 **SEC. 506. COPYRIGHT OFFICE FEES.**

8 Section 708(a) is amended—

9 (1) in paragraph (8), by striking “and” after
10 the semicolon;

11 (2) in paragraph (9), by striking the period and
12 inserting a semicolon;

13 (3) by inserting after paragraph (9) the fol-
14 lowing:

15 “(10) on filing a statement of account based on
16 secondary transmissions of primary transmissions
17 pursuant to section 119 or 122; and

18 “(11) on filing a statement of account based on
19 secondary transmissions of primary transmissions
20 pursuant to section 111.”; and

21 (4) by adding at the end the following new sen-
22 tence: “Fees established under paragraphs (10) and
23 (11) shall be reasonable and may not exceed one-half
24 of the cost necessary to cover reasonable expenses
25 incurred by the Copyright Office for the collection

1 and administration of the statements of account and
2 any royalty fees deposited with such statements.”.

3 **SEC. 507. TERMINATION OF LICENSE.**

4 Section 1003(a)(2)(A) of Public Law 111-118 is
5 amended by striking “February 28, 2010” and inserting
6 “December 31, 2014”.

7 **SEC. 508. CONSTRUCTION.**

8 Nothing in section 111, 119, or 122 of title 17,
9 United States Code, including the amendments made to
10 such sections by this subtitle, shall be construed to affect
11 the meaning of any terms under the Communications Act
12 of 1934, except to the extent that such sections are specifi-
13 cally cross-referenced in such Act or the regulations issued
14 thereunder.

15 **Subtitle B—Communications**
16 **Provisions**

17 **SEC. 521. REFERENCE.**

18 Except as otherwise provided, whenever in this sub-
19 title an amendment is made to a section or other provision,
20 the reference shall be considered to be made to such sec-
21 tion or provision of the Communications Act of 1934 (47
22 U.S.C. 151 et seq.).

23 **SEC. 522. EXTENSION OF AUTHORITY.**

24 Section 325(b) is amended—

1 (1) in paragraph (2)(C), by striking “February
2 28, 2010” and inserting “December 31, 2014”; and

3 (2) in paragraph (3)(C), by striking “March 1,
4 2010” each place it appears in clauses (ii) and (iii)
5 and inserting “January 1, 2015”.

6 **SEC. 523. SIGNIFICANTLY VIEWED STATIONS.**

7 (a) IN GENERAL.—Paragraphs (1) and (2) of section
8 340(b) are amended to read as follows:

9 “(1) SERVICE LIMITED TO SUBSCRIBERS TAK-
10 ING LOCAL-INTO-LOCAL SERVICE.—This section shall
11 apply only to retransmissions to subscribers of a sat-
12 ellite carrier who receive retransmissions of a signal
13 from that satellite carrier pursuant to section 338.

14 “(2) SERVICE LIMITATIONS.—A satellite carrier
15 may retransmit to a subscriber in high definition
16 format the signal of a station determined by the
17 Commission to be significantly viewed under sub-
18 section (a) only if such carrier also retransmits in
19 high definition format the signal of a station located
20 in the local market of such subscriber and affiliated
21 with the same network whenever such format is
22 available from such station.”.

23 (b) RULEMAKING REQUIRED.—Within 180 days after
24 the date of the enactment of this Act, the Federal Commu-
25 nications Commission shall take all actions necessary to

1 promulgate a rule to implement the amendments made by
2 subsection (a).

3 **SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING**
4 **AMENDMENTS.**

5 (a) SECTION 338.—Section 338 is amended—

6 (1) in subsection (a), by striking “(3) EFFEC-
7 TIVE DATE.—No satellite” and all that follows
8 through “until January 1, 2002.”; and

9 (2) by amending subsection (g) to read as fol-
10 lows:

11 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE
12 RECEPTION ANTENNA.—

13 “(1) SINGLE RECEPTION ANTENNA.—Each sat-
14 ellite carrier that retransmits the signals of local tel-
15 evision broadcast stations in a local market shall re-
16 transmit such stations in such market so that a sub-
17 scriber may receive such stations by means of a sin-
18 gle reception antenna and associated equipment.

19 “(2) ADDITIONAL RECEPTION ANTENNA.—If
20 the carrier retransmits the signals of local television
21 broadcast stations in a local market in high defini-
22 tion format, the carrier shall retransmit such signals
23 in such market so that a subscriber may receive
24 such signals by means of a single reception antenna
25 and associated equipment, but such antenna and as-

1 sociated equipment may be separate from the single
2 reception antenna and associated equipment used to
3 comply with paragraph (1).”.

