

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

An Act 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 In lieu of the matter proposed to be inserted by the
2 amendment of the House, insert the following:

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 Jobs and Closing Tax Loopholes Act of 2010”.

7 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
8 wise expressly provided, whenever in titles I, II, and IV
9 of this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
 2 section or other provision of the Internal Revenue Code
 3 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—INFRASTRUCTURE INCENTIVES

- Sec. 101. Extension of Build America Bonds.
- Sec. 102. Exempt-facility bonds for sewage and water supply facilities.
- Sec. 103. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
- Sec. 104. Extension and additional allocations of recovery zone bond authority.
- Sec. 105. Allowance of new markets tax credit against alternative minimum tax.
- Sec. 106. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.
- Sec. 107. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

- Sec. 201. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.
- Sec. 202. Incentives for biodiesel and renewable diesel.
- Sec. 203. Credit for electricity produced at certain open-loop biomass facilities.
- Sec. 204. Extension and modification of credit for steel industry fuel.
- Sec. 205. Credit for producing fuel from coke or coke gas.
- Sec. 206. New energy efficient home credit.
- Sec. 207. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
- Sec. 208. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 209. Suspension of limitation on percentage depletion for oil and gas from marginal wells.
- Sec. 210. Direct payment of energy efficient appliances tax credit.
- Sec. 211. Modification of standards for windows, doors, and skylights with respect to the credit for nonbusiness energy property.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

- Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 222. Additional standard deduction for State and local real property taxes.
- Sec. 223. Deduction of State and local sales taxes.

- Sec. 224. Contributions of capital gain real property made for conservation purposes.
- Sec. 225. Above-the-line deduction for qualified tuition and related expenses.
- Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

PART II—LOW-INCOME HOUSING CREDITS

- Sec. 231. Election for direct payment of low-income housing credit for 2010.

Subtitle C—Business Tax Relief

- Sec. 241. Research credit.
- Sec. 242. Indian employment tax credit.
- Sec. 243. New markets tax credit.
- Sec. 244. Railroad track maintenance credit.
- Sec. 245. Mine rescue team training credit.
- Sec. 246. Employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 247. 5-year depreciation for farming business machinery and equipment.
- Sec. 248. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 249. 7-year recovery period for motorsports entertainment complexes.
- Sec. 250. Accelerated depreciation for business property on an Indian reservation.
- Sec. 251. Enhanced charitable deduction for contributions of food inventory.
- Sec. 252. Enhanced charitable deduction for contributions of book inventories to public schools.
- Sec. 253. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.
- Sec. 254. Election to expense mine safety equipment.
- Sec. 255. Special expensing rules for certain film and television productions.
- Sec. 256. Expensing of environmental remediation costs.
- Sec. 257. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 258. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 259. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.
- Sec. 260. Timber REIT modernization.
- Sec. 261. Treatment of certain dividends of regulated investment companies.
- Sec. 262. RIC qualified investment entity treatment under FIRPTA.
- Sec. 263. Exceptions for active financing income.
- Sec. 264. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 265. Basis adjustment to stock of S corps making charitable contributions of property.
- Sec. 266. Empowerment zone tax incentives.
- Sec. 267. Tax incentives for investment in the District of Columbia.
- Sec. 268. Renewal community tax incentives.
- Sec. 269. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.

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- Sec. 270. Payment to American Samoa in lieu of extension of economic development credit.
- Sec. 271. Election to temporarily utilize unused AMT credits determined by domestic investment.
- Sec. 272. Study of extended tax expenditures.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

- Sec. 281. Waiver of certain mortgage revenue bond requirements.
- Sec. 282. Losses attributable to federally declared disasters.
- Sec. 283. Special depreciation allowance for qualified disaster property.
- Sec. 284. Net operating losses attributable to federally declared disasters.
- Sec. 285. Expensing of qualified disaster expenses.

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

- Sec. 291. Special depreciation allowance for nonresidential and residential real property.
- Sec. 292. Tax-exempt bond financing.

SUBPART B—GO ZONE

- Sec. 295. Increase in rehabilitation credit.
- Sec. 296. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.
- Sec. 297. Extension of low-income housing credit rules for buildings in GO zones.

TITLE III—PENSION 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. Suspension of certain funding level limitations.
- Sec. 304. Lookback for credit balance rule.
- Sec. 305. Information reporting.
- Sec. 306. Rollover of amounts received in airline carrier bankruptcy.

Subtitle B—Multiemployer Plans

- Sec. 311. Optional use of 30-year amortization periods.
- Sec. 312. Optional longer recovery periods for multiemployer plans in endangered or critical status.
- Sec. 313. Modification of certain amortization extensions under prior law.
- Sec. 314. Alternative default schedule for plans in endangered or critical status.
- Sec. 315. Transition rule for certifications of plan status.

TITLE IV—REVENUE OFFSETS

Subtitle A—Foreign Provisions

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- Sec. 401. Rules to prevent splitting foreign tax credits from the income to which they relate.
- Sec. 402. Denial of foreign tax credit with respect to foreign income not subject to United States taxation by reason of covered asset acquisitions.
- Sec. 403. Separate application of foreign tax credit limitation, etc., to items resourced under treaties.
- Sec. 404. Limitation on the amount of foreign taxes deemed paid with respect to section 956 inclusions.
- Sec. 405. Special rule with respect to certain redemptions by foreign subsidiaries.
- Sec. 406. Modification of affiliation rules for purposes of rules allocating interest expense.
- Sec. 407. Termination of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.
- Sec. 408. Source rules for income on guarantees.
- Sec. 409. Limitation on extension of statute of limitations for failure to notify Secretary of certain foreign transfers.

Subtitle B—Personal Service Income Earned in Pass-thru Entities

- Sec. 411. Partnership interests transferred in connection with performance of services.
- Sec. 412. Income of partners for performing investment management services treated as ordinary income received for performance of services.
- Sec. 413. Employment tax treatment of professional service businesses.

Subtitle C—Corporate Provisions

- Sec. 421. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.
- Sec. 422. Taxation of boot received in reorganizations.

Subtitle D—Other Provisions

- Sec. 431. Modifications with respect to Oil Spill Liability Trust Fund.
- Sec. 432. Time for payment of corporate estimated taxes.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

- Sec. 501. Extension of unemployment insurance provisions.
- Sec. 502. Coordination of emergency unemployment compensation with regular compensation.
- Sec. 503. Extension of the Emergency Contingency Fund.

Subtitle B—Health Provisions

- Sec. 511. Extension of section 508 reclassifications.
- Sec. 512. Repeal of delay of RUG-IV.
- Sec. 513. Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 514. Funding for claims reprocessing.
- Sec. 515. Medicaid and CHIP technical corrections.

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- Sec. 516. Addition of inpatient drug discount program to 340B drug discount program.
- Sec. 517. Continued inclusion of orphan drugs in definition of covered outpatient drugs with respect to children's hospitals under the 340B drug discount program.
- Sec. 518. Conforming amendment related to waiver of coinsurance for preventive services.
- Sec. 519. Establish a CMS–IRS data match to identify fraudulent providers.
- Sec. 520. Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries.
- Sec. 521. Physician payment update.
- Sec. 522. Adjustment to Medicare payment localities.
- Sec. 523. Clarification of 3-day payment window.
- Sec. 524. Extension of ARRA increase in FMAP.

TITLE VI—OTHER PROVISIONS

- Sec. 601. Extension of national flood insurance program.
- Sec. 602. Allocation of geothermal receipts.
- Sec. 603. Small business loan guarantee enhancement extensions.
- Sec. 604. Emergency agricultural disaster assistance.
- Sec. 605. Summer employment for youth.
- Sec. 606. Housing Trust Fund.
- Sec. 607. The Individual Indian Money Account Litigation Settlement Act of 2010.
- Sec. 608. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.
- Sec. 609. Expansion of eligibility for concurrent receipt of military retired pay and veterans' disability compensation to include all chapter 61 disability retirees regardless of disability rating percentage or years of service.
- Sec. 610. Extension of use of 2009 poverty guidelines.
- Sec. 611. Refunds disregarded in the administration of Federal programs and federally assisted programs.
- Sec. 612. State court improvement program.
- Sec. 613. Qualifying timber contract options.
- Sec. 614. Extension and flexibility for certain allocated surface transportation programs.
- Sec. 615. Community College and Career Training Grant Program.
- Sec. 616. Extensions of duty suspensions on cotton shirting fabrics and related provisions.
- Sec. 617. Modification of Wool Apparel Manufacturers Trust Fund.
- Sec. 618. Department of Commerce Study.
- Sec. 619. ARRA planning and reporting.
- Sec. 620. Amendment of Travel Promotion Act of 2009.

TITLE VII—BUDGETARY PROVISIONS

- Sec. 701. Budgetary provisions.

1 **TITLE I—INFRASTRUCTURE**
2 **INCENTIVES**

3 **SEC. 101. EXTENSION OF BUILD AMERICA BONDS.**

4 (a) IN GENERAL.—Subparagraph (B) of section
5 54AA(d)(1) is amended by striking “January 1, 2011”
6 and inserting “January 1, 2013”.

7 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

8 (1) IN GENERAL.—Section 6431 is amended—

9 (A) by striking “January 1, 2011” in sub-
10 section (a) and inserting “January 1, 2013”;
11 and

12 (B) by striking “January 1, 2011” in sub-
13 section (f)(1)(B) and inserting “a particular
14 date”.

15 (2) CONFORMING AMENDMENTS.—Subsection
16 (g) of section 54AA is amended—

17 (A) by striking “January 1, 2011” and in-
18 serting “January 1, 2013”; and

19 (B) by striking “QUALIFIED BONDS
20 ISSUED BEFORE 2011” in the heading and in-
21 serting “CERTAIN QUALIFIED BONDS”.

22 (c) REDUCTION IN PERCENTAGE OF PAYMENTS TO
23 ISSUERS.—Subsection (b) of section 6431 is amended—

24 (1) by striking “The Secretary” and inserting
25 the following:

1 “(1) IN GENERAL.—The Secretary”;
 2 (2) by striking “35 percent” and inserting “the
 3 applicable percentage”; and
 4 (3) by adding at the end the following new
 5 paragraph:
 6 “(2) APPLICABLE PERCENTAGE.—For purposes
 7 of this subsection, the term ‘applicable percentage’
 8 means the percentage determined in accordance with
 9 the following table:

| “In the case of a qualified bond issued during cal- endar year: | The applicable percentage is: |
|--|----------------------------------|
| 2009 or 2010 | 35 percent |
| 2011 | 32 percent |
| 2012 | 30 percent.”. |

10 (d) CURRENT REFUNDINGS PERMITTED.—Sub-
 11 section (g) of section 54AA is amended by adding at the
 12 end the following new paragraph:

13 “(3) TREATMENT OF CURRENT REFUNDING
 14 BONDS.—

15 “(A) IN GENERAL.—For purposes of this
 16 subsection, the term ‘qualified bond’ includes
 17 any bond (or series of bonds) issued to refund
 18 a qualified bond if—

19 “(i) the average maturity date of the
 20 issue of which the refunding bond is a part
 21 is not later than the average maturity date
 22 of the bonds to be refunded by such issue,

1 “(ii) the amount of the refunding
2 bond does not exceed the outstanding
3 amount of the refunded bond, and

4 “(iii) the refunded bond is redeemed
5 not later than 90 days after the date of the
6 issuance of the refunding bond.

7 “(B) APPLICABLE PERCENTAGE.—In the
8 case of a refunding bond referred to in subpara-
9 graph (A), the applicable percentage with re-
10 spect to such bond under section 6431(b) shall
11 be the lowest percentage specified in paragraph
12 (2) of such section.

13 “(C) DETERMINATION OF AVERAGE MATU-
14 RITY.—For purposes of subparagraph (A)(i),
15 average maturity shall be determined in accord-
16 ance with section 147(b)(2)(A).”.

17 (e) CLARIFICATION RELATED TO LEVEES AND
18 FLOOD CONTROL PROJECTS.—Subparagraph (A) of sec-
19 tion 54AA(g)(2) is amended by inserting “(including cap-
20 ital expenditures for levees and other flood control
21 projects)” after “capital expenditures”.

1 **SEC. 102. EXEMPT-FACILITY BONDS FOR SEWAGE AND**
2 **WATER SUPPLY FACILITIES.**

3 (a) BONDS FOR WATER AND SEWAGE FACILITIES
4 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY
5 BONDS.—

6 (1) IN GENERAL.—Paragraph (3) of section
7 146(g) is amended by inserting “(4), (5),” after
8 “(2),”.

9 (2) CONFORMING AMENDMENT.—Paragraphs
10 (2) and (3)(B) of section 146(k) are both amended
11 by striking “(4), (5), (6),” and inserting “(6)”.

12 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-
13 ERNMENTS.—

14 (1) IN GENERAL.—Subsection (c) of section
15 7871 is amended by adding at the end the following
16 new paragraph:

17 “(4) EXCEPTION FOR BONDS FOR WATER AND
18 SEWAGE FACILITIES.—Paragraph (2) shall not apply
19 to an exempt facility bond 95 percent or more of the
20 net proceeds (as defined in section 150(a)(3)) of
21 which are to be used to provide facilities described
22 in paragraph (4) or (5) of section 142(a).”.

23 (2) CONFORMING AMENDMENT.—Paragraph (2)
24 of section 7871(c) is amended by striking “para-
25 graph (3)” and inserting “paragraphs (3) and (4)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to obligations issued after the date
3 of the enactment of this Act.

4 **SEC. 103. EXTENSION OF EXEMPTION FROM ALTERNATIVE**
5 **MINIMUM TAX TREATMENT FOR CERTAIN**
6 **TAX-EXEMPT BONDS.**

7 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)
8 is amended—

9 (1) by striking “January 1, 2011” in subclause
10 (I) and inserting “January 1, 2012”; and

11 (2) by striking “AND 2010” in the heading and
12 inserting “, 2010, AND 2011”.

13 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of
14 section 56(g)(4)(B) is amended—

15 (1) by striking “January 1, 2011” in subclause
16 (I) and inserting “January 1, 2012”; and

17 (2) by striking “AND 2010” in the heading and
18 inserting “, 2010, AND 2011”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to obligations issued after Decem-
21 ber 31, 2010.

22 **SEC. 104. EXTENSION AND ADDITIONAL ALLOCATIONS OF**
23 **RECOVERY ZONE BOND AUTHORITY.**

24 (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-
25 ITY.—Section 1400U–2(b)(1) and section 1400U–

1 3(b)(1)(B) are each amended by striking “January 1,
2 2011” and inserting “January 1, 2012”.

3 (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE
4 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section
5 1400U–1 is amended by adding at the end the following
6 new subsection:

7 “(c) ALLOCATION OF 2010 RECOVERY ZONE BOND
8 LIMITATIONS BASED ON UNEMPLOYMENT.—

9 “(1) IN GENERAL.—The Secretary shall allo-
10 cate the 2010 national recovery zone economic devel-
11 opment bond limitation and the 2010 national recov-
12 ery zone facility bond limitation among the States in
13 the proportion that each such State’s 2009 unem-
14 ployment number bears to the aggregate of the 2009
15 unemployment numbers for all of the States.

16 “(2) MINIMUM ALLOCATION.—The Secretary
17 shall adjust the allocations under paragraph (1) for
18 each State to the extent necessary to ensure that no
19 State (prior to any reduction under paragraph (3))
20 receives less than 0.9 percent of the 2010 national
21 recovery zone economic development bond limitation
22 and 0.9 percent of the 2010 national recovery zone
23 facility bond limitation.

24 “(3) ALLOCATIONS BY STATES.—

1 “(A) IN GENERAL.—Each State with re-
2 spect to which an allocation is made under
3 paragraph (1) shall reallocate such allocation
4 among the counties and large municipalities (as
5 defined in subsection (a)(3)(B)) in such State
6 in the proportion that each such county’s or
7 municipality’s 2009 unemployment number
8 bears to the aggregate of the 2009 unemploy-
9 ment numbers for all the counties and large
10 municipalities (as so defined) in such State.

11 “(B) 2010 ALLOCATION REDUCED BY
12 AMOUNT OF PREVIOUS ALLOCATION.—Each
13 State shall reduce (but not below zero)—

14 “(i) the amount of the 2010 national
15 recovery zone economic development bond
16 limitation allocated to each county or large
17 municipality (as so defined) in such State
18 by the amount of the national recovery
19 zone economic development bond limitation
20 allocated to such county or large munici-
21 pality under subsection (a)(3)(A) (deter-
22 mined without regard to any waiver there-
23 of), and

24 “(ii) the amount of the 2010 national
25 recovery zone facility bond limitation allo-

1 cated to each county or large municipality
2 (as so defined) in such State by the
3 amount of the national recovery zone facil-
4 ity bond limitation allocated to such county
5 or large municipality under subsection
6 (a)(3)(A) (determined without regard to
7 any waiver thereof).

8 “(C) WAIVER OF SUBALLOCATIONS.—A
9 county or municipality may waive any portion
10 of an allocation made under this paragraph. A
11 county or municipality shall be treated as hav-
12 ing waived any portion of an allocation made
13 under this paragraph which has not been allo-
14 cated to a bond issued before May 1, 2011. Any
15 allocation waived (or treated as waived) under
16 this subparagraph may be used or reallocated
17 by the State.

18 “(D) SPECIAL RULE FOR A MUNICIPALITY
19 IN A COUNTY.—In the case of any large munici-
20 pality any portion of which is in a county, such
21 portion shall be treated as part of such munici-
22 pality and not part of such county.