4 (b) SECTION 339.—Section 339 is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1)(B), by striking “Such
7 two network stations” and all that follows
8 through “more than two network stations.”;
9 and

10 (B) in paragraph (2)—

11 (i) in the heading for subparagraph
12 (A), by striking “TO ANALOG SIGNALS”;

13 (ii) in subparagraph (A)—

14 (I) in the heading for clause (i),
15 by striking “ANALOG”;

16 (II) in clause (i)—

17 (aa) by striking “analog”
18 each place it appears; and

19 (bb) by striking “October 1,
20 2004” and inserting “October 1,
21 2009”;

22 (III) in the heading for clause
23 (ii), by striking “ANALOG”; and

24 (IV) in clause (ii)—

1 (aa) by striking “analog”
2 each place it appears; and

3 (bb) by striking “2004” and
4 inserting “2009”;

5 (iii) by amending subparagraph (B) to
6 read as follows:

7 “(B) RULES FOR OTHER SUBSCRIBERS.—

8 “(i) IN GENERAL.—In the case of a
9 subscriber of a satellite carrier who is eligi-
10 ble to receive the signal of a network sta-
11 tion under this section (in this subpara-
12 graph referred to as a ‘distant signal’),
13 other than subscribers to whom subpara-
14 graph (A) applies, the following shall
15 apply:

16 “(I) In a case in which the sat-
17 ellite carrier makes available to that
18 subscriber, on January 1, 2005, the
19 signal of a local network station affili-
20 ated with the same television network
21 pursuant to section 338, the carrier
22 may only provide the secondary trans-
23 missions of the distant signal of a sta-
24 tion affiliated with the same network
25 to that subscriber if the subscriber’s

1 satellite carrier, not later than March
2 1, 2005, submits to that television
3 network the list and statement re-
4 quired by subparagraph (F)(i).

5 “(II) In a case in which the sat-
6 ellite carrier does not make available
7 to that subscriber, on January 1,
8 2005, the signal of a local network
9 station pursuant to section 338, the
10 carrier may only provide the sec-
11 ondary transmissions of the distant
12 signal of a station affiliated with the
13 same network to that subscriber if—

14 “(aa) that subscriber seeks
15 to subscribe to such distant sig-
16 nal before the date on which such
17 carrier commences to carry pur-
18 suant to section 338 the signals
19 of stations from the local market
20 of such local network station; and

21 “(bb) the satellite carrier,
22 within 60 days after such date,
23 submits to each television net-
24 work the list and statement re-
25 quired by subparagraph (F)(ii).

1 “(ii) SPECIAL CIRCUMSTANCES.—A
2 subscriber of a satellite carrier who was
3 lawfully receiving the distant signal of a
4 network station on the day before the date
5 of enactment of the Satellite Television Ex-
6 tension and Localism Act of 2010 may re-
7 ceive both such distant signal and the local
8 signal of a network station affiliated with
9 the same network until such subscriber
10 chooses to no longer receive such distant
11 signal from such carrier, whether or not
12 such subscriber elects to subscribe to such
13 local signal.”;

14 (iv) in subparagraph (C)—

15 (I) by striking “analog”;

16 (II) in clause (i), by striking “the
17 Satellite Home Viewer Extension and
18 Reauthorization Act of 2004; and”
19 and inserting the following:

20 “the Satellite Television Extension and Lo-
21 calism Act of 2010 and, at the time such
22 person seeks to subscribe to receive such
23 secondary transmission, resides in a local
24 market where the satellite carrier makes
25 available to that person the signal of a

1 local network station affiliated with the
2 same television network pursuant to sec-
3 tion 338 (and the retransmission of such
4 signal by such carrier can reach such sub-
5 scriber); or”); and

6 (III) by amending clause (ii) to
7 read as follows:

8 “(ii) lawfully subscribes to and re-
9 ceives a distant signal on or after the date
10 of enactment of the Satellite Television Ex-
11 tension and Localism Act of 2010, and,
12 subsequent to such subscription, the sat-
13 ellite carrier makes available to that sub-
14 scriber the signal of a local network station
15 affiliated with the same network as the dis-
16 tant signal (and the retransmission of such
17 signal by such carrier can reach such sub-
18 scriber), unless such person subscribes to
19 the signal of the local network station
20 within 60 days after such signal is made
21 available.”);

22 (v) in subparagraph (D)—

23 (I) in the heading, by striking
24 “DIGITAL”;

1 (II) by striking clauses (i), (iii)
2 through (v), (vii) through (ix), and
3 (xi);

4 (III) by redesignating clause (vi)
5 as clause (i) and transferring such
6 clause to appear before clause (ii);

7 (IV) by amending such clause (i)
8 (as so redesignated) to read as fol-
9 lows:

10 “(i) ELIGIBILITY AND SIGNAL TEST-
11 ING.—A subscriber of a satellite carrier
12 shall be eligible to receive a distant signal
13 of a network station affiliated with the
14 same network under this section if, with
15 respect to a local network station, such
16 subscriber—

17 “(I) is a subscriber whose house-
18 hold is not predicted by the model
19 specified in subsection (c)(3) to re-
20 ceive the signal intensity required
21 under section 73.622(e)(1) or, in the
22 case of a low-power station or trans-
23 lator station transmitting an analog
24 signal, section 73.683(a) of title 47,

1 Code of Federal Regulations, or a suc-
2 cessor regulation;

3 “(II) is determined, based on a
4 test conducted in accordance with sec-
5 tion 73.686(d) of title 47, Code of
6 Federal Regulations, or any successor
7 regulation, not to be able to receive a
8 signal that exceeds the signal intensity
9 standard in section 73.622(e)(1) or,
10 in the case of a low-power station or
11 translator station transmitting an
12 analog signal, section 73.683(a) of
13 such title, or a successor regulation;
14 or

15 “(III) is in an unserved house-
16 hold, as determined under section
17 119(d)(10)(A) of title 17, United
18 States Code.”;

19 (V) in clause (ii)—

20 (aa) by striking “DIGITAL”
21 in the heading;

22 (bb) by striking “digital”
23 the first two places such term ap-
24 pears;

1 (cc) by striking “Satellite
2 Home Viewer Extension and Re-
3 authorization Act of 2004” and
4 inserting “Satellite Television
5 Extension and Localism Act of
6 2010”; and

7 (dd) by striking “, whether
8 or not such subscriber elects to
9 subscribe to local digital signals”;

10 (VI) by inserting after clause (ii)
11 the following new clause:

12 “(iii) TIME-SHIFTING PROHIBITED.—
13 In a case in which the satellite carrier
14 makes available to an eligible subscriber
15 under this subparagraph the signal of a
16 local network station pursuant to section
17 338, the carrier may only provide the dis-
18 tant signal of a station affiliated with the
19 same network to that subscriber if, in the
20 case of any local market in the 48 contig-
21 uous States of the United States, the dis-
22 tant signal is the secondary transmission
23 of a station whose prime time network pro-
24 gramming is generally broadcast simulta-
25 neously with, or later than, the prime time

1 network programming of the affiliate of
2 the same network in the local market.”;
3 and

4 (VII) by redesignating clause (x)
5 as clause (iv); and

6 (vi) in subparagraph (E), by striking
7 “distant analog signal or” and all that fol-
8 lows through “(B), or (D))” and inserting
9 “distant signal”;

10 (2) in subsection (c)—

11 (A) by amending paragraph (3) to read as
12 follows:

13 “(3) ESTABLISHMENT OF IMPROVED PRE-
14 DICTIVE MODEL AND ON-LOCATION TESTING RE-
15 QUIRED.—

16 “(A) PREDICTIVE MODEL.—Within 180
17 days after the date of the enactment of the Sat-
18 ellite Television Extension and Localism Act of
19 2010, the Commission shall develop and pre-
20 scribe by rule a point-to-point predictive model
21 for reliably and presumptively determining the
22 ability of individual locations, through the use
23 of an antenna, to receive signals in accordance
24 with the signal intensity standard in section
25 73.622(e)(1) of title 47, Code of Federal Regu-

1 lations, or a successor regulation, including to
2 account for the continuing operation of trans-
3 lator stations and low power television stations.
4 In prescribing such model, the Commission
5 shall rely on the Individual Location Longley-
6 Rice model set forth by the Commission in CS
7 Docket No. 98–201, as previously revised with
8 respect to analog signals, and as recommended
9 by the Commission with respect to digital sig-
10 nals in its Report to Congress in ET Docket
11 No. 05–182, FCC 05–199 (released December
12 9, 2005). The Commission shall establish proce-
13 dures for the continued refinement in the appli-
14 cation of the model by the use of additional
15 data as it becomes available.