23 “(4) 2009 UNEMPLOYMENT NUMBER.—For
24 purposes of this subsection, the term ‘2009 unem-
25 ployment number’ means, with respect to any State,

1 county or municipality, the number of individuals in
2 such State, county, or municipality who were deter-
3 mined to be unemployed by the Bureau of Labor
4 Statistics for December 2009.

5 “(5) 2010 NATIONAL LIMITATIONS.—

6 “(A) RECOVERY ZONE ECONOMIC DEVEL-
7 OPMENT BONDS.—The 2010 national recovery
8 zone economic development bond limitation is
9 \$10,000,000,000. Any allocation of such limita-
10 tion under this subsection shall be treated for
11 purposes of section 1400U–2 in the same man-
12 ner as an allocation of national recovery zone
13 economic development bond limitation.

14 “(B) RECOVERY ZONE FACILITY BONDS.—
15 The 2010 national recovery zone facility bond
16 limitation is \$15,000,000,000. Any allocation of
17 such limitation under this subsection shall be
18 treated for purposes of section 1400U–3 in the
19 same manner as an allocation of national recov-
20 ery zone facility bond limitation.”.

21 (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009
22 ALLOCATIONS.—Subparagraph (A) of section 1400U–
23 1(a)(3) is amended by adding at the end the following:
24 “A county or municipality shall be treated as having
25 waived any portion of an allocation made under this sub-

1 paragraph which has not been allocated to a bond issued
2 before May 1, 2011. Any allocation waived (or treated as
3 waived) under this subparagraph may be used or reallo-
4 cated by the State.”.

5 **SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT**
6 **AGAINST ALTERNATIVE MINIMUM TAX.**

7 (a) **IN GENERAL.**—Subparagraph (B) of section
8 38(c)(4), as amended by the Patient Protection and Af-
9 fordable Care Act, is amended by redesignating clauses
10 (v) through (ix) as clauses (vi) through (x), respectively,
11 and by inserting after clause (iv) the following new clause:

12 “(v) the credit determined under sec-
13 tion 45D, but only with respect to credits
14 determined with respect to qualified equity
15 investments (as defined in section 45D(b))
16 initially made before January 1, 2012,”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to credits determined with respect
19 to qualified equity investments (as defined in section
20 45D(b) of the Internal Revenue Code of 1986) initially
21 made after March 15, 2010.

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

4 **SEC. 201. 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. 202. 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. 203. 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—

11 (1) by striking “5-year period” and inserting
12 “6-year period”; and

13 (2) by adding at the end the following: “In the
14 case of the last year of the 6-year period described
15 in the preceding sentence, the credit determined
16 under subsection (a) with respect to electricity pro-
17 duced during such year shall not exceed 80 percent
18 of such credit determined without regard to this sen-
19 tence.”.

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

23 **SEC. 204. EXTENSION AND MODIFICATION OF CREDIT FOR**
24 **STEEL INDUSTRY FUEL.**

25 (a) CREDIT PERIOD.—

1 (1) IN GENERAL.—Subclause (II) of section
2 45(e)(8)(D)(ii) is amended to read as follows:

3 “(II) CREDIT PERIOD.—In lieu
4 of the 10-year period referred to in
5 clauses (i) and (ii)(II) of subpara-
6 graph (A), the credit period shall be
7 the period beginning on the date that
8 the facility first produces steel indus-
9 try fuel that is sold to an unrelated
10 person after September 30, 2008, and
11 ending 2 years after such date.”.

12 (2) CONFORMING AMENDMENT.—Section
13 45(e)(8)(D) is amended by striking clause (iii) and
14 by redesignating clause (iv) as clause (iii).

15 (b) EXTENSION OF PLACED-IN-SERVICE DATE.—
16 Subparagraph (A) of section 45(d)(8) is amended—

17 (1) by striking “(or any modification to a facil-
18 ity)”;

19 (2) by inserting “or after the date of the enact-
20 ment of the American Jobs and Closing Tax Loop-
21 holes Act of 2010 and before January 1, 2011,”
22 after “2010,”.

23 (c) CLARIFICATIONS.—

24 (1) STEEL INDUSTRY FUEL.—Subclause (I) of
25 section 45(c)(7)(C)(i) is amended by inserting “, a

1 blend of coal and petroleum coke, or other coke feed-
2 stock” after “on coal”.

3 (2) OWNERSHIP INTEREST.—Section 45(d)(8)
4 is amended by adding at the end the following new
5 flush sentence:

6 “With respect to a facility producing steel industry
7 fuel, no person (including a ground lessor, customer,
8 supplier, or technology licensor) shall be treated as
9 having an ownership interest in the facility or as
10 otherwise entitled to the credit allowable under sub-
11 section (a) with respect to such facility if such per-
12 son’s rent, license fee, or other entitlement to net
13 payments from the owner of such facility is meas-
14 ured by a fixed dollar amount or a fixed amount per
15 ton, or otherwise determined without regard to the
16 profit or loss of such facility.”.

17 (3) PRODUCTION AND SALE.—Subparagraph
18 (D) of section 45(e)(8), as amended by subsection
19 (a)(2), is amended by redesignating clause (iii) as
20 clause (iv) and by inserting after clause (ii) the fol-
21 lowing new clause:

22 “(iii) PRODUCTION AND SALE.—The
23 owner of a facility producing steel industry
24 fuel shall be treated as producing and sell-
25 ing steel industry fuel where that owner

1 manufactures such steel industry fuel from
2 coal, a blend of coal and petroleum coke,
3 or other coke feedstock to which it has
4 title. The sale of such steel industry fuel
5 by the owner of the facility to a person
6 who is not the owner of the facility shall
7 not fail to qualify as a sale to an unrelated
8 person solely because such purchaser may
9 also be a ground lessor, supplier, or cus-
10 tomer.”.

11 (d) SPECIFIED CREDIT FOR PURPOSES OF ALTER-
12 NATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of
13 section 38(c)(4)(B)(iii) is amended by inserting “(in the
14 case of a refined coal production facility producing steel
15 industry fuel, during the credit period set forth in section
16 45(e)(8)(D)(ii)(II))” after “service”.

17 (e) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments made by
19 subsections (a), (b), and (d) shall take effect on the
20 date of the enactment of this Act.

21 (2) CLARIFICATIONS.—The amendments made
22 by subsection (c) shall take effect as if included in
23 the amendments made by the Energy Improvement
24 and Extension Act of 2008.

1 **SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR**
2 **COKE GAS.**

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

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

9 **SEC. 206. NEW ENERGY EFFICIENT HOME CREDIT.**

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

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to homes acquired after December
15 31, 2009.

16 **SEC. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS**
17 **FOR ALTERNATIVE FUEL AND ALTERNATIVE**
18 **FUEL MIXTURES.**

19 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of
20 section 6426(d) is amended by striking “after December
21 31, 2009” and all that follows and inserting “after—

22 “(A) September 30, 2014, in the case of
23 liquefied hydrogen,

24 “(B) December 31, 2010, in the case of
25 fuels described in subparagraph (A), (C), (F),
26 or (G) of paragraph (2), and

1 “(C) December 31, 2009, in any other
2 case.”.

3 (b) ALTERNATIVE FUEL MIXTURE CREDIT.—Para-
4 graph (3) of section 6426(e) is amended by striking “after
5 December 31, 2009” and all that follows and inserting
6 “after—

7 “(A) September 30, 2014, in the case of
8 liquefied hydrogen,

9 “(B) December 31, 2010, in the case of
10 fuels described in subparagraph (A), (C), (F),
11 or (G) of subsection (d)(2), and

12 “(C) December 31, 2009, in any other
13 case.”.

14 (c) PAYMENT AUTHORITY.—

15 (1) IN GENERAL.—Paragraph (6) of section
16 6427(e) is amended by striking “and” at the end of
17 subparagraph (C), by striking the period at the end
18 of subparagraph (D) and inserting “, and”, and by
19 adding at the end the following new subparagraph:

20 “(E) any alternative fuel or alternative fuel
21 mixture (as so defined) involving fuel described
22 in subparagraph (A), (C), (F), or (G) of section
23 6426(d)(2) sold or used after December 31,
24 2010.”.

1 thorization of the transaction under section
2 203 of the Federal Power Act (16 U.S.C.
3 824b) or by declaratory order—

4 “**(I)** is not itself a market partici-
5 pant as determined by the Commis-
6 sion, and also is not controlled by any
7 such market participant, or

8 “**(II)** to be independent from
9 market participants or to be an inde-
10 pendent transmission company within
11 the meaning of such Commission’s
12 rules applicable to independent trans-
13 mission providers, and”.

14 **(2) RELATED PERSONS.**—Paragraph (4) of sec-
15 tion 451(i) is amended by adding at the end the fol-
16 lowing flush sentence:

17 “For purposes of subparagraph (B)(i)(I), a person
18 shall be treated as controlled by another person if
19 such persons would be treated as a single employer
20 under section 52.”.

21 **(c) EFFECTIVE DATE.**—

22 **(1) IN GENERAL.**—The amendment made by
23 subsection (a) shall apply to dispositions after De-
24 cember 31, 2009.

1 (2) MODIFICATIONS.—The amendments made
2 by subsection (b) shall apply to dispositions after the
3 date of the enactment of this Act.

4 **SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE**
5 **DEPLETION FOR OIL AND GAS FROM MAR-**
6 **GINAL WELLS.**

7 (a) IN GENERAL.—Clause (ii) of section
8 613A(c)(6)(H) is amended by striking “January 1, 2010”
9 and inserting “January 1, 2011”.

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

13 **SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLI-**
14 **ANCES TAX CREDIT.**

15 In the case of any taxable year which includes the
16 last day of calendar year 2009 or calendar year 2010, a
17 taxpayer who elects to waive the credit which would other-
18 wise be determined with respect to the taxpayer under sec-
19 tion 45M of the Internal Revenue Code of 1986 for such
20 taxable year shall be treated as making a payment against
21 the tax imposed under subtitle A of such Code for such
22 taxable year in an amount equal to 85 percent of the
23 amount of the credit which would otherwise be so deter-
24 mined. Such payment shall be treated as made on the later
25 of the due date of the return of such tax or the date on

1 which such return is filed. Elections under this section
2 may be made separately for 2009 and 2010, but once
3 made shall be irrevocable. No amount shall be includible
4 in gross income or alternative minimum taxable income
5 by reason of this section.

6 **SEC. 211. MODIFICATION OF STANDARDS FOR WINDOWS,**
7 **DOORS, AND SKYLIGHTS WITH RESPECT TO**
8 **THE CREDIT FOR NONBUSINESS ENERGY**
9 **PROPERTY.**

10 (a) IN GENERAL.—Paragraph (4) of section 25C(c)
11 is amended by striking “unless” and all that follows and
12 inserting “unless—

13 “(A) in the case of any component placed
14 in service after the date which is 90 days after
15 the date of the enactment of the American Jobs
16 and Closing Tax Loopholes Act of 2010, such
17 component meets the criteria for such compo-
18 nents established by the 2010 Energy Star Pro-
19 gram Requirements for Residential Windows,
20 Doors, and Skylights, Version 5.0 (or any sub-
21 sequent version of such requirements which is
22 in effect after January 4, 2010),

23 “(B) in the case of any component placed
24 in service after the date of the enactment of the
25 American Jobs and Closing Tax Loopholes Act

1 of 2010 and on or before the date which is 90
2 days after such date, such component meets the
3 criteria described in subparagraph (A) or is
4 equal to or below a U factor of 0.30 and SHGC
5 of 0.30, and

6 “(C) in the case of any component which
7 is a garage door, such component is equal to or
8 below a U factor of 0.30 and SHGC of 0.30.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to property placed in service after
11 the date of the enactment of this Act.

12 **Subtitle B—Individual Tax Relief**

13 **PART I—MISCELLANEOUS PROVISIONS**

14 **SEC. 221. DEDUCTION FOR CERTAIN EXPENSES OF ELE-** 15 **MENTARY AND SECONDARY SCHOOL TEACH-** 16 **ERS.**

17 (a) IN GENERAL.—Subparagraph (D) of section
18 62(a)(2) 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. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE**
2 **AND LOCAL REAL PROPERTY TAXES.**

3 (a) IN GENERAL.—Subparagraph (C) of section
4 63(c)(1) is amended by striking “or 2009” and inserting
5 “2009, or 2010”.

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

9 **SEC. 223. DEDUCTION OF STATE AND LOCAL SALES TAXES.**

10 (a) IN GENERAL.—Subparagraph (I) of section
11 164(b)(5) is amended by striking “January 1, 2010” and
12 inserting “January 1, 2011”.

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

16 **SEC. 224. CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-**
17 **ERTY MADE FOR CONSERVATION PURPOSES.**

18 (a) IN GENERAL.—Clause (vi) of section
19 170(b)(1)(E) is amended by striking “December 31,
20 2009” and inserting “December 31, 2010”.

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

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

4 **SEC. 225. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED**
5 **TUITION AND RELATED EXPENSES.**

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

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

12 (c) TEMPORARY COORDINATION WITH HOPE AND
13 LIFETIME LEARNING CREDITS.—In the case of any tax-
14 payer for any taxable year beginning in 2010, no deduc-
15 tion shall be allowed under section 222 of the Internal
16 Revenue Code of 1986 if—

17 (1) the taxpayer’s net Federal income tax re-
18 duction which would be attributable to such deduc-
19 tion for such taxable year, is less than

20 (2) the credit which would be allowed to the
21 taxpayer for such taxable year under section 25A of
22 such Code (determined without regard to sections
23 25A(e) and 26 of such Code).

1 **SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS FOR CHARITABLE PUR-**
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section
5 408(d)(8) 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 distributions made in taxable
9 years beginning after December 31, 2009.

10 **SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVEST-**
11 **MENT COMPANY STOCK IN DETERMINING**
12 **GROSS ESTATE OF NONRESIDENTS.**

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

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

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

20 **SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-IN-**
21 **COME HOUSING CREDIT FOR 2010.**

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

25 “(n) ELECTION FOR DIRECT PAYMENT OF CRED-
26 IT.—

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

6 “(2) 2010 LOW-INCOME HOUSING REFUNDABLE
7 CREDIT ELECTION AMOUNT.—For purposes of this
8 subsection, the term ‘2010 low-income housing re-
9 fundable credit election amount’ means, with respect
10 to any State, such amount as the State may elect
11 which does not exceed 85 percent of the product
12 of—

13 “(A) the sum of—

14 “(i) 100 percent of the State housing
15 credit ceiling for 2010 which is attrib-
16 utable to amounts described in clauses (i)
17 and (iii) of subsection (h)(3)(C), and

18 “(ii) 40 percent of the State housing
19 credit ceiling for 2010 which is attrib-
20 utable to amounts described in clauses (ii)
21 and (iv) of such subsection, multiplied by

22 “(B) 10.

23 “(3) COORDINATION WITH NON-REFUNDABLE
24 CREDIT.—For purposes of this section, the amounts
25 described in clauses (i) through (iv) of subsection

1 (h)(3)(C) with respect to any State for 2010 shall
2 each be reduced by so much of such amount as is
3 taken into account in determining the amount of the
4 credit allowed with respect to such State under para-
5 graph (1).

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

10 “(5) PAYMENT OF CREDIT; USE TO FINANCE
11 LOW-INCOME BUILDINGS.—The Secretary shall pay
12 to the housing credit agency of each State an
13 amount equal to the credit allowed under paragraph
14 (1). Rules similar to the rules of subsections (c) and
15 (d) of section 1602 of the American Recovery and
16 Reinvestment Tax Act of 2009 shall apply with re-
17 spect to any payment made under this paragraph,
18 except that such subsection (d) shall be applied by
19 substituting ‘January 1, 2012’ for ‘January 1,
20 2011’.”.

21 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)
22 of title 31, United States Code, is amended by inserting
23 “42(n),” after “36C,”.

1 **Subtitle C—Business Tax Relief**

2 **SEC. 241. RESEARCH CREDIT.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 41(h)(1) is amended by striking “December 31, 2009”
5 and inserting “December 31, 2010”.

6 (b) CONFORMING AMENDMENT.—Subparagraph (D)
7 of section 45C(b)(1) is amended by striking “December
8 31, 2009” and inserting “December 31, 2010”.

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

12 **SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.**

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

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

19 **SEC. 243. NEW MARKETS TAX CREDIT.**

20 (a) IN GENERAL.—Subparagraph (F) of section
21 45D(f)(1) is amended by inserting “and 2010” after
22 “2009”.

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar years beginning after
3 2009.

4 **SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.**

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

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

11 **SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.**

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

15 (b) CREDIT ALLOWABLE AGAINST AMT.—Subpara-
16 graph (B) of section 38(c)(4), as amended by section 105,
17 is amended—

18 (1) by redesignating clauses (vii) through (x) as
19 clauses (viii) through (xi), respectively; and

20 (2) by inserting after clause (vi) the following
21 new clause:

22 “(vii) the credit determined under sec-
23 tion 45N,”.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to taxable years beginning after Decem-
4 ber 31, 2009.

5 (2) ALLOWANCE AGAINST AMT.—The amend-
6 ments made by subsection (b) shall apply to credits
7 determined for taxable years beginning after Decem-
8 ber 31, 2009, and to carrybacks of such credits.