16 “(B) ON-LOCATION TESTING.—The Com-
17 mission shall issue an order completing its rule-
18 making proceeding in ET Docket No. 06–94
19 within 180 days after the date of enactment of
20 the Satellite Television Extension and Localism
21 Act of 2010. In conducting such rulemaking,
22 the Commission shall seek ways to minimize
23 consumer burdens associated with on-location
24 testing.”;

1 (B) by amending paragraph (4)(A) to read
2 as follows:

3 “(A) IN GENERAL.—If a subscriber’s re-
4 quest for a waiver under paragraph (2) is re-
5 jected and the subscriber submits to the sub-
6 scriber’s satellite carrier a request for a test
7 verifying the subscriber’s inability to receive a
8 signal of the signal intensity referenced in
9 clause (i) of subsection (a)(2)(D), the satellite
10 carrier and the network station or stations as-
11 serting that the retransmission is prohibited
12 with respect to that subscriber shall select a
13 qualified and independent person to conduct the
14 test referenced in such clause. Such test shall
15 be conducted within 30 days after the date the
16 subscriber submits a request for the test. If the
17 written findings and conclusions of a test con-
18 ducted in accordance with such clause dem-
19 onstrate that the subscriber does not receive a
20 signal that meets or exceeds the requisite signal
21 intensity standard in such clause, the subscriber
22 shall not be denied the retransmission of a sig-
23 nal of a network station under section
24 119(d)(10)(A) of title 17, United States
25 Code.”;

1 (C) in paragraph (4)(B), by striking “the
2 signal intensity” and all that follows through
3 “United States Code” and inserting “such req-
4 uisite signal intensity standard”; and

5 (D) in paragraph (4)(E), by striking
6 “Grade B intensity”.

7 (c) SECTION 340.—Section 340(i) is amended by
8 striking paragraph (4).

9 **SEC. 525. APPLICATION PENDING COMPLETION OF**
10 **RULEMAKINGS.**

11 (a) IN GENERAL.—During the period beginning on
12 the date of the enactment of this Act and ending on the
13 date on which the Federal Communications Commission
14 adopts rules pursuant to the amendments to the Commu-
15 nications Act of 1934 made by section 523 and section
16 524 of this title, the Federal Communications Commission
17 shall follow its rules and regulations promulgated pursu-
18 ant to sections 338, 339, and 340 of the Communications
19 Act of 1934 as in effect on the day before the date of
20 the enactment of this Act.

21 (b) TRANSLATOR STATIONS AND LOW POWER TELE-
22 VISION STATIONS.—Notwithstanding subsection (a), for
23 purposes of determining whether a subscriber within the
24 local market served by a translator station or a low power
25 television station affiliated with a television network is eli-

1 gible to receive distant signals under section 339 of the
2 Communications Act of 1934, the rules and regulations
3 of the Federal Communications Commission for deter-
4 mining such subscriber's eligibility as in effect on the day
5 before the date of the enactment of this Act shall apply
6 until the date on which the translator station or low power
7 television station is licensed to broadcast a digital signal.

8 (c) DEFINITIONS.—As used in this subtitle:

9 (1) LOCAL MARKET; LOW POWER TELEVISION
10 STATION; SATELLITE CARRIER; SUBSCRIBER; TELE-
11 VISION BROADCAST STATION.—The terms “local
12 market”, “low power television station”, “satellite
13 carrier”, “subscriber”, and “television broadcast sta-
14 tion” have the meanings given such terms in section
15 338(k) of the Communications Act of 1934.

16 (2) NETWORK STATION; TELEVISION NET-
17 WORK.—The terms “network station” and “tele-
18 vision network” have the meanings given such terms
19 in section 339(d) of such Act.

20 **SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CER-**
21 **TIFICATION.**

22 Part I of title III is amended by adding at the end
23 the following new section:

1 **“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER**
2 **CERTIFICATION.**

3 “(a) CERTIFICATION.—The Commission shall issue a
4 certification for the purposes of section 119(g)(3)(A)(iii)
5 of title 17, United States Code, if the Commission deter-
6 mines that—

7 “(1) a satellite carrier is providing local service
8 pursuant to the statutory license under section 122
9 of such title in each designated market area; and

10 “(2) with respect to each designated market
11 area in which such satellite carrier was not providing
12 such local service as of the date of enactment of the
13 Satellite Television Extension and Localism Act of
14 2010—

15 “(A) the satellite carrier’s satellite beams
16 are designed, and predicted by the satellite
17 manufacturer’s pre-launch test data, to provide
18 a good quality satellite signal to at least 90 per-
19 cent of the households in each such designated
20 market area based on the most recent census
21 data released by the United States Census Bu-
22 reau; and

23 “(B) there is no material evidence that
24 there has been a satellite or sub-system failure
25 subsequent to the satellite’s launch that pre-

1 cludes the ability of the satellite carrier to sat-
2 isfy the requirements of subparagraph (A).