9 **SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO**
10 **ARE ACTIVE DUTY MEMBERS OF THE UNI-**
11 **FORMED SERVICES.**

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

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

18 **SEC. 247. 5-YEAR DEPRECIATION FOR FARMING BUSINESS**
19 **MACHINERY AND EQUIPMENT.**

20 (a) IN GENERAL.—Clause (vii) of section
21 168(e)(3)(B) 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 property placed in service after
25 December 31, 2009.

1 **SEC. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR**
2 **QUALIFIED LEASEHOLD IMPROVEMENTS,**
3 **QUALIFIED RESTAURANT BUILDINGS AND IM-**
4 **PROVEMENTS, AND QUALIFIED RETAIL IM-**
5 **PROVEMENTS.**

6 (a) IN GENERAL.—Clauses (iv), (v), and (ix) of sec-
7 tion 168(e)(3)(E) are each amended by striking “January
8 1, 2010” and inserting “January 1, 2011”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Clause (i) of section 168(e)(7)(A) is amend-
11 ed by striking “if such building is placed in service
12 after December 31, 2008, and before January 1,
13 2010,”.

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

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

19 **SEC. 249. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS**
20 **ENTERTAINMENT COMPLEXES.**

21 (a) IN GENERAL.—Subparagraph (D) of section
22 168(i)(15) 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 property placed in service after
26 December 31, 2009.

1 **SEC. 250. ACCELERATED DEPRECIATION FOR BUSINESS**
2 **PROPERTY ON AN INDIAN RESERVATION.**

3 (a) IN GENERAL.—Paragraph (8) of section 168(j)
4 is amended by striking “December 31, 2009” and insert-
5 ing “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. 251. ENHANCED CHARITABLE DEDUCTION FOR CON-**
10 **TRIBUTIONS OF FOOD INVENTORY.**

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

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

17 **SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CON-**
18 **TRIBUTIONS OF BOOK INVENTORIES TO PUB-**
19 **LIC SCHOOLS.**

20 (a) IN GENERAL.—Clause (iv) of section
21 170(e)(3)(D) is amended by striking “December 31,
22 2009” and inserting “December 31, 2010”.

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

1 **SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR COR-**
2 **PORATE CONTRIBUTIONS OF COMPUTER IN-**
3 **VENTORY FOR EDUCATIONAL PURPOSES.**

4 (a) IN GENERAL.—Subparagraph (G) of section
5 170(e)(6) 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 contributions made in taxable
9 years beginning after December 31, 2009.

10 **SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIP-**
11 **MENT.**

12 (a) IN GENERAL.—Subsection (g) of section 179E is
13 amended by striking “December 31, 2009” and inserting
14 “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. 255. SPECIAL EXPENSING RULES FOR CERTAIN FILM**
19 **AND TELEVISION PRODUCTIONS.**

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

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

1 **SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION**
2 **COSTS.**

3 (a) IN GENERAL.—Subsection (h) of section 198 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 expenditures paid or incurred
8 after December 31, 2009.

9 **SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
10 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
11 **DUCTION ACTIVITIES IN PUERTO RICO.**

12 (a) IN GENERAL.—Subparagraph (C) of section
13 199(d)(8) is amended—

14 (1) by striking “first 4 taxable years” and in-
15 serting “first 5 taxable years”; and

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

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

21 **SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN**
22 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**
23 **NIZATIONS.**

24 (a) IN GENERAL.—Clause (iv) of section
25 512(b)(13)(E) is amended by striking “December 31,
26 2009” and inserting “December 31, 2010”.

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

4 **SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EX-**
5 **CHANGE OF CERTAIN BROWNFIELD SITES**
6 **FROM UNRELATED BUSINESS INCOME.**

7 (a) IN GENERAL.—Subparagraph (K) of section
8 512(b)(19) 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 property acquired after Decem-
12 ber 31, 2009.

13 **SEC. 260. TIMBER REIT MODERNIZATION.**

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

17 (b) CONFORMING AMENDMENTS.—

18 (1) Subparagraph (I) of section 856(c)(2) is
19 amended by striking “the first taxable year begin-
20 ning after the date of the enactment of this subpara-
21 graph” and inserting “a taxable year beginning on
22 or before the termination date”.

23 (2) Clause (iii) of section 856(c)(5)(H) is
24 amended by inserting “in taxable years beginning”
25 after “dispositions”.

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

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

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after May
9 22, 2009.

10 **SEC. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
11 **LATED INVESTMENT COMPANIES.**

12 (a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of
13 section 871(k) are each amended by striking “December
14 31, 2009” and inserting “December 31, 2010”.

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

18 **SEC. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT**
19 **UNDER FIRPTA.**

20 (a) IN GENERAL.—Clause (ii) of section
21 897(h)(4)(A) is amended by striking “December 31,
22 2009” and inserting “December 31, 2010”.

23 (b) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendment made by
25 subsection (a) shall take effect on January 1, 2010.

1 Notwithstanding the preceding sentence, such
2 amendment shall not apply with respect to the with-
3 holding requirement under section 1445 of the Inter-
4 nal Revenue Code of 1986 for any payment made
5 before the date of the enactment of this Act.

6 (2) AMOUNTS WITHHELD ON OR BEFORE DATE
7 OF ENACTMENT.—In the case of a regulated invest-
8 ment company—

9 (A) which makes a distribution after De-
10 cember 31, 2009, and before the date of the en-
11 actment of this Act; and

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

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

20 **SEC. 263. EXCEPTIONS FOR ACTIVE FINANCING INCOME.**

21 (a) IN GENERAL.—Sections 953(e)(10) and
22 954(h)(9) are each amended by striking “January 1,
23 2010” and inserting “January 1, 2011”.

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

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

9 **SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BE-**
10 **TWEEN RELATED CONTROLLED FOREIGN**
11 **CORPORATIONS UNDER FOREIGN PERSONAL**
12 **HOLDING COMPANY RULES.**

13 (a) IN GENERAL.—Subparagraph (C) of section
14 954(e)(6) is amended by striking “January 1, 2010” and
15 inserting “January 1, 2011”.

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

1 **SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAK-**
2 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
3 **ERTY.**

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

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

10 **SEC. 266. EMPOWERMENT ZONE TAX INCENTIVES.**

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

12 (1) by striking “December 31, 2009” in sub-
13 section (d)(1)(A)(i) and inserting “December 31,
14 2010”; and

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

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

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

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

24 (c) TREATMENT OF CERTAIN TERMINATION DATES
25 SPECIFIED IN NOMINATIONS.—In the case of a designa-
26 tion of an empowerment zone the nomination for which

1 included a termination date which is contemporaneous
2 with the date specified in subparagraph (A)(i) of section
3 1391(d)(1) of the Internal Revenue Code of 1986 (as in
4 effect before the enactment of this Act), subparagraph (B)
5 of such section shall not apply with respect to such des-
6 ignation unless, after the date of the enactment of this
7 section, the entity which made such nomination reconfirms
8 such termination date, or amends the nomination to pro-
9 vide for a new termination date, in such manner as the
10 Secretary of the Treasury (or the Secretary's designee)
11 may provide.

12 (d) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to periods after December 31,
14 2009.

15 **SEC. 267. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
16 **TRICT OF COLUMBIA.**

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

20 (b) **TAX-EXEMPT DC EMPOWERMENT ZONE**
21 **BONDS.**—Subsection (b) of section 1400A is amended by
22 striking “December 31, 2009” and inserting “December
23 31, 2010”.

24 (c) **ZERO-PERCENT CAPITAL GAINS RATE.**—

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

5 (2) LIMITATION ON PERIOD OF GAINS.—

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

8 (i) by striking “December 31, 2014”
9 and inserting “December 31, 2015”; and

10 (ii) by striking “2014” in the heading
11 and inserting “2015”.

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

16 (d) FIRST-TIME HOMEBUYER CREDIT.—Subsection
17 (i) of section 1400C is amended by striking “January 1,
18 2010” and inserting “January 1, 2011”.

19 (e) 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.

24 (2) TAX-EXEMPT DC EMPOWERMENT ZONE
25 BONDS.—The amendment made by subsection (b)

1 shall apply to bonds issued after December 31,
2 2009.

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

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

10 **SEC. 268. RENEWAL COMMUNITY TAX INCENTIVES.**

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

13 (1) by striking “December 31, 2009” in para-
14 graphs (1)(A) and (3) and inserting “December 31,
15 2010”; and

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

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

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

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

1 (A) by striking “December 31, 2014” and
2 inserting “December 31, 2015”; and

3 (B) by striking “2014” in the heading and
4 inserting “2015”.

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

8 (c) COMMERCIAL REVITALIZATION DEDUCTION.—

9 (1) IN GENERAL.—Subsection (g) of section
10 1400I is amended by striking “December 31, 2009”
11 and inserting “December 31, 2010”.

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

17 (d) INCREASED EXPENSING UNDER SECTION 179.—
18 Subparagraph (A) of section 1400J(b)(1) is amended by
19 striking “January 1, 2010” and inserting “January 1,
20 2011”.

21 (e) TREATMENT OF CERTAIN TERMINATION DATES
22 SPECIFIED IN NOMINATIONS.—In the case of a designa-
23 tion of a renewal community the nomination for which in-
24 cluded a termination date which is contemporaneous with
25 the date specified in subparagraph (A) of section

1 1400E(b)(1) of the Internal Revenue Code of 1986 (as
2 in effect before the enactment of this Act), subparagraph
3 (B) of such section shall not apply with respect to such
4 designation unless, after the date of the enactment of this
5 section, the entity which made such nomination reconfirms
6 such termination date, or amends the nomination to pro-
7 vide for a new termination date, in such manner as the
8 Secretary of the Treasury (or the Secretary's designee)
9 may provide.

10 (f) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to periods after December
14 31, 2009.

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

18 (3) COMMERCIAL REVITALIZATION DEDUC-
19 TION.—

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

23 (B) CONFORMING AMENDMENT.—The
24 amendment made by subsection (c)(2) shall

1 apply to calendar years beginning after Decem-
2 ber 31, 2009.

3 **SEC. 269. TEMPORARY INCREASE IN LIMIT ON COVER OVER**
4 **OF RUM EXCISE TAXES TO PUERTO RICO AND**
5 **THE VIRGIN ISLANDS.**

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

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

12 **SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EX-**
13 **TENSION OF ECONOMIC DEVELOPMENT**
14 **CREDIT.**

15 The Secretary of the Treasury (or his designee) shall
16 pay \$18,000,000 to the Government of American Samoa
17 for purposes of economic development. The payment made
18 under the preceding sentence shall be treated for purposes
19 of section 1324 of title 31, United States Code, as a re-
20 fund of internal revenue collections to which such section
21 applies.

1 **SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED**
2 **AMT CREDITS DETERMINED BY DOMESTIC IN-**
3 **VESTMENT.**

4 (a) IN GENERAL.—Section 53 is amended by adding
5 at the end the following new subsection:

6 “(g) ELECTION FOR CORPORATIONS WITH NEW DO-
7 MESTIC INVESTMENTS.—

8 “(1) IN GENERAL.—If a corporation elects to
9 have this subsection apply for its first taxable year
10 beginning after December 31, 2009, the limitation
11 imposed by subsection (c) for such taxable year shall
12 be increased by the AMT credit adjustment amount.

13 “(2) AMT CREDIT ADJUSTMENT AMOUNT.—
14 For purposes of paragraph (1), the term ‘AMT cred-
15 it adjustment amount’ means, the lesser of—

16 “(A) 50 percent of a corporation’s min-
17 imum tax credit for its first taxable year begin-
18 ning after December 31, 2009, determined
19 under subsection (b), or

20 “(B) 10 percent of new domestic invest-
21 ments made during such taxable year.

22 “(3) NEW DOMESTIC INVESTMENTS.—For pur-
23 poses of this subsection, the term ‘new domestic in-
24 vestments’ means the cost of qualified property (as
25 defined in section 168(k)(2)(A)(i))—

1 “(A) the original use of which commences
2 with the taxpayer during the taxable year, and

3 “(B) which is placed in service in the
4 United States by the taxpayer during such tax-
5 able year.

6 “(4) CREDIT REFUNDABLE.—For purposes of
7 subsection (b) of section 6401, the aggregate in-
8 crease in the credits allowable under this part for
9 any taxable year resulting from the application of
10 this subsection shall be treated as allowed under
11 subpart C (and not under any other subpart). For
12 purposes of section 6425, any amount treated as so
13 allowed shall be treated as a payment of estimated
14 income tax for the taxable year.

15 “(5) ELECTION.—An election under this sub-
16 section shall be made at such time and in such man-
17 ner as prescribed by the Secretary, and once made,
18 may be revoked only with the consent of the Sec-
19 retary. Not later than 90 days after the date of the
20 enactment of this subsection, the Secretary shall
21 issue guidance specifying such time and manner.

22 “(6) TREATMENT OF CERTAIN PARTNERSHIP
23 INVESTMENTS.—For purposes of this subsection, a
24 corporation shall take into account its allocable
25 share of any new domestic investments by a partner-

1 ship for any taxable year if, and only if, more than
2 90 percent of the capital and profits interests in
3 such partnership are owned by such corporation (di-
4 rectly or indirectly) at all times during such taxable
5 year.

6 “(7) NO DOUBLE BENEFIT.—

7 “(A) IN GENERAL.—A corporation making
8 an election under this subsection may not make
9 an election under subparagraph (H) of section
10 172(b)(1).

11 “(B) SPECIAL RULES WITH RESPECT TO
12 TAXPAYERS PREVIOUSLY ELECTING APPLICA-
13 BLE NET OPERATING LOSSES.—In the case of a
14 corporation which made an election under sub-
15 paragraph (H) of section 172(b)(1) and elects
16 the application of this subsection—

17 “(i) ELECTION OF APPLICABLE NET
18 OPERATING LOSS TREATED AS RE-
19 VOKED.—The election under such subpara-
20 graph (H) shall (notwithstanding clause
21 (iii)(II) of such subparagraph) be treated
22 as having been revoked by the taxpayer.

23 “(ii) COORDINATION WITH PROVISION
24 FOR EXPEDITED REFUND.—The amount
25 otherwise treated as a payment of esti-

1 mated income tax under the last sentence
2 of paragraph (4) shall be reduced (but not
3 below zero) by the aggregate increase in
4 unpaid tax liability determined under this
5 chapter by reason of the revocation of the
6 election under clause (i).

7 “(iii) APPLICATION OF STATUTE OF
8 LIMITATIONS.—With respect to the revoca-
9 tion of an election under clause (i)—

10 “(I) the statutory period for the
11 assessment of any deficiency attrib-
12 utable to such revocation shall not ex-
13 pire before the end of the 3-year pe-
14 riod beginning on the date of the elec-
15 tion to have this subsection apply, and

16 “(II) such deficiency may be as-
17 sessed before the expiration of such 3-
18 year period notwithstanding the provi-
19 sions of any other law or rule of law
20 which would otherwise prevent such
21 assessment.

22 “(C) EXCEPTION FOR ELIGIBLE SMALL
23 BUSINESSES.—Subparagraphs (A) and (B)
24 shall not apply to an eligible small business as
25 defined in section 172(b)(1)(H)(v)(II).

1 “(8) REGULATIONS.—The Secretary may issue
2 such regulations or other guidance as may be nec-
3 essary or appropriate to carry out the purposes of
4 this subsection, including to prevent fraud and abuse
5 under this subsection.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 6211(b)(4)(A) is amended by insert-
8 ing “53(g),” after “53(e),”.

9 (2) Section 1324(b)(2) of title 31, United
10 States Code, is amended by inserting “53(g),” after
11 “53(e),”.

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

15 **SEC. 272. STUDY OF EXTENDED TAX EXPENDITURES.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) Currently, the aggregate cost of Federal tax
18 expenditures rivals, or even exceeds, the amount of
19 total Federal discretionary spending.

20 (2) Given the escalating public debt, a critical
21 examination of this use of taxpayer dollars is essen-
22 tial.

23 (3) Additionally, tax expenditures can com-
24 plicate the Internal Revenue Code of 1986 for tax-

1 payers and complicate tax administration for the In-
2 ternal Revenue Service.

3 (4) To facilitate a better understanding of tax
4 expenditures in the future, it is constructive for leg-
5 islation extending these provisions to include a study
6 of such provisions.

7 (b) REQUIREMENT TO REPORT.—Not later than No-
8 vember 30, 2010, the Chief of Staff of the Joint Com-
9 mittee on Taxation, in consultation with the Comptroller
10 General of the United States, shall submit to the Com-
11 mittee on Ways and Means of the House of Representa-
12 tives and the Committee on Finance of the Senate a report
13 on each tax expenditure (as defined in section 3(3) of the
14 Congressional Budget Impoundment Control Act of 1974
15 (2 U.S.C. 622(3)) extended by this title.

16 (c) ROLLING SUBMISSION OF REPORTS.—The Chief
17 of Staff of the Joint Committee on Taxation shall initially
18 submit the reports for each such tax expenditure enacted
19 in this subtitle (relating to business tax relief) and subtitle
20 A (relating to energy) in order of the tax expenditure in-
21 curring the least aggregate cost to the greatest aggregate
22 cost (determined by reference to the cost estimate of this
23 Act by the Joint Committee on Taxation). Thereafter,
24 such reports may be submitted in such order as the Chief
25 of Staff determines appropriate.

1 (d) CONTENTS OF REPORT.—Such reports shall con-
2 tain the following:

3 (1) An explanation of the tax expenditure and
4 any relevant economic, social, or other context under
5 which it was first enacted.