3 “(b) INFORMATION REQUIRED.—Any entity seeking
4 the certification provided for in subsection (a) shall submit
5 to the Commission the following information:

6 “(1) An affidavit stating that, to the best of the
7 affiant’s knowledge, the satellite carrier provides
8 local service in all designated market areas pursuant
9 to the statutory license provided for in section 122
10 of title 17, United States Code, and listing those
11 designated market areas in which local service was
12 provided as of the date of enactment of the Satellite
13 Television Extension and Localism Act of 2010.

14 “(2) For each designated market area not listed
15 in paragraph (1):

16 “(A) Identification of each such designated
17 market area and the location of its local receive
18 facility.

19 “(B) Data showing the number of house-
20 holds, and maps showing the geographic dis-
21 tribution thereof, in each such designated mar-
22 ket area based on the most recent census data
23 released by the United States Census Bureau.

24 “(C) Maps, with superimposed effective
25 isotropically radiated power predictions ob-

1 tained in the satellite manufacturer’s pre-
2 launch tests, showing that the contours of the
3 carrier’s satellite beams as designed and the ge-
4 ographic area that the carrier’s satellite beams
5 are designed to cover are predicted to provide
6 a good quality satellite signal to at least 90 per-
7 cent of the households in such designated mar-
8 ket area based on the most recent census data
9 released by the United States Census Bureau.

10 “(D) For any satellite relied upon for cer-
11 tification under this section, an affidavit stating
12 that, to the best of the affiant’s knowledge,
13 there have been no satellite or sub-system fail-
14 ures subsequent to the satellite’s launch that
15 would degrade the design performance to such
16 a degree that a satellite transponder used to
17 provide local service to any such designated
18 market area is precluded from delivering a good
19 quality satellite signal to at least 90 percent of
20 the households in such designated market area
21 based on the most recent census data released
22 by the United States Census Bureau.

23 “(E) Any additional engineering, des-
24 ignated market area, or other information the
25 Commission considers necessary to determine

1 whether the Commission shall grant a certifi-
2 cation under this section.

3 “(c) CERTIFICATION ISSUANCE.—

4 “(1) PUBLIC COMMENT.—The Commission shall
5 provide 30 days for public comment on a request for
6 certification under this section.

7 “(2) DEADLINE FOR DECISION.—The Commis-
8 sion shall grant or deny a request for certification
9 within 90 days after the date on which such request
10 is filed.

11 “(d) SUBSEQUENT AFFIRMATION.—An entity grant-
12 ed qualified carrier status pursuant to section 119(g) of
13 title 17, United States Code, shall file an affidavit with
14 the Commission 30 months after such status was granted
15 stating that, to the best of the affiant’s knowledge, it is
16 in compliance with the requirements for a qualified car-
17 rier.

18 “(e) DEFINITIONS.—For the purposes of this section:

19 “(1) DESIGNATED MARKET AREA.—The term
20 ‘designated market area’ has the meaning given such
21 term in section 122(j)(2)(C) of title 17, United
22 States Code.

23 “(2) GOOD QUALITY SATELLITE SIGNAL.—

24 “(A) IN GENERAL.—The term “good qual-
25 ity satellite signal” means—

1 “(i) a satellite signal whose power
2 level as designed shall achieve reception
3 and demodulation of the signal at an avail-
4 ability level of at least 99.7 percent
5 using—

6 “(I) models of satellite antennas
7 normally used by the satellite carrier’s
8 subscribers; and

9 “(II) the same calculation meth-
10 odology used by the satellite carrier to
11 determine predicted signal availability
12 in the top 100 designated market
13 areas; and

14 “(ii) taking into account whether a
15 signal is in standard definition format or
16 high definition format, compression meth-
17 odology, modulation, error correction,
18 power level, and utilization of advances in
19 technology that do not circumvent the in-
20 tent of this section to provide for non-dis-
21 criminatory treatment with respect to any
22 comparable television broadcast station sig-
23 nal, a video signal transmitted by a sat-
24 ellite carrier such that—

1 “(I) the satellite carrier treats all
2 television broadcast stations’ signals
3 the same with respect to statistical
4 multiplexer prioritization; and

5 “(II) the number of video signals
6 in the relevant satellite transponder is
7 not more than the then current great-
8 est number of video signals carried on
9 any equivalent transponder serving
10 the top 100 designated market areas.

11 “(B) DETERMINATION.—For the purposes
12 of subparagraph (A), the top 100 designated
13 market areas shall be as determined by Nielsen
14 Media Research and published in the Nielsen
15 Station Index Directory and Nielsen Station
16 Index United States Television Household Esti-
17 mates or any successor publication as of the
18 date of a satellite carrier’s application for cer-
19 tification under this section.”.

20 **SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEF-**
21 **INATION DIGITAL SIGNALS OF NONCOMMER-**
22 **CIAL EDUCATIONAL TELEVISION STATIONS.**

23 (a) IN GENERAL.—Section 338(a) is amended by
24 adding at the end the following new paragraph:

1 “(5) NONDISCRIMINATION IN CARRIAGE OF
2 HIGH DEFINITION SIGNALS OF NONCOMMERCIAL
3 EDUCATIONAL TELEVISION STATIONS.—

4 “(A) EXISTING CARRIAGE OF HIGH DEFINI-
5 TION SIGNALS.—If, before the date of enact-
6 ment of the Satellite Television Extension and
7 Localism Act of 2010, an eligible satellite car-
8 rier is providing, under section 122 of title 17,
9 United States Code, any secondary trans-
10 missions in high definition format to sub-
11 scribers located within the local market of a tel-
12 evision broadcast station of a primary trans-
13 mission made by that station, then such sat-
14 ellite carrier shall carry the signals in high-defi-
15 nition format of qualified noncommercial edu-
16 cational television stations located within that
17 local market in accordance with the following
18 schedule:

19 “(i) By December 31, 2010, in at
20 least 50 percent of the markets in which
21 such satellite carrier provides such sec-
22 ondary transmissions in high definition
23 format.

24 “(ii) By December 31, 2011, in every
25 market in which such satellite carrier pro-

1 vides such secondary transmissions in high
2 definition format.

3 “(B) NEW INITIATION OF SERVICE.—If, on
4 or after the date of enactment of the Satellite
5 Television Extension and Localism Act of 2010,
6 an eligible satellite carrier initiates the provi-
7 sion, under section 122 of title 17, United
8 States Code, of any secondary transmissions in
9 high definition format to subscribers located
10 within the local market of a television broadcast
11 station of a primary transmission made by that
12 station, then such satellite carrier shall carry
13 the signals in high-definition format of all
14 qualified noncommercial educational television
15 stations located within that local market.”.

16 (b) DEFINITIONS.—Section 338(k) is amended—

17 (1) by redesignating paragraphs (2) through
18 (8) as paragraphs (3) through (9), respectively;

19 (2) by inserting after paragraph (1) the fol-
20 lowing new paragraph:

21 “(2) ELIGIBLE SATELLITE CARRIER.—The term
22 ‘eligible satellite carrier’ means any satellite carrier
23 that is not a party to a carriage contract that—

1 “(A) governs carriage of at least 30 quali-
2 fied noncommercial educational television sta-
3 tions; and

4 “(B) is in force and effect within 60 days
5 after the date of enactment of the Satellite Tel-
6 evision Extension and Localism Act of 2010.”;

7 (3) by redesignating paragraphs (6) through
8 (9) (as previously redesignated) as paragraphs (7)
9 through (10), respectively; and

10 (4) by inserting after paragraph (5) (as so re-
11 designated) the following new paragraph:

12 “(6) QUALIFIED NONCOMMERCIAL EDU-
13 CATIONAL TELEVISION STATION.—The term ‘quali-
14 fied noncommercial educational television station’
15 means any full-power television broadcast station
16 that—

17 “(A) under the rules and regulations of the
18 Commission in effect on March 29, 1990, is li-
19 censed by the Commission as a noncommercial
20 educational broadcast station and is owned and
21 operated by a public agency, nonprofit founda-
22 tion, nonprofit corporation, or nonprofit asso-
23 ciation; and

24 “(B) has as its licensee an entity that is el-
25 igible to receive a community service grant, or

1 any successor grant thereto, from the Corpora-
2 tion for Public Broadcasting, or any successor
3 organization thereto, on the basis of the for-
4 mula set forth in section 396(k)(6)(B) of this
5 title.”.

6 **SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.**

7 Nothing in this subtitle or the amendments made by
8 this subtitle shall be construed to affect—

9 (1) the meaning of the terms “program re-
10 lated” and “primary video” under the Communica-
11 tions Act of 1934; or

12 (2) the meaning of the term “multicast” in any
13 regulations issued by the Federal Communications
14 Commission.