6 (2) A description of the intended purpose of the
7 tax expenditure.

8 (3) An analysis of the overall success of the tax
9 expenditure in achieving such purpose, and evidence
10 supporting such analysis.

11 (4) An analysis of the extent to which further
12 extending the tax expenditure, or making it perma-
13 nent, would contribute to achieving such purpose.

14 (5) A description of the direct and indirect
15 beneficiaries of the tax expenditure, including identi-
16 fying any unintended beneficiaries.

17 (6) An analysis of whether the tax expenditure
18 is the most cost-effective method for achieving the
19 purpose for which it was intended, and a description
20 of any more cost-effective methods through which
21 such purpose could be accomplished.

22 (7) A description of any unintended effects of
23 the tax expenditure that are useful in understanding
24 the tax expenditure's overall value.

1 (8) An analysis of how the tax expenditure
2 could be modified to better achieve its original pur-
3 pose.

4 (9) A brief description of any interactions (ac-
5 tual or potential) with other tax expenditures or di-
6 rect spending programs in the same or related budg-
7 et function worthy of further study.

8 (10) A description of any unavailable informa-
9 tion the staff of the Joint Committee on Taxation
10 may need to complete a more thorough examination
11 and analysis of the tax expenditure, and what must
12 be done to make such information available.

13 (e) MINIMUM ANALYSIS BY DEADLINE.—In the event
14 the Chief of Staff of the Joint Committee on Taxation
15 concludes it will not be feasible to complete all reports by
16 the date specified in subsection (a), at a minimum, the
17 reports for each tax expenditure enacted in this subtitle
18 (relating to business tax relief) and subtitle A (relating
19 to energy) shall be completed by such date.

1 **Subtitle D—Temporary Disaster**
2 **Relief Provisions**

3 **PART I—NATIONAL DISASTER RELIEF**

4 **SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**
5 **REQUIREMENTS.**

6 (a) **IN GENERAL.**—Paragraph (11) of section 143(k)
7 is amended by striking “January 1, 2010” and inserting
8 “January 1, 2011”.

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

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

18 (d) **EFFECTIVE DATES.**—

19 (1) **IN GENERAL.**—Except as otherwise pro-
20 vided in this subsection, the amendment made by
21 this section shall apply to bonds issued after Decem-
22 ber 31, 2009.

23 (2) **RESIDENCES DESTROYED IN FEDERALLY**
24 **DECLARED DISASTERS.**—The amendments made by

1 subsection (b) shall apply with respect to disasters
2 occurring after December 31, 2009.

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

7 **SEC. 282. LOSSES ATTRIBUTABLE TO FEDERALLY DE-**
8 **CLARED DISASTERS.**

9 (a) IN GENERAL.—Subclause (I) of section
10 165(h)(3)(B)(i) is amended by striking “January 1,
11 2010” and inserting “January 1, 2011”.

12 (b) \$500 LIMITATION.—Paragraph (1) of section
13 165(h) is amended by striking “December 31, 2009” and
14 inserting “December 31, 2010”.

15 (c) EFFECTIVE DATE.—

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

19 (2) \$500 LIMITATION.—The amendment made
20 by subsection (b) shall apply to taxable years begin-
21 ning after December 31, 2009.

1 **SEC. 283. SPECIAL DEPRECIATION ALLOWANCE FOR QUALI-**
2 **FIED DISASTER PROPERTY.**

3 (a) IN GENERAL.—Subclause (I) of section
4 168(n)(2)(A)(ii) is amended by striking “January 1,
5 2010” and inserting “January 1, 2011”.

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

9 **SEC. 284. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**
10 **ERALLY DECLARED DISASTERS.**

11 (a) IN GENERAL.—Subclause (I) of section
12 172(j)(1)(A)(i) is amended by striking “January 1, 2010”
13 and inserting “January 1, 2011”.

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

17 **SEC. 285. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

18 (a) IN GENERAL.—Subparagraph (A) of section
19 198A(b)(2) 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 expenditures on account of dis-
23 asters occurring after December 31, 2009.

1 **PART II—REGIONAL PROVISIONS**

2 **Subpart A—New York Liberty Zone**

3 **SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NON-**
4 **RESIDENTIAL AND RESIDENTIAL REAL PROP-**
5 **ERTY.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 1400L(b)(2) is amended by striking “December 31, 2009”
8 and inserting “December 31, 2010”.

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

12 **SEC. 292. TAX-EXEMPT BOND FINANCING.**

13 (a) IN GENERAL.—Subparagraph (D) of section
14 1400L(d)(2) is amended by striking “January 1, 2010”
15 and inserting “January 1, 2011”.

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

19 **Subpart B—GO Zone**

20 **SEC. 295. INCREASE IN REHABILITATION CREDIT.**

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

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

1 **SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT**
2 **TO CERTAIN INDIVIDUALS AFFECTED BY**
3 **HURRICANE KATRINA FOR EMPLOYERS IN-**
4 **SIDE DISASTER AREAS.**

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

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to individuals hired after August
10 27, 2009.

11 **SEC. 297. EXTENSION OF LOW-INCOME HOUSING CREDIT**
12 **RULES FOR BUILDINGS IN GO ZONES.**

13 Section 1400N(c)(5) is amended by striking “Janu-
14 ary 1, 2011” and inserting “January 1, 2013”.

15 **TITLE III—PENSION FUNDING**
16 **RELIEF**

17 **Subtitle A—Single-Employer Plans**

18 **SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-**
19 **FINED BENEFIT PLANS TO AMORTIZE CER-**
20 **TAIN SHORTFALL AMORTIZATION BASES.**

21 (a) ERISA AMENDMENTS.—

22 (1) IN GENERAL.—Section 303(c)(2) of the
23 Employee Retirement Income Security Act of 1974
24 (29 U.S.C. 1083(c)(2)) is amended by adding at the
25 end the following subparagraphs:

26 “(D) SPECIAL RULE.—

1 “(i) IN GENERAL.—In the case of the
2 shortfall amortization base of a plan for
3 any applicable plan year, the shortfall am-
4 ortization installments are the amounts de-
5 scribed in clause (ii) or (iii), if made appli-
6 cable by an election under clause (iv). In
7 the absence of a timely election, such in-
8 stallments shall be determined without re-
9 gard to this subparagraph.

10 “(ii) 2 PLUS 7 AMORTIZATION SCHED-
11 ULE.—The shortfall amortization install-
12 ments described in 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 applicable plan
16 year, interest on the shortfall amorti-
17 zation base (determined by using the
18 effective interest rate for the applica-
19 ble plan year), and

20 “(II) in the case of the last 7
21 plan years in such 9-plan-year period,
22 the amounts necessary to amortize the
23 balance of such shortfall amortization
24 base in level annual installments over
25 such last 7 plan years (determined

1 using the segment rates determined
2 under subparagraph (C) of subsection
3 (h)(2) for the applicable plan year,
4 applied under rules similar to the
5 rules of subparagraph (B) of sub-
6 section (h)(2)).

7 “(iii) 15-YEAR AMORTIZATION.—The
8 shortfall amortization installments de-
9 scribed in this clause are the amounts
10 under subparagraphs (A) and (B) deter-
11 mined by substituting ‘15 plan-year period’
12 for ‘7-plan-year period’.

13 “(iv) ELECTION.—

14 “(I) IN GENERAL.—The plan
15 sponsor may, with respect to a plan,
16 elect, with respect to any of not more
17 than 2 applicable plan years, to deter-
18 mine shortfall amortization install-
19 ments under this subparagraph. An
20 election under either clause (ii) or
21 clause (iii) may be made with respect
22 to either of such applicable plan years.

23 “(II) ELIGIBILITY FOR ELEC-
24 TION.—An election may be made to
25 determine shortfall amortization in-

1 stallments under this subparagraph
2 with respect to a plan only if, as of
3 the date of the election—

4 “(aa) the plan sponsor is
5 not a debtor in a case under title
6 11, United States Code, or simi-
7 lar Federal or State law,

8 “(bb) there are no unpaid
9 minimum required contributions
10 with respect to the plan for pur-
11 poses of section 4971 of the In-
12 ternal Revenue Code of 1986,

13 “(cc) there is no lien in
14 favor of the plan under sub-
15 section (k) or under section
16 430(k) of such Code, and

17 “(dd) a distress termination
18 has not been initiated for the
19 plan under section 4041(c).

20 “(III) RULES RELATING TO
21 ELECTION.—Such election shall be
22 made at such times, and in such form
23 and manner, as shall be prescribed by
24 the Secretary of the Treasury and
25 shall be irrevocable, except under such

1 limited circumstances, and subject to
2 such conditions, as such Secretary
3 may prescribe.

4 “(E) APPLICABLE PLAN YEAR.—

5 “(i) IN GENERAL.—For purposes of
6 this paragraph, the term ‘applicable plan
7 year’ means, subject to the election of the
8 plan sponsor under subparagraph (D)(iv),
9 each of not more than 2 of the plan years
10 beginning in 2008, 2009, 2010, or 2011.

11 “(ii) SPECIAL RULE RELATING TO
12 2008.—A plan year may be elected as an
13 applicable plan year pursuant to this sub-
14 paragraph only if the due date under sub-
15 section (j)(1) for the payment of the min-
16 imum required contribution for such plan
17 year occurs on or after March 10, 2010.

18 “(F) INCREASES IN SHORTFALL AMORTI-
19 ZATION INSTALLMENTS IN CASES OF EXCESS
20 COMPENSATION OR CERTAIN DIVIDENDS OR
21 STOCK REDEMPTIONS.—

22 “(i) IN GENERAL.—If, with respect to
23 an election for an applicable plan year
24 under subparagraph (D), there is an in-
25 stallment acceleration amount with respect

1 to a plan for any plan year in the restric-
2 tion period (or if there is an installment
3 acceleration amount carried forward to a
4 plan year not in the restriction period),
5 then the shortfall amortization installment
6 otherwise determined and payable under
7 this paragraph for such plan year shall be
8 increased by such amount.

9 “(ii) BACK-END ADJUSTMENT TO AM-
10 ORTIZATION SCHEDULE.—Subject to rules
11 prescribed by the Secretary of the Treas-
12 ury, if a shortfall amortization installment
13 with respect to any shortfall amortization
14 base for an applicable plan year is required
15 to be increased for any plan year under
16 clause (i), subsequent shortfall amortiza-
17 tion installments with respect to such base
18 shall be reduced, in reverse order of the
19 otherwise required installments beginning
20 with the final scheduled installment, to the
21 extent necessary to limit the present value
22 of such subsequent shortfall amortization
23 installments (after application of this sub-
24 paragraph) to the present value of the re-

1 plan years in the amortization
2 period elected under subpara-
3 graph (D) with respect to the
4 shortfall amortization base with
5 respect to an applicable year, de-
6 termined without regard to sub-
7 paragraph (D) and this subpara-
8 graph, over

9 “(bb) the sum of the short-
10 fall amortization installments for
11 such plan year and all such pre-
12 ceding plan years, determined
13 after application of subparagraph
14 (D) (and in the case of any pre-
15 ceding plan year, after applica-
16 tion of this subparagraph).

17 “(III) CARRYOVER OF EXCESS
18 INSTALLMENT ACCELERATION
19 AMOUNTS.—

20 “(aa) IN GENERAL.—If the
21 installment acceleration amount
22 for any plan year (determined
23 without regard to subclause (II))
24 exceeds the limitation under sub-
25 clause (II), then, subject to item

1 (bb), such excess shall be treated
2 as an installment acceleration
3 amount for the succeeding plan
4 year.

5 “(bb) CAP TO APPLY.—If
6 any amount treated as an install-
7 ment acceleration amount under
8 item (aa) or this item with re-
9 spect any succeeding plan year,
10 when added to other installment
11 acceleration amounts (determined
12 without regard to subclause (II))
13 with respect to the plan year, ex-
14 ceeds the limitation under sub-
15 clause (II), the portion of such
16 amount representing such excess
17 shall be treated as an installment
18 acceleration amount with respect
19 to the next succeeding plan year.

20 “(cc) LIMITATION ON YEARS
21 TO WHICH AMOUNTS CARRIED
22 FORWARD.—No amount shall be
23 carried forward under item (aa)
24 or (bb) to a plan year which be-
25 gins after the last plan year in

1 the restriction period (or after
2 the second plan year following
3 such last plan year in the case of
4 an election year with respect to
5 which 15-year amortization was
6 elected under subparagraph
7 (D)(iii)).

8 “(dd) ORDERING RULES.—
9 For purposes of applying item
10 (bb), installment acceleration
11 amounts for the plan year (deter-
12 mined without regard to any car-
13 ryover under this clause) shall be
14 applied first against the limita-
15 tion under subclause (II) and
16 then carryovers to such plan year
17 shall be applied against such lim-
18 itation on a first-in, first-out
19 basis.

20 “(iv) EXCESS EMPLOYEE COMPENSA-
21 TION.—

22 “(I) IN GENERAL.—For purposes
23 of this paragraph, the term ‘excess
24 employee compensation’ means the
25 sum of—

1 “(aa) with respect to any
2 employee, for any plan year, the
3 excess (if any) of—

4 “(AA) the aggregate
5 amount includible in income
6 under chapter 1 of the In-
7 ternal Revenue Code of
8 1986 for remuneration dur-
9 ing the calendar year in
10 which such plan year begins
11 for services performed by
12 the employee for the plan
13 sponsor (whether or not per-
14 formed during such calendar
15 year), over

16 “(BB) \$1,000,000, plus

17 “(bb) the amount of assets
18 set aside or reserved (directly or
19 indirectly) in a trust (or other ar-
20 rangement as determined by the
21 Secretary of the Treasury), or
22 transferred to such a trust or
23 other arrangement, during the
24 calendar year by a plan sponsor
25 for purposes of paying deferred

1 compensation of an employee
2 under a nonqualified deferred
3 compensation plan (as defined in
4 section 409A of such Code) of
5 the plan sponsor.

6 “(II) NO DOUBLE COUNTING.—
7 No amount shall be taken into ac-
8 count under subclause (I) more than
9 once.

10 “(III) EMPLOYEE; REMUNERA-
11 TION.—For purposes of this clause,
12 the term ‘employee’ includes, with re-
13 spect to a calendar year, a self-em-
14 ployed individual who is treated as an
15 employee under section 401(c) of the
16 Internal Revenue Code of 1986 for
17 the taxable year ending during such
18 calendar year, and the term ‘remu-
19 nation’ shall include earned income
20 of such an individual.

21 “(IV) CERTAIN PAYMENTS
22 UNDER EXISTING CONTRACTS.—There
23 shall not be taken into account under
24 subclause (I)(aa) any remuneration
25 consisting of nonqualified deferred

1 compensation, restricted stock (or re-
2 stricted stock units), stock options, or
3 stock appreciation rights payable or
4 granted under a written binding con-
5 tract that was in effect on March 1,
6 2010, and which was not modified in
7 any material respect before such re-
8 munerated is paid.

9 “(V) ONLY REMUNERATION FOR
10 POST-2009 SERVICES COUNTED.—Re-
11 munerated shall be taken into ac-
12 count under subclause (I)(aa) only to
13 the extent attributable to services per-
14 formed by the employee for the plan
15 sponsor after December 31, 2009.

16 “(VI) COMMISSIONS.—

17 “(aa) IN GENERAL.—There
18 shall not be taken into account
19 under subclause (I)(aa) any re-
20 munerated payable on a commis-
21 sion basis solely on account of in-
22 come directly generated by the
23 individual performance of the in-
24 dividual to whom such remunera-
25 tion is payable.

1 “(bb) SPECIFIED EMPLOY-
2 EES.—Item (aa) shall not apply
3 in the case of any specified em-
4 ployee (within the meaning of
5 section 409A(a)(2)(B)(i) of the
6 Internal Revenue Code of 1986)
7 or any employee who would be
8 such a specified employee if the
9 plan sponsor were a corporation
10 described in such section.

11 “(VII) INDEXING OF AMOUNT.—
12 In the case of any calendar year be-
13 ginning after 2010, the dollar amount
14 under subclause (I)(aa)(BB) shall be
15 increased by an amount equal to—

16 “(aa) such dollar amount,
17 multiplied by

18 “(bb) the cost-of-living ad-
19 justment determined under sec-
20 tion 1(f)(3) of the Internal Rev-
21 enue Code of 1986 for the cal-
22 endar year, determined by sub-
23 stituting ‘calendar year 2009’ for
24 ‘calendar year 1992’ in subpara-
25 graph (B) thereof.

1 If the amount of any increase under
2 clause (i) is not a multiple of \$20,000,
3 such increase shall be rounded to the
4 next lowest multiple of \$20,000.

5 “(v) CERTAIN DIVIDENDS AND RE-
6 DEMPTIONS.—

7 “(I) IN GENERAL.—The dividend
8 and redemption amount determined
9 under this clause for any plan year is
10 the lesser of—

11 “(aa) the excess of—

12 “(AA) the sum of the
13 dividends paid during the
14 plan year by the plan spon-
15 sor, plus the amounts paid
16 for the redemption of stock
17 of the plan sponsor re-
18 deemed during the plan
19 year, over

20 “(BB) an amount equal
21 to the average of adjusted
22 annual net income of the
23 plan sponsor for the last 5
24 fiscal years of the plan spon-

1 sor ending before such plan
2 year, or

3 “(bb) the sum of—

4 “(AA) the amounts
5 paid for the redemption of
6 stock of the plan sponsor re-
7 deemed during the plan
8 year, plus

9 “(BB) the excess of
10 dividends paid during the
11 plan year by the plan spon-
12 sor over the dividend base
13 amount.

14 “(II) DEFINITIONS.—

15 “(aa) ADJUSTED ANNUAL
16 NET INCOME.—For purposes of
17 subclause (I)(aa)(BB), the term
18 ‘adjusted annual net income’ with
19 respect to any fiscal year means
20 annual net income, determined in
21 accordance with generally accept-
22 ed accounting principles (before
23 after-tax gain or loss on any sale
24 of assets), but without regard to
25 any reduction by reason of depre-

1 ciation or amortization, except
2 that in no event shall adjusted
3 annual net income for any fiscal
4 year be less than zero.

5 “(bb) DIVIDEND BASE
6 AMOUNT.—For purposes of this
7 clause, the term ‘dividend base
8 amount’ means, with respect to a
9 plan year, an amount equal to
10 the greater of—

11 “(AA) the median of
12 the amounts of the dividends
13 paid during each of the last
14 5 fiscal years of the plan
15 sponsor ending before such
16 plan year, or

17 “(BB) the amount of
18 dividends paid during such
19 plan year on preferred stock
20 that was issued on or before
21 May 21, 2010, or that is re-
22 placement stock for such
23 preferred stock.

24 “(III) ONLY CERTAIN POST-2009
25 DIVIDENDS AND REDEMPTIONS

1 demption, are not listed on an es-
2 tablished securities market and—

3 “(AA) are made pursu-
4 ant to a pension plan that is
5 qualified under section 401
6 of the Internal Revenue
7 Code of 1986 or a share-
8 holder-approved program, or

9 “(BB) are made on ac-
10 count of an employee’s ter-
11 mination of employment
12 with the plan sponsor, or the
13 death or disability of a
14 shareholder.

15 “(bb) Redemptions of secu-
16 rities which are not, immediately
17 after issuance, listed on an estab-
18 lished securities market and are,
19 or had previously been—

20 “(AA) held, directly or
21 indirectly, by, or for the ben-
22 efit of, the Federal Govern-
23 ment or a Federal reserve
24 bank, or

1 “(BB) held by a na-
2 tional government (or a gov-
3 ernment-related entity of
4 such a government) or an
5 employee benefit plan if
6 such shares are substantially
7 identical to shares described
8 in subitem (AA).

9 “(vi) OTHER DEFINITIONS AND
10 RULES.—For purposes of this subpara-
11 graph—

12 “(I) PLAN SPONSOR.—The term
13 ‘plan sponsor’ includes any member of
14 the plan sponsor’s controlled group
15 (as defined in section 302(d)(3)).

16 “(II) RESTRICTION PERIOD.—
17 The term ‘restriction period’ means,
18 with respect to any applicable plan
19 year with respect to which an election
20 is made under subparagraph (D)—

21 “(aa) except as provided in
22 item (bb), the 3-year period be-
23 ginning with the applicable plan
24 year (or, if later, the first plan

1 year beginning after December
2 31, 2009), or

3 “(bb) if the plan sponsor
4 elects 15-year amortization for
5 the shortfall amortization base
6 for the applicable plan year, the
7 5-year period beginning with
8 such plan year (or, if later, the
9 first plan year beginning after
10 December 31, 2009).

11 “(III) ELECTIONS FOR MULTIPLE
12 PLANS.—If a plan sponsor makes
13 elections under subparagraph (D)
14 with respect to 2 or more plans, the
15 Secretary of the Treasury shall pro-
16 vide rules for the application of this
17 subparagraph to such plans, including
18 rules for the ratable allocation of any
19 installment acceleration amount
20 among such plans on the basis of each
21 plan’s relative reduction in the plan’s
22 shortfall amortization installment for
23 the first plan year in the amortization
24 period described in clause (i) (deter-

1 mined without regard to this subpara-
2 graph).

3 “(G) MERGERS AND ACQUISITIONS.—The
4 Secretary of the Treasury shall prescribe rules
5 for the application of subparagraphs (D) and
6 (F) in any case where there is a merger or ac-
7 quisition involving a plan sponsor making the
8 election under subparagraph (D).

9 “(H) REGULATIONS AND GUIDANCE.—The
10 Secretary of the Treasury may prescribe such
11 regulations and other guidance of general appli-
12 cability as such Secretary may determine nec-
13 essary to achieve the purposes of subparagraphs
14 (D) and (F).”.

15 (2) NOTICE REQUIREMENT.—Section 204 of
16 such Act (29 U.S.C. 1054) is amended—

17 (A) by redesignating subsection (k) as sub-
18 section (l); and

19 (B) by inserting after subsection (j) the
20 following new subsection:

21 “(k) NOTICE IN CONNECTION WITH SHORTFALL AM-
22 ORTIZATION ELECTION.—

23 “(1) IN GENERAL.—Not later 30 days after the
24 date of an election under clause (iv) of section
25 303(c)(2)(D) in connection with a single-employer

1 plan, the plan administrator shall provide notice of
2 such election in accordance with this subsection to
3 each plan participant and beneficiary, each labor or-
4 ganization representing such participants and bene-
5 ficiaries, and the Pension Benefit Guaranty Corpora-
6 tion.

7 “(2) MATTERS INCLUDED IN NOTICE.—Each
8 notice provided pursuant to this subsection shall set
9 forth—

10 “(A) a statement that recently enacted leg-
11 islation permits employers to delay pension
12 funding;

13 “(B) with respect to required contribu-
14 tions—

15 “(i) the amount of contributions that
16 would have been required had the election
17 not been made;

18 “(ii) the amount of the reduction in
19 required contributions for the applicable
20 plan year that occurs on account of the
21 election; and

22 “(iii) the number of plan years to
23 which such reduction will apply;

1 “(C) with respect to a plan’s funding sta-
2 tus as of the end of the plan year preceding the
3 applicable plan year—

4 “(i) the liabilities determined under
5 section 4010(d)(1)(A); and

6 “(ii) the market value of assets of the
7 plan; and

8 “(D) with respect to installment accelera-
9 tion amounts (as defined in section
10 303(c)(2)(F)(iii)(I))—

11 “(i) an explanation of section
12 303(c)(2)(F) (relating to increases in
13 shortfall amortization installments in cases
14 of excess compensation or certain dividends
15 or stock redemptions); and

16 “(ii) a statement that increases in re-
17 quired contributions may occur in the
18 event of future payments of excess em-
19 ployee compensation or certain share re-
20 purchasing or dividend activity and that
21 subsequent notices of any such payments
22 or activity will be provided in the annual
23 funding notice provided pursuant to sec-
24 tion 101(f).

25 “(3) OTHER REQUIREMENTS.—

1 “(A) FORM.—The notice required by para-
2 graph (1) shall be written in a manner cal-
3 culated to be understood by the average plan
4 participant. The Secretary of the Treasury shall
5 prescribe a model notice that a plan adminis-
6 trator may use to satisfy the requirements of
7 paragraph (1).

8 “(B) PROVISION TO DESIGNATED PER-
9 SONS.—Any notice under paragraph (1) may be
10 provided to a person designated, in writing, by
11 the person to which it would otherwise be pro-
12 vided.

13 “(4) EFFECT OF EGREGIOUS FAILURE.—

14 “(A) IN GENERAL.—In the case of any
15 egregious failure to meet any requirement of
16 this subsection with respect to any election,
17 such election shall be treated as having not
18 been made.

19 “(B) EGREGIOUS FAILURE.—For purposes
20 of subparagraph (A), there is an egregious fail-
21 ure to meet the requirements of this subsection
22 if such failure is in the control of the plan spon-
23 sor and is—

24 “(i) an intentional failure (including
25 any failure to promptly provide the re-

1 required notice or information after the plan
2 administrator discovers an unintentional
3 failure to meet the requirements of this
4 subsection),

5 “(ii) a failure to provide most of the
6 participants and beneficiaries with most of
7 the information they are entitled to receive
8 under this subsection, or

9 “(iii) a failure which is determined to
10 be egregious under regulations prescribed
11 by the Secretary of the Treasury.

12 “(5) USE OF NEW TECHNOLOGIES.—The Sec-
13 retary of the Treasury may, in consultation with the
14 Secretary, by regulations or other guidance of gen-
15 eral applicability, allow any notice under this sub-
16 section to be provided using new technologies.”.

17 (C) SUBSEQUENT SUPPLEMENTAL NO-
18 TICES.—Section 101(f)(2)(C) of such Act (29
19 U.S.C. 1021(f)(2)(C)) is amended—

20 (i) by striking “and” at the end of
21 clause (i);

22 (ii) by redesignating clause (ii) as
23 clause (iii); and

24 (iii) by inserting after clause (i) the
25 following new clause:

1 “(ii) any excess employee compensa-
2 tion amounts and any dividends and re-
3 demptions amounts determined under sec-
4 tion 303(c)(2)(F) for the preceding plan
5 year with respect to the plan, and”.

6 (3) DISREGARD OF INSTALLMENT ACCELERA-
7 TION AMOUNTS IN DETERMINING QUARTERLY CON-
8 TRIBUTIONS.—Section 303(j)(3) of such Act (29
9 U.S.C. 1083(j)(3)) is amended by adding at the end
10 the following new subparagraph:

11 “(F) DISREGARD OF INSTALLMENT ACCEL-
12 ERATION AMOUNTS.—Subparagraph (D) shall
13 be applied without regard to any increase under
14 subsection (c)(2)(F).”.

15 (4) CONFORMING AMENDMENT.—Section
16 303(c)(1) of such Act (29 U.S.C. 1083(c)(1)) is
17 amended by striking “the shortfall amortization
18 bases for such plan year and each of the 6 preceding
19 plan years” and inserting “any shortfall amortiza-
20 tion base which has not been fully amortized under
21 this subsection”.

22 (b) IRC AMENDMENTS.—

23 (1) IN GENERAL.—Section 430(c)(2) of the In-
24 ternal Revenue Code of 1986 is amended by adding
25 at the end the following subparagraphs:

1 “(D) SPECIAL RULE.—

2 “(i) IN GENERAL.—In the case of the
3 shortfall amortization base of a plan for
4 any applicable plan year, the shortfall am-
5 ortization installments are the amounts de-
6 scribed in clause (ii) or (iii), if made appli-
7 cable by an election under clause (iv). In
8 the absence of a timely election, such in-
9 stallments shall be determined without re-
10 gard to this subparagraph.

11 “(ii) 2 PLUS 7 AMORTIZATION SCHED-
12 ULE.—The shortfall amortization install-
13 ments described in this clause are—

14 “(I) in the case of the first 2
15 plan years in the 9-plan-year period
16 beginning with the applicable plan
17 year, interest on the shortfall amorti-
18 zation base (determined by using the
19 effective interest rate for the applica-
20 ble plan 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 balance of such shortfall amortization
25 base in level annual installments over

1 such last 7 plan years (determined
2 using the segment rates determined
3 under subparagraph (C) of subsection
4 (h)(2) for the applicable plan year,
5 applied under rules similar to the
6 rules of subparagraph (B) of sub-
7 section (h)(2)).

8 “(iii) 15-YEAR AMORTIZATION.—The
9 shortfall amortization installments de-
10 scribed in this clause are the amounts
11 under subparagraphs (A) and (B) deter-
12 mined by substituting ‘15 plan-year period’
13 for ‘7-plan-year period’.

14 “(iv) ELECTION.—

15 “(I) IN GENERAL.—The plan
16 sponsor may, with respect to a plan,
17 elect, with respect to any of not more
18 than 2 applicable plan years, to deter-
19 mine shortfall amortization install-
20 ments under this subparagraph. An
21 election under either clause (ii) or
22 clause (iii) may be made with respect
23 to either of such applicable plan years.

24 “(II) ELIGIBILITY FOR ELEC-
25 TION.—An election may be made to

1 determine shortfall amortization in-
2 stallments under this subparagraph
3 with respect to a plan only if, as of
4 the date of the election—

5 “(aa) the plan sponsor is
6 not a debtor in a case under title
7 11, United States Code, or simi-
8 lar Federal or State law,

9 “(bb) there are no unpaid
10 minimum required contributions
11 with respect to the plan for pur-
12 poses of section 4971,

13 “(cc) there is no lien in
14 favor of the plan under sub-
15 section (k) or under section
16 303(k) of the Employee Retire-
17 ment Income Security Act of
18 1974, and

19 “(dd) a distress termination
20 has not been initiated for the
21 plan under section 4041(c) of
22 such Act.

23 “(III) RULES RELATING TO
24 ELECTION.—Such election shall be
25 made at such times, and in such form

1 and manner, as shall be prescribed by
2 the Secretary and shall be irrevocable,
3 except under such limited cir-
4 cumstances, and subject to such con-
5 ditions, as the Secretary may pre-
6 scribe.

7 “(E) APPLICABLE PLAN YEAR.—

8 “(i) IN GENERAL.—For purposes of
9 this paragraph, the term ‘applicable plan
10 year’ means, subject to the election of the
11 plan sponsor under subparagraph (D)(iv),
12 each of not more than 2 of the plan years
13 beginning in 2008, 2009, 2010, or 2011.

14 “(ii) SPECIAL RULE RELATING TO
15 2008.—A plan year may be elected as an
16 applicable plan year pursuant to this sub-
17 paragraph only if the due date under sub-
18 section (j)(1) for the payment of the min-
19 imum required contribution for such plan
20 year occurs on or after March 10, 2010.

21 “(F) INCREASES IN SHORTFALL AMORTI-
22 ZATION INSTALLMENTS IN CASES OF EXCESS
23 COMPENSATION OR CERTAIN DIVIDENDS OR
24 STOCK REDEMPTIONS.—

1 “(i) IN GENERAL.—If, with respect to
2 an election for an applicable plan year
3 under subparagraph (D), there is an in-
4 stallment acceleration amount with respect
5 to a plan for any plan year in the restric-
6 tion period (or if there is an installment
7 acceleration amount carried forward to a
8 plan year not in the restriction period),
9 then the shortfall amortization installment
10 otherwise determined and payable under
11 this paragraph for such plan year shall be
12 increased by such amount.

13 “(ii) BACK-END ADJUSTMENT TO AM-
14 ORTIZATION SCHEDULE.—Subject to rules
15 prescribed by the Secretary, if a shortfall
16 amortization installment with respect to
17 any shortfall amortization base for an ap-
18 plicable plan year is required to be in-
19 creased for any plan year under clause (i),
20 subsequent shortfall amortization install-
21 ments with respect to such base shall be
22 reduced, in reverse order of the otherwise
23 required installments beginning with the
24 final scheduled installment, to the extent
25 necessary to limit the present value of such

1 subsequent shortfall amortization install-
2 ments (after application of this subpara-
3 graph) to the present value of the remain-
4 ing unamortized shortfall amortization
5 base.

6 “(iii) INSTALLMENT ACCELERATION
7 AMOUNT.—For purposes of this subpara-
8 graph—

9 “(I) IN GENERAL.—The term ‘in-
10 stallment acceleration amount’ means,
11 with respect to any plan year in a re-
12 striction period with respect to an ap-
13 plicable plan year, the sum of—

14 “(aa) the aggregate amount
15 of excess employee compensation
16 determined under clause (iv) for
17 the plan year, plus

18 “(bb) the dividend and re-
19 demption amount determined
20 under clause (v) for the plan
21 year.

22 “(II) CUMULATIVE LIMITA-
23 TION.—The installment acceleration
24 amount for any plan year shall not ex-
25 ceed the excess (if any) of—

1 “(aa) the sum of the short-
2 fall amortization installments for
3 the plan year and all preceding
4 plan years in the amortization
5 period elected under subpara-
6 graph (D) with respect to the
7 shortfall amortization base with
8 respect to an applicable year, de-
9 termined without regard to sub-
10 paragraph (D) and this subpara-
11 graph, over

12 “(bb) the sum of the short-
13 fall amortization installments for
14 such plan year and all such pre-
15 ceding plan years, determined
16 after application of subparagraph
17 (D) (and in the case of any pre-
18 ceding plan year, after applica-
19 tion of this subparagraph).

20 “(III) CARRYOVER OF EXCESS
21 INSTALLMENT ACCELERATION
22 AMOUNTS.—

23 “(aa) IN GENERAL.—If the
24 installment acceleration amount
25 for any plan year (determined

1 without regard to subclause (II))
2 exceeds the limitation under sub-
3 clause (II), then, subject to item
4 (bb), such excess shall be treated
5 as an installment acceleration
6 amount for the succeeding plan
7 year.

8 “(bb) CAP TO APPLY.—If
9 any amount treated as an install-
10 ment acceleration amount under
11 item (aa) or this item with re-
12 spect any succeeding plan year,
13 when added to other installment
14 acceleration amounts (determined
15 without regard to subclause (II))
16 with respect to the plan year, ex-
17 ceeds the limitation under sub-
18 clause (II), the portion of such
19 amount representing such excess
20 shall be treated as an installment
21 acceleration amount with respect
22 to the next succeeding plan year.

23 “(cc) LIMITATION ON YEARS
24 TO WHICH AMOUNTS CARRIED
25 FORWARD.—No amount shall be

1 carried forward under item (aa)
2 or (bb) to a plan year which be-
3 gins after the last plan year in
4 the restriction period (or after
5 the second plan year following
6 such last plan year in the case of
7 an election year with respect to
8 which 15-year amortization was
9 elected under subparagraph
10 (D)(iii)).