15 **SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.**

16 Section 335(b) is amended—

17 (1) by inserting “**STATE PUBLIC AFFAIRS,**”
18 after “**EDUCATIONAL,**” in the heading;

19 (2) by striking paragraph (1) and inserting the
20 following:

21 “(1) **CHANNEL CAPACITY REQUIRED.**—

22 “(A) **IN GENERAL.**—~~Except~~ as provided in
23 subparagraph (B), the Commission shall re-
24 quire, as a condition of any provision, initial au-
25 thorization, or authorization renewal for a pro-

1 vider of direct broadcast satellite service pro-
2 viding video programming, that the provider of
3 such service reserve a portion of its channel ca-
4 pacity, equal to not less than 4 percent nor
5 more than 7 percent, exclusively for non-
6 commercial programming of an educational or
7 informational nature.

8 “(B) REQUIREMENT FOR QUALIFIED SAT-
9 ELLITE PROVIDER.—The Commission shall re-
10 quire, as a condition of any provision, initial au-
11 thorization, or authorization renewal for a
12 qualified satellite provider of direct broadcast
13 satellite service providing video programming,
14 that such provider reserve a portion of its chan-
15 nel capacity, equal to not less than 3.5 percent
16 nor more than 7 percent, exclusively for non-
17 commercial programming of an educational or
18 informational nature.”;

19 (3) in paragraph (5), by striking “For purposes
20 of the subsection—” and inserting “For purposes of
21 this subsection:”; and

22 (4) by adding at the end of paragraph (5) the
23 following:

1 “(C) The term ‘qualified satellite provider’
2 means any provider of direct broadcast satellite
3 service that—

4 “(i) provides the retransmission of the
5 State public affairs networks of at least 15
6 different States;

7 “(ii) offers the programming of State
8 public affairs networks upon reasonable
9 prices, terms, and conditions as determined
10 by the Commission under paragraph (4);
11 and

12 “(iii) does not delete any noncommer-
13 cial programming of an educational or in-
14 formational nature in connection with the
15 carriage of a State public affairs network.

16 “(D) The term ‘State public affairs net-
17 work’ means a non-commercial non-broadcast
18 network or a noncommercial educational tele-
19 vision station—

20 “(i) whose programming consists of
21 information about State government delib-
22 erations and public policy events; and

23 “(ii) that is operated by—

24 “(I) a State government or sub-
25 division thereof;

1 tions 111, 119, and 122 of title 17, United States
2 Code, by making such sections inapplicable to the
3 secondary transmission of a performance or display
4 of a work embodied in a primary transmission of a
5 broadcast station that is authorized to license the
6 same secondary transmission directly with respect to
7 all of the performances and displays embodied in
8 such primary transmission;

9 (2) any recommendations for alternative means
10 to implement a timely and effective phase-out of the
11 statutory licensing requirements set forth in sections
12 111, 119, and 122 of title 17, United States Code;
13 and

14 (3) any recommendations for legislative or ad-
15 ministrative actions as may be appropriate to
16 achieve such a phase-out.

17 **SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF**
18 **STATUTORY LICENSING MODIFICATIONS.**

19 (a) **STUDY.**—The Comptroller General shall conduct
20 a study that analyzes and evaluates the changes to the
21 carriage requirements currently imposed on multichannel
22 video programming distributors under the Communica-
23 tions Act of 1934 (47 U.S.C. 151 et seq.) and the regula-
24 tions promulgated by the Federal Communications Com-
25 mission that would be required or beneficial to consumers,

1 and such other matters as the Comptroller General deems
2 appropriate, if Congress implemented a phase-out of the
3 current statutory licensing requirements set forth under
4 sections 111, 119, and 122 of title 17, United States
5 Code. Among other things, the study shall consider the
6 impact such a phase-out and related changes to carriage
7 requirements would have on consumer prices and access
8 to programming.

9 (b) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, the Comptroller General shall
11 report to the appropriate Congressional committees the re-
12 sults of the study, including any recommendations for leg-
13 islative or administrative actions.

14 **SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAM-**
15 **MING.**

16 Not later than 1 year after the date of the enactment
17 of this Act, the Federal Communications Commission shall
18 submit to the appropriate Congressional committees a re-
19 port containing an analysis of—

20 (1) the number of households in a State that
21 receive the signals of local broadcast stations as-
22 signed to a community of license that is located in
23 a different State;

24 (2) the extent to which consumers in each local
25 market have access to in-state broadcast program-

1 ming over the air or from a multichannel video pro-
2 gramming distributor; and

3 (3) whether there are alternatives to the use of
4 designated market areas, as defined in section 122
5 of title 17, United States Code, to define local mar-
6 kets that would provide more consumers with in-
7 state broadcast programming.