11 “(dd) ORDERING RULES.—
12 For purposes of applying item
13 (bb), installment acceleration
14 amounts for the plan year (deter-
15 mined without regard to any car-
16 ryover under this clause) shall be
17 applied first against the limita-
18 tion under subclause (II) and
19 then carryovers to such plan year
20 shall be applied against such lim-
21 itation on a first-in, first-out
22 basis.

23 “(iv) EXCESS EMPLOYEE COMPENSA-
24 TION.—

1 “(I) IN GENERAL.—For purposes
2 of this paragraph, the term ‘excess
3 employee compensation’ means the
4 sum of—

5 “(aa) with respect to any
6 employee, for any plan year, the
7 excess (if any) of—

8 “(AA) the aggregate
9 amount includible in income
10 under chapter 1 for remuneration during the calendar
11 year in which such plan year
12 begins for services performed by the employee for
13 the plan sponsor (whether or
14 not performed during such
15 calendar year), over

16 “(BB) \$1,000,000, plus

17 “(bb) the amount of assets
18 set aside or reserved (directly or
19 indirectly) in a trust (or other arrangement as determined by the
20 Secretary), or transferred to such
21 a trust or other arrangement,
22 during the calendar year by a
23
24
25

1 plan sponsor for purposes of pay-
2 ing deferred compensation of an
3 employee under a nonqualified
4 deferred compensation plan (as
5 defined in section 409A) of the
6 plan sponsor.

7 “(II) NO DOUBLE COUNTING.—
8 No amount shall be taken into ac-
9 count under subclause (I) more than
10 once.

11 “(III) EMPLOYEE; REMUNERA-
12 TION.—For purposes of this clause,
13 the term ‘employee’ includes, with re-
14 spect to a calendar year, a self-em-
15 ployed individual who is treated as an
16 employee under section 401(c) for the
17 taxable year ending during such cal-
18 endar year, and the term ‘remunera-
19 tion’ shall include earned income of
20 such an individual.

21 “(IV) CERTAIN PAYMENTS
22 UNDER EXISTING CONTRACTS.—There
23 shall not be taken into account under
24 subclause (I) any remuneration con-
25 sisting of nonqualified deferred com-

1 pensation, restricted stock (or re-
2 stricted stock units), stock options, or
3 stock appreciation rights payable or
4 granted under a written binding con-
5 tract that was in effect on March 1,
6 2010, and which was not modified in
7 any material respect before such re-
8 muneration is paid.

9 “(V) ONLY REMUNERATION FOR
10 POST-2009 SERVICES COUNTED.—Re-
11 muneration shall be taken into ac-
12 count under subclause (I)(aa) only to
13 the extent attributable to services per-
14 formed by the employee for the plan
15 sponsor after December 31, 2009.

16 “(VI) COMMISSIONS.—

17 “(aa) IN GENERAL.—There
18 shall not be taken into account
19 under subclause (I)(aa) any re-
20 muneration payable on a commis-
21 sion basis solely on account of in-
22 come directly generated by the
23 individual performance of the in-
24 dividual to whom such remunera-
25 tion is payable.

1 such increase shall be rounded to the
2 next lowest multiple of \$20,000.

3 “(v) CERTAIN DIVIDENDS AND RE-
4 DEMPTIONS.—

5 “(I) IN GENERAL.—The dividend
6 and redemption amount determined
7 under this clause for any plan year is
8 the lesser of—

9 “(aa) the excess of—

10 “(AA) the sum of the
11 dividends paid during the
12 plan year by the plan spon-
13 sor, plus the amounts paid
14 for the redemption of stock
15 of the plan sponsor re-
16 deemed during the plan
17 year, over

18 “(BB) an amount equal
19 to the average of adjusted
20 annual net income of the
21 plan sponsor for the last 5
22 fiscal years of the plan spon-
23 sor ending before such plan
24 year, or

25 “(bb) the sum of—

1 “(AA) the amounts
2 paid for the redemption of
3 stock of the plan sponsor re-
4 deemed during the plan
5 year, plus

6 “(BB) the excess of
7 dividends paid during the
8 plan year by the plan spon-
9 sor over the dividend base
10 amount.

11 “(II) DEFINITIONS.—

12 “(aa) ADJUSTED ANNUAL
13 NET INCOME.—For purposes of
14 subclause (I)(aa)(BB), the term
15 ‘adjusted annual net income’ with
16 respect to any fiscal year means
17 annual net income, determined in
18 accordance with generally accept-
19 ed accounting principles (before
20 after-tax gain or loss on any sale
21 of assets), but without regard to
22 any reduction by reason of depre-
23 ciation or amortization, except
24 that in no event shall adjusted

1 annual net income for any fiscal
2 year be less than zero.

3 “(bb) DIVIDEND BASE
4 AMOUNT.—For purposes of this
5 clause, the term ‘dividend base
6 amount’ means, with respect to a
7 plan year, an amount equal to
8 the greater of—

9 “(AA) the median of
10 the amounts of the dividends
11 paid during each of the last
12 5 fiscal years of the plan
13 sponsor ending before such
14 plan year, or

15 “(BB) the amount of
16 dividends paid during such
17 plan year on preferred stock
18 that was issued on or before
19 May 21, 2010, or that is re-
20 placement stock for such
21 preferred stock.

22 “(III) ONLY CERTAIN POST-2009
23 DIVIDENDS AND REDEMPTIONS
24 COUNTED.—For purposes of subclause
25 (I) (other than for purposes of calcu-

1 lating the dividend base amount),
2 there shall only be taken into account
3 dividends declared, and redemptions
4 occurring, after February 28, 2010.

5 “(IV) EXCEPTION FOR INTRA-
6 GROUP DIVIDENDS.—Dividends paid
7 by one member of a controlled group
8 (as defined in section 412(d)(3)) to
9 another member of such group shall
10 not be taken into account under sub-
11 clause (I).

12 “(V) EXCEPTION FOR STOCK
13 DIVIDENDS.—Any distribution by the
14 plan sponsor to its shareholders of
15 stock issued by the plan sponsor shall
16 not be taken into account under sub-
17 clause (I).

18 “(VI) EXCEPTION FOR CERTAIN
19 REDEMPTIONS.—The following shall
20 not be taken into account under sub-
21 clause (I):

22 “(aa) Redemptions of securi-
23 ties which, at the time of re-
24 demption, are not listed on an es-
25 tablished securities market and—

1 “(AA) are made pursu-
2 ant to a pension plan that is
3 qualified under section 401
4 or a shareholder-approved
5 program, or

6 “(BB) are made on ac-
7 count of an employee’s ter-
8 mination of employment
9 with the plan sponsor, or the
10 death or disability of a
11 shareholder.

12 “(bb) Redemptions of secu-
13 rities which are not, immediately
14 after issuance, listed on an estab-
15 lished securities market and are,
16 or had previously been—

17 “(AA) held, directly or
18 indirectly, by, or for the ben-
19 efit of, the Federal Govern-
20 ment or a Federal reserve
21 bank, or

22 “(BB) held by a na-
23 tional government (or a gov-
24 ernment-related entity of
25 such a government) or an

1 employee benefit plan if
2 such shares are substantially
3 identical to shares described
4 in subitem (AA).

5 “(vi) OTHER DEFINITIONS AND
6 RULES.—For purposes of this subpara-
7 graph—

8 “(I) PLAN SPONSOR.—The term
9 ‘plan sponsor’ includes any group of
10 which the plan sponsor is a member
11 and which is treated as a single em-
12 ployer under subsection (b), (c), (m),
13 or (o) of section 414.

14 “(II) RESTRICTION PERIOD.—
15 The term ‘restriction period’ means,
16 with respect to any applicable plan
17 year with respect to which an election
18 is made under subparagraph (D)—

19 “(aa) except as provided in
20 item (bb), the 3-year period be-
21 ginning with the applicable plan
22 year (or, if later, the first plan
23 year beginning after December
24 31, 2009), or

1 “(bb) if the plan sponsor
2 elects 15-year amortization for
3 the shortfall amortization base
4 for the applicable plan year, the
5 5-year period beginning with
6 such plan year (or, if later, the
7 first plan year beginning after
8 December 31, 2009).

9 “(III) ELECTIONS FOR MULTIPLE
10 PLANS.—If a plan sponsor makes
11 elections under subparagraph (D)
12 with respect to 2 or more plans, the
13 Secretary shall provide rules for the
14 application of this subparagraph to
15 such plans, including rules for the rat-
16 able allocation of any installment ac-
17 celeration amount among such plans
18 on the basis of each plan’s relative re-
19 duction in the plan’s shortfall amorti-
20 zation installment for the first plan
21 year in the amortization period de-
22 scribed in clause (i) (determined with-
23 out regard to this subparagraph).

24 “(G) MERGERS AND ACQUISITIONS.—The
25 Secretary shall prescribe rules for the applica-

1 tion of subparagraphs (D) and (F) in any case
2 where there is a merger or acquisition involving
3 a plan sponsor making the election under sub-
4 paragraph (D).

5 “(H) REGULATIONS AND GUIDANCE.—The
6 Secretary may prescribe such regulations and
7 other guidance of general applicability as the
8 Secretary may determine necessary to achieve
9 the purposes of subparagraphs (D) and (F).”.

10 (2) NOTICE REQUIREMENT.—

11 (A) IN GENERAL.—Section 4980F of such
12 Code is amended—

13 (i) by striking “subsection (e)” each
14 place it appears in subsection (a) and
15 paragraphs (1) and (3) of subsection (c)
16 and inserting “subsections (e) and (f)”;

17 (ii) by striking “subsection (e)” in
18 subsection (c)(2)(A) and inserting “sub-
19 section (e), (f), or both, as the case may
20 be”; and

21 (iii) by redesignating subsection (f) as
22 subsection (g) and by inserting after sub-
23 section (e) the following new subsection:

24 “(f) NOTICE IN CONNECTION WITH SHORTFALL AM-
25 ORTIZATION ELECTION.—

1 tion 101(f) of the Employee Retirement
2 Income Security Act of 1974.

3 “(3) OTHER REQUIREMENTS.—

4 “(A) FORM.—The notice required by para-
5 graph (1) shall be written in a manner cal-
6 culated to be understood by the average plan
7 participant and shall provide sufficient informa-
8 tion (as determined in accordance with regula-
9 tions or other guidance of general applicability
10 prescribed by the Secretary) to allow plan par-
11 ticipants and beneficiaries to understand the ef-
12 fect of the election. The Secretary shall pre-
13 scribe a model notice that a plan administrator
14 may use to satisfy the requirements of para-
15 graph (1).

16 “(B) PROVISION TO DESIGNATED PER-
17 SONS.—Any notice under paragraph (1) may be
18 provided to a person designated, in writing, by
19 the person to which it would otherwise be pro-
20 vided.”.

21 (B) CONFORMING AMENDMENT.—Sub-
22 section (g) of section 4980F of such Code is
23 amended by inserting “or (f)” after “subsection
24 (e)”.

1 (3) DISREGARD OF INSTALLMENT ACCELERA-
2 TION AMOUNTS IN DETERMINING QUARTERLY CON-
3 TRIBUTIONS.—Section 430(j)(3) of such Code is
4 amended by adding at the end the following new
5 subparagraph:

6 “(F) DISREGARD OF INSTALLMENT ACCEL-
7 ERATION AMOUNTS.—Subparagraph (D) shall
8 be applied without regard to any increase under
9 subsection (c)(2)(F).”.

10 (4) CONFORMING AMENDMENT.—Paragraph (1)
11 of section 430(e) of such Code is amended by strik-
12 ing “the shortfall amortization bases for such plan
13 year and each of the 6 preceding plan years” and in-
14 serting “any shortfall amortization base which has
15 not been fully amortized under this subsection”.

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

19 **SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PE-**
20 **RIOD TO PLANS SUBJECT TO PRIOR LAW**
21 **FUNDING RULES.**

22 (a) IN GENERAL.—Title I of the Pension Protection
23 Act of 2006 is amended by redesignating section 107 as
24 section 108 and by inserting the following after section
25 106:

1 **“SEC. 107. APPLICATION OF FUNDING RELIEF TO PLANS**
2 **WITH DELAYED EFFECTIVE DATE.**

3 “(a) ALTERNATIVE ELECTIONS.—

4 “(1) IN GENERAL.—Subject to this section, a
5 plan sponsor of a plan to which section 104, 105, or
6 106 of this Act applies may either elect the applica-
7 tion of subsection (b) with respect to the plan for
8 not more than 2 applicable plan years or elect the
9 application of subsection (c) with respect to the plan
10 for 1 applicable plan year.

11 “(2) ELIGIBILITY FOR ELECTIONS.—An elec-
12 tion may be made by a plan sponsor under para-
13 graph (1) with respect to a plan only if at the time
14 of the election—

15 “(A) the plan sponsor is not a debtor in a
16 case under title 11, United States Code, or
17 similar Federal or State law,

18 “(B) there are no accumulated funding de-
19 ficiencies (as defined in section 302(a)(2) of the
20 Employee Retirement Income Security Act of
21 1974 (as in effect immediately before the enact-
22 ment of this Act) or in section 412(a) of the In-
23 ternal Revenue Code of 1986 (as so in effect))
24 with respect to the plan,

25 “(C) there is no lien in favor of the plan
26 under section 302(d) (as so in effect) or under

1 section 412(n) of such Code (as so in effect),
2 and

3 “(D) a distress termination has not been
4 initiated for the plan under section 4041(e) of
5 the Employee Retirement Income Security Act
6 of 1974.

7 “(b) ALTERNATIVE ADDITIONAL FUNDING
8 CHARGE.—If the plan sponsor elects the application of
9 this subsection with respect to the plan, for purposes of
10 applying section 302(d) of the Employee Retirement In-
11 come Security Act of 1974 (as in effect before the amend-
12 ments made by this subtitle and subtitle B) and section
13 412(l) of the Internal Revenue Code of 1986 (as so in
14 effect)—

15 “(1) the deficit reduction contribution under
16 paragraph (2) of such section 302(d) and paragraph
17 (2) of such section 412(l) for such plan for any ap-
18 plicable plan year, shall be zero, and

19 “(2) the additional funding charge under para-
20 graph (1) of such section 302(d) and paragraph (1)
21 of such section 412(l) for such plan for any applica-
22 ble plan year shall be increased by an amount equal
23 to the installment acceleration amount (as defined in
24 sections 303(e)(2)(F)(iii)(I) of such Act (as amend-
25 ed by the American Jobs and Closing Tax Loopholes

1 Act of 2010) and 430(c)(2)(F)(iii)(I) of such Code
2 (as so amended)) with respect to the plan sponsor
3 for such plan year, determined by treating the later
4 of such plan year or the first plan year beginning
5 after December 31, 2009, as the restriction period.

6 “(c) APPLICATION OF 15-YEAR AMORTIZATION.—If
7 the plan sponsor elects the application of this subsection
8 with respect to the plan, for purposes of applying section
9 302(d) of such Act (as in effect before the amendments
10 made by this subtitle and subtitle B) and section 412(l)
11 of such Code (as so in effect)—

12 “(1) in the case of the increased unfunded new
13 liability of the plan, the applicable percentage de-
14 scribed in paragraph (4)(C) of such section 302(d)
15 and paragraph (4)(C) of such section 412(l) for any
16 pre-effective date plan year beginning with or after
17 the applicable plan year shall be the ratio of—

18 “(A) the annual installments payable in
19 each plan year if the increased unfunded new li-
20 ability for such plan year were amortized in
21 equal installments over the period beginning
22 with such plan year and ending with the last
23 plan year in the period of 15 plan years begin-
24 ning with the applicable plan year, using an in-
25 terest rate equal to the third segment rate de-

1 scribed in sections 104(b), 105(b), and 106(b)
2 of this Act, to

3 “(B) the increased unfunded new liability
4 for such plan year,

5 “(2) in the case of the excess of the unfunded
6 new liability over the increased unfunded new liabil-
7 ity, such applicable percentage shall be determined
8 without regard to this section, and

9 “(3) the additional funding charge with respect
10 to the plan for a plan year shall be increased by an
11 amount equal to the installment acceleration amount
12 (as defined in section 303(c)(2)(F)(iii) of such Act
13 (as amended by the American Jobs and Closing Tax
14 Loopholes Act of 2010 and section 430(c)(2)(F)(iii)
15 of such Code (as so amended)) with respect to the
16 plan sponsor for such plan year, determined without
17 regard to subclause (II) of such sections
18 303(c)(2)(F)(iii) and 430(c)(2)(F)(iii).

19 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
20 poses of this section—

21 “(1) APPLICABLE PLAN YEAR.—

22 “(A) IN GENERAL.—The term ‘applicable
23 plan year’ with respect to a plan means, subject
24 to the election of the plan sponsor under sub-

1 section (a), a plan year beginning in 2009,
2 2010, or 2011.

3 “(B) ELECTION.—

4 “(i) IN GENERAL.—The election de-
5 scribed in subsection (a) shall be made at
6 such times, and in such form and manner,
7 as shall be prescribed by the Secretary of
8 the Treasury.

9 “(ii) REDUCTION IN YEARS WHICH
10 MAY BE ELECTED.—The number of appli-
11 cable plan years for which an election may
12 be made under section 303(c)(2)(D) of the
13 Employee Retirement Income Security Act
14 of 1974 (as amended by the American
15 Jobs and Closing Tax Loopholes Act of
16 2010) or section 430(c)(2)(D) of the Inter-
17 nal Revenue Code of 1986 (as so amended)
18 shall be reduced by the number of applica-
19 ble plan years for which an election under
20 this section is made.

21 “(C) ALLOCATION OF INSTALLMENT AC-
22 CELERATION AMOUNT FOR MULTIPLE PLAN
23 ELECTION.—In the case of an election under
24 this section with respect to 2 or more plans by
25 the same plan sponsor, the installment accelera-

1 tion amount shall be apportioned ratably with
2 respect to such plans in proportion to the def-
3 icit reduction contributions of the plans deter-
4 mined without regard to subsection (b)(1).

5 “(2) PLAN SPONSOR.—The term ‘plan sponsor’
6 shall have the meaning provided such term in section
7 303(c)(2)(F)(vi)(I) of the Employee Retirement In-
8 come Security Act of 1974 (as amended by the
9 American Jobs and Closing Tax Loopholes Act of
10 2010) and section 430(c)(2)(F)(vi)(I) of the Internal
11 Revenue Code of 1986 (as so amended).

12 “(3) PRE-EFFECTIVE DATE PLAN YEAR.—The
13 term ‘pre-effective date plan year’ means, with re-
14 spect to a plan, any plan year prior to the first year
15 in which the amendments made by this subtitle and
16 subtitle B apply to the plan.

17 “(4) INCREASED UNFUNDED NEW LIABILITY.—
18 The term ‘increased unfunded new liability’ means,
19 with respect to a year, the excess (if any) of the un-
20 funded new liability over the amount of unfunded
21 new liability determined as if the value of the plan’s
22 assets determined under subsection 302(c)(2) of
23 such Act (as in effect before the amendments made
24 by this subtitle and subtitle B) and section
25 412(c)(2) of such Code (as so in effect) equaled the

1 product of the current liability of the plan for the
2 year multiplied by the funded current liability per-
3 centage (as defined in section 302(d)(8)(B) of such
4 Act (as so in effect) and 412(l)(8)(B) of such Code
5 (as so in effect)) of the plan for the second plan year
6 preceding the first applicable plan year of such plan
7 for which an election under this section is made.

8 “(5) OTHER DEFINITIONS.—The terms ‘un-
9 funded new liability’ and ‘current liability’ shall have
10 the meanings set forth in section 302(d) of such Act
11 (as so in effect) and section 412(l) of such Code (as
12 so in effect).

13 “(6) ADDITIONAL FUNDING CHARGE INCREASE
14 NOT TO EXCEED RELIEF.—

15 “(A) ELECTION UNDER SUBSECTION (B).—
16 In the case of an election under subsection (b),
17 an increase resulting from the application of
18 subsection (b)(2) in the additional funding
19 charge with respect to a plan for a plan year
20 shall not exceed the excess (if any) of—

21 “(i) the deficit reduction contribution
22 under section 302(d)(2) of such Act (as so
23 in effect) and section 412(l)(2) of such
24 Code (as so in effect) for such plan year,

1 determined as if the election had not been
2 made, over

3 “(ii) the deficit reduction contribution
4 under such sections for such plan (deter-
5 mined without regard to any increase
6 under subsection (b)(2)).

7 “(B) ELECTION UNDER SUBSECTION (C).—
8 An increase resulting from the application of
9 subsection (c)(3) in the additional funding
10 charge with respect to a plan for a plan year
11 shall not exceed the excess (if any) of—

12 “(i) the sum of the deficit reduction
13 contributions under section 302(d)(2) of
14 such Act (as so in effect) and section
15 412(l)(2) of such Code (as so in effect) for
16 such plan for such plan year and for all
17 preceding plan years beginning with or
18 after the applicable plan year, determined
19 as if the election had not been made, over

20 “(ii) the sum of the deficit reduction
21 contributions under such sections for such
22 plan years (determined without regard to
23 any increase under subsection (c)(3)).

24 “(e) NOTICE.—Not later 30 days after the date of
25 an election under subsection (a) in connection with a plan,

1 the plan administrator shall provide notice pursuant to,
2 and subject to, rules similar to the rules of sections 204(k)
3 of the Employee Retirement Income Security Act of 1974
4 (as amended by the American Jobs and Closing Tax Loop-
5 holes Act of 2010) and 4980F(f) of the Internal Revenue
6 Code of 1986 (as so amended).”.

7 (b) ELIGIBLE CHARITY PLANS.—Section 104 of such
8 Act is amended—

9 (1) by striking “eligible cooperative plan” wher-
10 ever it appears in subsections (a) and (b) and insert-
11 ing “eligible cooperative plan or an eligible charity
12 plan”; and

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

15 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-
16 poses of this section, a plan shall be treated as an eligible
17 charity plan for a plan year if—

18 “(1) the plan is maintained by one or more em-
19 ployers employing employees who are accruing bene-
20 fits based on service for the plan year,

21 “(2) such employees are employed in at least 20
22 States,

23 “(3) each such employee (other than a de mini-
24 mis number of employees) is employed by an em-
25 ployer described in section 501(c)(3) of such Code

1 and the primary exempt purpose of each such em-
2 ployer is to provide services with respect to children,
3 and

4 “(4) the plan sponsor elects (at such time and
5 in such form and manner as shall be prescribed by
6 the Secretary of the Treasury) to be so treated.

7 Any election under this subsection may be revoked only
8 with the consent of the Secretary of the Treasury.”.

9 (c) REGULATIONS.—The Secretary of the Treasury
10 may prescribe such regulations as may be necessary to
11 carry out the purposes of the amendments made by this
12 section.

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendment made by
15 subsection (a) shall apply to plan years beginning on
16 or after January 1, 2009.

17 (2) ELIGIBLE CHARITY PLANS.—The amend-
18 ments made by subsection (b) shall apply to plan
19 years beginning after December 31, 2009.

20 **SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIM-**
21 **TATIONS.**

22 (a) LIMITATIONS ON BENEFIT ACCRUALS.—Section
23 203 of the Worker, Retiree, and Employer Recovery Act
24 of 2008 (Public Law 110–458; 122 Stat. 5118) is amend-
25 ed—

1 (1) by striking “the first plan year beginning
2 during the period beginning on October 1, 2008, and
3 ending on September 30, 2009” and inserting “any
4 plan year beginning during the period beginning on
5 October 1, 2008, and ending on December 31,
6 2011”;

7 (2) by striking “substituting” and all that fol-
8 lows through “for such plan year” and inserting
9 “substituting for such percentage the plan’s ad-
10 justed funding target attainment percentage for the
11 last plan year ending before September 30, 2009,”;
12 and

13 (3) by striking “for the preceding plan year is
14 greater” and inserting “for such last plan year is
15 greater”.

16 (b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

17 (1) ERISA AMENDMENT.—Section
18 206(g)(3)(E) of the Employee Retirement Income
19 Security Act of 1974 is amended by adding at the
20 end the following new sentence: “For purposes of
21 applying clause (i) in the case of payments the an-
22 nuity starting date for which occurs on or before De-
23 cember 31, 2011, payments under a social security
24 leveling option shall be treated as not in excess of
25 the monthly amount paid under a single life annuity

1 (plus an amount not in excess of a social security
2 supplement described in the last sentence of section
3 204(b)(1)(G)).”.

4 (2) IRC AMENDMENT.—Section 436(d)(5) of
5 the Internal Revenue Code of 1986 is amended by
6 adding at the end the following new sentence: “For
7 purposes of applying subparagraph (A) in the case
8 of payments the annuity starting date for which oc-
9 curs on or before December 31, 2011, payments
10 under a social security leveling option shall be treat-
11 ed as not in excess of the monthly amount paid
12 under a single life annuity (plus an amount not in
13 excess of a social security supplement described in
14 the last sentence of section 411(a)(9)).”.

15 (3) EFFECTIVE DATE.—

16 (A) IN GENERAL.—The amendments made
17 by this subsection shall apply to annuity pay-
18 ments the annuity starting date for which oc-
19 curs on or after January 1, 2011.

20 (B) PERMITTED APPLICATION.—A plan
21 shall not be treated as failing to meet the re-
22 quirements of sections 206(g) of the Employee
23 Retirement Income Security Act of 1974 (as
24 amended by this subsection) and section 436(d)
25 of the Internal Revenue Code of 1986 (as so

1 amended) if the plan sponsor elects to apply the
2 amendments made by this subsection to pay-
3 ments the annuity starting date for which oc-
4 curs on or after the date of the enactment of
5 this Act and before January 1, 2011.

6 (c) APPLICATION OF CREDIT BALANCE WITH RE-
7 SPECT TO LIMITATIONS ON SHUTDOWN BENEFITS AND
8 UNPREDICTABLE CONTINGENT EVENT BENEFITS.—With
9 respect to plan years beginning on or before December 31,
10 2011, in applying paragraph (5)(C) of subsection (g) of
11 section 206 of the Employee Retirement Income Security
12 Act of 1974 and subsection (f)(3) of section 436 of the
13 Internal Revenue Code of 1986 in the case of unpredict-
14 able contingent events (within the meaning of section
15 206(g)(1)(C) of such Act and section 436(b)(3) of such
16 Code) occurring on or after January 1, 2010, the ref-
17 erences, in clause (i) of such paragraph (5)(C) and sub-
18 paragraph (A) of such subsection (f)(3), to paragraph
19 (1)(B) of such subsection (g) and subsection (b)(2) of
20 such section 436 shall be disregarded.

21 **SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE.**

22 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-
23 tion 303(f) of the Employee Retirement Income Security
24 Act of 1974 is amended by adding the following at the
25 end thereof:

1 “(D) SPECIAL RULE FOR CERTAIN PLAN
2 YEARS.—

3 “(i) IN GENERAL.—For purposes of
4 applying subparagraph (C) for plan years
5 beginning after June 30, 2009, and on or
6 before December 31, 2011, the ratio deter-
7 mined under such subparagraph for the
8 preceding plan year shall be the greater
9 of—

10 “(I) such ratio, as determined
11 without regard to this subparagraph,
12 or

13 “(II) the ratio for such plan for
14 the plan year beginning after June
15 30, 2007, and on or before June 30,
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 2008, and on or before December 31,
25 2010, and

1 “(II) clause (i)(II) shall apply
2 based on the last plan year beginning
3 before July 1, 2007, as determined
4 under rules prescribed by the Sec-
5 retary of the Treasury.”.

6 (b) AMENDMENT TO INTERNAL REVENUE CODE OF
7 1986.—Paragraph (3) of section 430(f) of the Internal
8 Revenue Code of 1986 is amended by adding the following
9 at the end thereof:

10 “(D) SPECIAL RULE FOR CERTAIN PLAN
11 YEARS.—

12 “(i) IN GENERAL.—For purposes of
13 applying subparagraph (C) for plan years
14 beginning after June 30, 2009, and on or
15 before December 31, 2011, the ratio deter-
16 mined under such subparagraph for the
17 preceding plan year shall be the greater
18 of—

19 “(I) such ratio, as determined
20 without regard to this subparagraph,
21 or

22 “(II) the ratio for such plan for
23 the plan year beginning after June
24 30, 2007, and on or before June 30,

1 2008, as determined under rules pre-
2 scribed by the Secretary.

3 “(ii) SPECIAL RULE.—In the case of a
4 plan for which the valuation date is not the
5 first day of the plan year—

6 “(I) clause (i) shall apply to plan
7 years beginning after December 31,
8 2008, and on or before December 31,
9 2010, and

10 “(II) clause (i)(II) shall apply
11 based on the last plan year beginning
12 before July 1, 2007, as determined
13 under rules prescribed by the Sec-
14 retary.”.

15 **SEC. 305. INFORMATION REPORTING.**

16 (a) IN GENERAL.—Section 4010(b) of the Employee
17 Retirement Security Act of 1974 (29 U.S.C. 1310(b)) is
18 amended by striking paragraph (1) and inserting the fol-
19 lowing:

20 “(1) either of the following requirements are
21 met:

22 “(A) the funding target attainment per-
23 centage (as defined in subsection (d)(2)(B)) at
24 the end of the preceding plan year of a plan
25 maintained by the contributing sponsor or any

1 member of its controlled group is less than 80
2 percent; or

3 “(B) the aggregate unfunded vested bene-
4 fits (as determined under section
5 4006(a)(3)(E)(iii)) of plans maintained by the
6 contributing sponsor and the members of its
7 controlled group exceed \$75,000,000 (dis-
8 regarding plans with no unfunded vested bene-
9 fits);”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to years beginning after 2009.

12 **SEC. 306. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE**
13 **CARRIER BANKRUPTCY.**

14 (a) GENERAL RULES.—

15 (1) ROLLOVER OF AIRLINE PAYMENT
16 AMOUNT.—If a qualified airline employee receives
17 any airline payment amount and transfers any por-
18 tion of such amount to a traditional IRA within 180
19 days of receipt of such amount (or, if later, within
20 180 days of the date of the enactment of this Act),
21 then such amount (to the extent so transferred)
22 shall be treated as a rollover contribution described
23 in section 402(c) of the Internal Revenue Code of
24 1986. A qualified airline employee making such a
25 transfer may exclude from gross income the amount

1 transferred, in the taxable year in which the airline
2 payment amount was paid to the qualified airline
3 employee by the commercial passenger airline car-
4 rier.

5 (2) TRANSFER OF AMOUNTS ATTRIBUTABLE TO
6 AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER
7 TO ROTH IRA.—A qualified airline employee who has
8 contributed an airline payment amount to a Roth
9 IRA that is treated as a qualified rollover contribu-
10 tion pursuant to section 125 of the Worker, Retiree,
11 and Employer Recovery Act of 2008 may transfer to
12 a traditional IRA, in a trustee-to-trustee transfer, all
13 or any part of the contribution (together with any
14 net income allocable to such contribution), and the
15 transfer to the traditional IRA will be deemed to
16 have been made at the time of the rollover to the
17 Roth IRA, if such transfer is made within 180 days
18 of the date of the enactment of this Act. A qualified
19 airline employee making such a transfer may exclude
20 from gross income the airline payment amount pre-
21 viously rolled over to the Roth IRA, to the extent an
22 amount attributable to the previous rollover was
23 transferred to a traditional IRA, in the taxable year
24 in which the airline payment amount was paid to the
25 qualified airline employee by the commercial pas-

1 senger airline carrier. No amount so transferred to
2 a traditional IRA may be treated as a qualified roll-
3 over contribution with respect to a Roth IRA within
4 the 5-taxable year period beginning with the taxable
5 year in which such transfer was made.

6 (3) EXTENSION OF TIME TO FILE CLAIM FOR
7 REFUND.—A qualified airline employee who excludes
8 an amount from gross income in a prior taxable year
9 under paragraph (1) or (2) may reflect such exclu-
10 sion in a claim for refund filed within the period of
11 limitation under section 6511(a) (or, if later, April
12 15, 2011).

13 (b) TREATMENT OF AIRLINE PAYMENT AMOUNTS
14 AND TRANSFERS FOR EMPLOYMENT TAXES.—For pur-
15 poses of chapter 21 of the Internal Revenue Code of 1986
16 and section 209 of the Social Security Act, an airline pay-
17 ment amount shall not fail to be treated as a payment
18 of wages by the commercial passenger airline carrier to
19 the qualified airline employee in the taxable year of pay-
20 ment because such amount is excluded from the qualified
21 airline employee's gross income under subsection (a).

22 (c) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

24 (1) AIRLINE PAYMENT AMOUNT.—

1 (A) IN GENERAL.—The term “airline pay-
2 ment amount” means any payment of any
3 money or other property which is payable by a
4 commercial passenger airline carrier to a quali-
5 fied airline employee—

6 (i) under the approval of an order of
7 a Federal bankruptcy court in a case filed
8 after September 11, 2001, and before Jan-
9 uary 1, 2007; and

10 (ii) in respect of the qualified airline
11 employee’s interest in a bankruptcy claim
12 against the carrier, any note of the carrier
13 (or amount paid in lieu of a note being
14 issued), or any other fixed obligation of the
15 carrier to pay a lump sum amount.

16 The amount of such payment shall be deter-
17 mined without regard to any requirement to de-
18 duct and withhold tax from such payment
19 under sections 3102(a) and 3402(a).

20 (B) EXCEPTION.—An airline payment
21 amount shall not include any amount payable
22 on the basis of the carrier’s future earnings or
23 profits.

24 (2) QUALIFIED AIRLINE EMPLOYEE.—The term
25 “qualified airline employee” means an employee or

1 former employee of a commercial passenger airline
2 carrier who was a participant in a defined benefit
3 plan maintained by the carrier which—

4 (A) is a plan described in section 401(a) of
5 the Internal Revenue Code of 1986 which in-
6 cludes a trust exempt from tax under section
7 501(a) of such Code; and

8 (B) was terminated or became subject to
9 the restrictions contained in paragraphs (2) and
10 (3) of section 402(b) of the Pension Protection
11 Act of 2006.

12 (3) TRADITIONAL IRA.—The term “traditional
13 IRA” means an individual retirement plan (as de-
14 fined in section 7701(a)(37) of the Internal Revenue
15 Code of 1986) which is not a Roth IRA.

16 (4) ROTH IRA.—The term “Roth IRA” has the
17 meaning given such term by section 408A(b) of such
18 Code.