8 **SEC. 535. LOCAL NETWORK CHANNEL BROADCAST RE-**
9 **PORTS.**

10 (a) REQUIREMENT.—

11 (1) IN GENERAL.—On the 180th day after the
12 date of the enactment of this Act, and on each suc-
13 ceeding anniversary of such 180th day, each satellite
14 carrier shall submit an annual report to the Federal
15 Communications Commission setting forth—

16 (A) each local market in which it—

17 (i) retransmits signals of 1 or more
18 television broadcast stations with a com-
19 munity of license in that market;

20 (ii) has commenced providing such
21 signals in the preceding 1-year period; and

22 (iii) has ceased to provide such signals
23 in the preceding 1-year period; and

24 (B) detailed information regarding the use
25 and potential use of satellite capacity for the re-

1 transmission of local signals in each local mar-
2 ket.

3 (2) TERMINATION.—The requirement under
4 paragraph (1) shall cease after each satellite carrier
5 has submitted 5 reports under such paragraph.

6 (b) FCC STUDY; REPORT.—

7 (1) STUDY.—If no satellite carrier files a re-
8 quest for a certification under section 342 of the
9 Communications Act of 1934 (as added by section
10 526 of this title) within 180 days after the date of
11 the enactment of this Act, the Federal Communica-
12 tions Commission shall initiate a study of—

13 (A) incentives that would induce a satellite
14 carrier to provide the signals of 1 or more tele-
15 vision broadcast stations licensed to provide sig-
16 nals in local markets in which the satellite car-
17 rier does not provide such signals; and

18 (B) the economic and satellite capacity
19 conditions affecting delivery of local signals by
20 satellite carriers to these markets.

21 (2) REPORT.—Within 1 year after the date of
22 the initiation of the study under paragraph (1), the
23 Federal Communications Commission shall submit a
24 report to the appropriate Congressional committees

1 containing its findings, conclusions, and rec-
2 ommendations.

3 (c) DEFINITIONS.—In this section—

4 (1) the terms “local market” and “satellite car-
5 rier” have the meaning given such terms in section
6 339(d) of the Communications Act of 1934 (47
7 U.S.C. 339(d)); and

8 (2) the term “television broadcast station” has
9 the meaning given such term in section 325(b)(7) of
10 such Act (47 U.S.C. 325(b)(7)).

11 **SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGO-**
12 **TIATED LICENSES.**

13 (a) IN GENERAL.—Nothing in this title, title 17,
14 United States Code, the Communications Act of 1934,
15 regulations promulgated by the Register of Copyrights
16 under this title or title 17, United States Code, or regula-
17 tions promulgated by the Federal Communications Com-
18 mission under this title or the Communications Act of
19 1934 shall be construed to prevent a multichannel video
20 programming distributor from retransmitting a perform-
21 ance or display of a work pursuant to an authorization
22 granted by the copyright owner or, if within the scope of
23 its authorization, its licensee.

24 (b) LIMITATION.—Nothing in subsection (a) shall be
25 construed to affect any obligation of a multichannel video

1 programming distributor under section 325(b) of the
2 Communications Act of 1934 to obtain the authority of
3 a television broadcast station before retransmitting that
4 station's signal.

5 **SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPY-**
6 **RIGHT.**

7 Unless specifically provided otherwise, this title, and
8 the amendments made by this title, shall take effect on
9 February 27, 2010, and all references to enactment of this
10 Act shall be deemed to refer to such date unless otherwise
11 specified. The secondary transmission of a performance or
12 display of a work embodied in a primary transmission is
13 not an infringement of copyright if it was made by a sat-
14 ellite carrier on or after February 27, 2010 and prior to
15 enactment of this Act, and was in compliance with the
16 law as in existence on February 27, 2010.

17 **Subtitle D—Severability**

18 **SEC. 541. SEVERABILITY.**

19 If any provision of this title, an amendment made by
20 this title, or the application of such provision or amend-
21 ment to any person or circumstance is held to be unconsti-
22 tutional, the remainder of this title, the amendments made
23 by this title, and the application of such provision or
24 amendment to any person or circumstance shall not be af-
25 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 **TITLE VII—DETERMINATION OF**
13 **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.