19 (d) SURVIVING SPOUSE.—If a qualified airline em-
20 ployee died after receiving an airline payment amount, or
21 if an airline payment amount was paid to the surviving
22 spouse of a qualified airline employee in respect of the
23 qualified airline employee, the surviving spouse of the
24 qualified airline employee may take all actions permitted
25 under section 125 of the Worker, Retiree and Employer

1 Recovery Act of 2008, or under this section, to the same
2 extent that the qualified airline employee could have done
3 had the qualified airline employee survived.

4 (e) EFFECTIVE DATE.—This section shall apply to
5 transfers made after the date of the enactment of this Act
6 with respect to airline payment amounts paid before, on,
7 or after such date.

8 **Subtitle B—Multiemployer Plans**

9 **SEC. 311. OPTIONAL USE OF 30-YEAR AMORTIZATION PERI-** 10 **ODS.**

11 (a) ELECTIVE SPECIAL RELIEF RULES.—

12 (1) ERISA AMENDMENT.—Section 304(b) of
13 the Employee Retirement Income Security Act of
14 1974 is amended by adding at the end the following
15 new paragraph:

16 “(8) ELECTIVE SPECIAL RELIEF RULES.—Not-
17 withstanding any other provision of this sub-
18 section—

19 “(A) AMORTIZATION OF NET INVESTMENT
20 LOSSES.—

21 “(i) IN GENERAL.—The plan sponsor
22 of a multiemployer plan with respect to
23 which the solvency test under subpara-
24 graph (B) is met may elect to treat the
25 portion of any experience loss or gain for

1 a plan year that is attributable to the allo-
2 cable portion of the net investment losses
3 incurred in either or both of the first two
4 plan years ending on or after June 30,
5 2008, as an experience loss separate from
6 other experience losses or gains to be am-
7 ortized in equal annual installments (until
8 fully amortized) over the period—

9 “(I) beginning with the plan year
10 for which the allocable portion is de-
11 termined, and

12 “(II) ending with the last plan
13 year in the 30-plan year period begin-
14 ning with the plan year following the
15 plan year in which such net invest-
16 ment loss was incurred.

17 “(ii) COORDINATION WITH EXTEN-
18 SIONS.—If an election is made under
19 clause (i) for any plan year—

20 “(I) no extension of the amorti-
21 zation period under clause (i) shall be
22 allowed under subsection (d), and

23 “(II) if an extension was granted
24 under subsection (d) for any plan year
25 before the plan year for which the

1 election under this subparagraph is
2 made, such extension shall not result
3 in such amortization period exceeding
4 30 years.

5 “(iii) DEFINITIONS AND RULES.—For
6 purposes of this subparagraph—

7 “(I) NET INVESTMENT
8 LOSSES.—

9 “(aa) IN GENERAL.—The
10 net investment loss incurred by a
11 plan in a plan year is equal to
12 the excess of—

13 “(AA) the expected
14 value of the assets as of the
15 end of the plan year, over

16 “(BB) the market value
17 of the assets as of the end of
18 the plan year,

19 including any difference attrib-
20 utable to a criminally fraudulent
21 investment arrangement.

22 “(bb) EXPECTED VALUE.—
23 For purposes of item (aa), the
24 expected value of the assets as of

1 the end of a plan year is the ex-
2 cess of—

3 “(AA) the market value
4 of the assets at the begin-
5 ning of the plan year plus
6 contributions made during
7 the plan year, over

8 “(BB) disbursements
9 made during the plan year.

10 The amounts described in
11 subitems (AA) and (BB) shall be
12 adjusted with interest at the
13 valuation rate to the end of the
14 plan year.

15 “(II) CRIMINALLY FRAUDULENT
16 INVESTMENT ARRANGEMENTS.—The
17 determination as to whether an ar-
18 rangement is a criminally fraudulent
19 investment arrangement shall be made
20 under rules substantially similar to
21 the rules prescribed by the Secretary
22 of the Treasury for purposes of sec-
23 tion 165 of the Internal Revenue Code
24 of 1986.

1 “(III) AMOUNT ATTRIBUTABLE
 2 TO ALLOCABLE PORTION OF NET IN-
 3 VESTMENT LOSS.—The amount at-
 4 tributable to the allocable portion of
 5 the net investment loss for a plan year
 6 shall be an amount equal to the allo-
 7 cable portion of net investment loss
 8 for the plan year under subclauses
 9 (IV) and (V), increased with interest
 10 at the valuation rate determined from
 11 the plan year after the plan year in
 12 which the net investment loss was in-
 13 curred.

14 “(IV) ALLOCABLE PORTION OF
 15 NET INVESTMENT LOSSES.—Except
 16 as provided in subclause (V), the net
 17 investment loss incurred in a plan
 18 year shall be allocated among the 5
 19 plan years following the plan year in
 20 which the investment loss is incurred
 21 in accordance with the following table:

| “Plan year after the plan year in which the net investment loss was incurred | Allocable portion of net investment loss |
|---|---|
| 1st | 1/2 |
| 2nd | 0 |
| 3rd | 1/6 |
| 4th | 1/6 |
| 5th | 1/6 |

1 “(V) SPECIAL RULE FOR PLANS
2 THAT ADOPT LONGER SMOOTHER PE-
3 RIOD.—If a plan sponsor elects an ex-
4 tended smoothing period for its asset
5 valuation method under subsection
6 (c)(2)(B), then the allocable portion of
7 net investment loss for the first two
8 plan years following the plan year the
9 investment loss is incurred is the
10 same as determined under subclause
11 (IV), but the remaining $\frac{1}{2}$ of the net
12 investment loss is allocated ratably
13 over the period beginning with the
14 third plan year following the plan year
15 the net investment loss is incurred
16 and ending with the last plan year in
17 the extended smoothing period.

18 “(VI) SPECIAL RULE FOR OVER-
19 STATEMENT OF LOSS.—If, for a plan
20 year, there is an experience loss for
21 the plan and the amount described in
22 subclause (III) exceeds the total
23 amount of the experience loss for the
24 plan year, then the excess shall be
25 treated as an experience gain.

1 305(i)(2)(A) shall be the market value of
2 such assets.

3 “(iii) ACTUARIAL ASSUMPTIONS.—In
4 making any certification under this sub-
5 paragraph, the plan actuary shall use the
6 same actuarial estimates, assumptions, and
7 methods as those applicable for the most
8 recent certification under section 305, ex-
9 cept that the plan actuary may take into
10 account benefit reductions and increases in
11 contribution rates, under either funding
12 improvement plans adopted under section
13 305(c) or under section 432(c) of the In-
14 ternal Revenue Code of 1986 or rehabilita-
15 tion plans adopted under section 305(e) or
16 under section 432(e) of such Code, that
17 the plan actuary reasonably anticipates will
18 occur without regard to any change in sta-
19 tus of the plan resulting from the election.

20 “(C) ADDITIONAL RESTRICTION ON BEN-
21 EFIT INCREASES.—If an election is made under
22 subparagraph (A), then, in addition to any
23 other applicable restrictions on benefit in-
24 creases, a plan amendment which is adopted on
25 or after March 10, 2010, and which increases

1 benefits may not go into effect during the pe-
2 riod beginning on such date and ending with
3 the second plan year beginning after such date
4 unless—

5 “(i) the plan actuary certifies that—

6 “(I) any such increase is paid for
7 out of additional contributions not al-
8 located to the plan immediately before
9 the election to have this paragraph
10 apply to the plan, and

11 “(II) the plan’s funded percent-
12 age and projected credit balances for
13 the first 3 plan years ending on or
14 after such date are reasonably ex-
15 pected to be at least as high as such
16 percentage and balances would have
17 been if the benefit increase had not
18 been adopted, or

19 “(ii) the amendment is required as a
20 condition of qualification under part I of
21 subchapter D of chapter 1 of the Internal
22 Revenue Code of 1986 or to comply with
23 other applicable law.

24 “(D) TIME, FORM, AND MANNER OF ELEC-
25 TION.—An election under this paragraph shall

1 be made not later than June 30, 2011, and
2 shall be made in such form and manner as the
3 Secretary of the Treasury may prescribe.

4 “(E) REPORTING.—A plan sponsor of a
5 plan to which this paragraph applies shall—

6 “(i) give notice of such election to
7 participants and beneficiaries of the plan,
8 and

9 “(ii) inform the Pension Benefit
10 Guaranty Corporation of such election in
11 such form and manner as the Pension
12 Benefit Guaranty Corporation may pre-
13 scribe.”.

14 (2) IRC AMENDMENT.—Section 431(b) of the
15 Internal Revenue Code of 1986 is amended by add-
16 ing at the end the following new paragraph:

17 “(8) ELECTIVE SPECIAL RELIEF RULES.—Not-
18 withstanding any other provision of this sub-
19 section—

20 “(A) AMORTIZATION OF NET INVESTMENT
21 LOSSES.—

22 “(i) IN GENERAL.—The plan sponsor
23 of a multiemployer plan with respect to
24 which the solvency test under subpara-
25 graph (B) is met may elect to treat the

1 portion of any experience loss or gain for
2 a plan year that is attributable to the allo-
3 cable portion of the net investment losses
4 incurred in either or both of the first two
5 plan years ending on or after June 30,
6 2008, as an experience loss separate from
7 other experience losses and gains to be am-
8 ortized in equal annual installments (until
9 fully amortized) over the period—

10 “(I) beginning with the plan year
11 for which the allocable portion is de-
12 termined, and

13 “(II) ending with the last plan
14 year in the 30-plan year period begin-
15 ning with the plan year following the
16 plan year in which such net invest-
17 ment loss was incurred.

18 “(ii) COORDINATION WITH EXTEN-
19 SIONS.—If an election is made under
20 clause (i) for any plan year—

21 “(I) no extension of the amorti-
22 zation period under clause (i) shall be
23 allowed under subsection (d), and

24 “(II) if an extension was granted
25 under subsection (d) for any plan year

1 before the plan year for which the
2 election under this subparagraph is
3 made, such extension shall not result
4 in such amortization period exceeding
5 30 years.

6 “(iii) DEFINITIONS AND RULES.—For
7 purposes of this subparagraph—

8 “(I) NET INVESTMENT
9 LOSSES.—

10 “(aa) IN GENERAL.—The
11 net investment loss incurred by a
12 plan in a plan year is equal to
13 the excess of—

14 “(AA) the expected
15 value of the assets as of the
16 end of the plan year, over

17 “(BB) the market value
18 of the assets as of the end of
19 the plan year,

20 including any difference attrib-
21 utable to a criminally fraudulent
22 investment arrangement.

23 “(bb) EXPECTED VALUE.—
24 For purposes of item (aa), the
25 expected value of the assets as of

150

1 the end of a plan year is the ex-
2 cess of—

3 “(AA) the market value
4 of the assets at the begin-
5 ning of the plan year plus
6 contributions made during
7 the plan year, over

8 “(BB) disbursements
9 made during the plan year.

10 The amounts described in
11 subitems (AA) and (BB) shall be
12 adjusted with interest at the
13 valuation rate to the end of the
14 plan year.

15 “(II) CRIMINALLY FRAUDULENT
16 INVESTMENT ARRANGEMENTS.—The
17 determination as to whether an ar-
18 rangement is a criminally fraudulent
19 investment arrangement shall be made
20 under rules substantially similar to
21 the rules prescribed by the Secretary
22 for purposes of section 165.

23 “(III) AMOUNT ATTRIBUTABLE
24 TO ALLOCABLE PORTION OF NET IN-
25 VESTMENT LOSS.—The amount at-

1 valuation method under subsection
2 (c)(2)(B), then the allocable portion of
3 net investment loss for the first two
4 plan years following the plan year the
5 investment loss is incurred is the
6 same as determined under subclause
7 (IV), but the remaining $\frac{1}{2}$ of the net
8 investment loss is allocated ratably
9 over the period beginning with the
10 third plan year following the plan year
11 the net investment loss is incurred
12 and ending with the last plan year in
13 the extended smoothing period.

14 “(VI) SPECIAL RULE FOR OVER-
15 STATEMENT OF LOSS.—If, for a plan
16 year, there is an experience loss for
17 the plan and the amount described in
18 subclause (III) exceeds the total
19 amount of the experience loss for the
20 plan year, then the excess shall be
21 treated as an experience gain.

22 “(VII) SPECIAL RULE IN YEARS
23 FOR WHICH OVERALL EXPERIENCE IS
24 GAIN.—If, for a plan year, there is no
25 experience loss for the plan, then, in

1 addition to amortization of net invest-
2 ment losses under clause (i), the
3 amount described in subclause (III)
4 shall be treated as an experience gain
5 in addition to any other experience
6 gain.

7 “(B) SOLVENCY TEST.—

8 “(i) IN GENERAL.—An election may
9 be made under this paragraph if the elec-
10 tion includes certification by the plan actu-
11 ary in connection with the election that the
12 plan is projected to have a funded percent-
13 age at the end of the first 15 plan years
14 that is not less than 100 percent of the
15 funded percentage for the plan year of the
16 election.

17 “(ii) FUNDED PERCENTAGE.—For
18 purposes of clause (i), the term ‘funded
19 percentage’ has the meaning provided in
20 section 432(i)(2), except that the value of
21 the plan’s assets referred to in section
22 432(i)(2)(A) shall be the market value of
23 such assets.

24 “(iii) ACTUARIAL ASSUMPTIONS.—In
25 making any certification under this sub-

1 paragraph, the plan actuary shall use the
2 same actuarial estimates, assumptions, and
3 methods as those applicable for the most
4 recent certification under section 432, ex-
5 cept that the plan actuary may take into
6 account benefit reductions and increases in
7 contribution rates, under either funding
8 improvement plans adopted under section
9 432(e) or under section 305(e) of the Em-
10 ployee Retirement Income Security Act of
11 1974 or rehabilitation plans adopted under
12 section 432(e) or under section 305(e) of
13 such Act, that the plan actuary reasonably
14 anticipates will occur without regard to
15 any change in status of the plan resulting
16 from the election.

17 “(C) ADDITIONAL RESTRICTION ON BEN-
18 EFIT INCREASES.—If an election is made under
19 subparagraph (A), then, in addition to any
20 other applicable restrictions on benefit in-
21 creases, a plan amendment which is adopted on
22 or after March 10, 2010, and which increases
23 benefits may not go into effect during the pe-
24 riod beginning on such date and ending with

1 the second plan year beginning after such date
2 unless—

3 “(i) the plan actuary certifies that—

4 “(I) any such increase is paid for
5 out of additional contributions not al-
6 located to the plan immediately before
7 the election to have this paragraph
8 apply to the plan, and

9 “(II) the plan’s funded percent-
10 age and projected credit balances for
11 the first 3 plan years ending on or
12 after such date are reasonably ex-
13 pected to be at least as high as such
14 percentage and balances would have
15 been if the benefit increase had not
16 been adopted, or

17 “(ii) the amendment is required as a
18 condition of qualification under part I or
19 to comply with other applicable law.

20 “(D) TIME, FORM, AND MANNER OF ELEC-
21 TION.—An election under this paragraph shall
22 be made not later than June 30, 2011, and
23 shall be made in such form and manner as the
24 Secretary may prescribe.

1 “(E) REPORTING.—A plan sponsor of a
2 plan to which this paragraph applies shall—

3 “(i) give notice of such election to
4 participants and beneficiaries of the plan,
5 and

6 “(ii) inform the Pension Benefit
7 Guaranty Corporation of such election in
8 such form and manner as the Pension
9 Benefit Guaranty Corporation may pre-
10 scribe.”.

11 (b) ASSET SMOOTHING FOR MULTIEMPLOYER
12 PLANS.—

13 (1) ERISA AMENDMENT.—Section 304(c)(2) of
14 the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1084(c)(2)) is amended—

16 (A) by redesignating subparagraph (B) as
17 subparagraph (C); and

18 (B) by inserting after subparagraph (A)
19 the following new subparagraph:

20 “(B) EXTENDED ASSET SMOOTHING PE-
21 RIOD FOR CERTAIN INVESTMENT LOSSES.—The
22 Secretary of the Treasury shall not treat the
23 asset valuation method of a multiemployer plan
24 as unreasonable solely because such method
25 spreads the difference between expected and ac-

1 tual returns for either or both of the first 2
2 plan years ending on or after June 30, 2008,
3 over a period of not more than 10 years. Any
4 change in valuation method to so spread such
5 difference shall be treated as approved, but only
6 if, in the case that the plan sponsor has made
7 an election under subsection (b)(8), any result-
8 ing change in asset value is treated for pur-
9 poses of amortization as a net experience loss
10 or gain.”.

11 (2) IRC AMENDMENT.—Section 431(c)(2) of
12 the Internal Revenue Code of 1986 is amended—

13 (A) by redesignating subparagraph (B) as
14 subparagraph (C); and

15 (B) by inserting after subparagraph (A)
16 the following new subparagraph:

17 “(B) EXTENDED ASSET SMOOTHING PE-
18 RIOD FOR CERTAIN INVESTMENT LOSSES.—The
19 Secretary shall not treat the asset valuation
20 method of a multiemployer plan as unreason-
21 able solely because such method spreads the dif-
22 ference between expected and actual returns for
23 either or both of the first 2 plan years ending
24 on or after June 30, 2008, over a period of not
25 more than 10 years. Any change in valuation

1 method to so spread such difference shall be
2 treated as approved, but only if, in the case
3 that the plan sponsor has made an election
4 under subsection (b)(8), any resulting change in
5 asset value is treated for purposes of amortiza-
6 tion as a net experience loss or gain.”.

7 (c) EFFECTIVE DATE AND SPECIAL RULES.—

8 (1) EFFECTIVE DATE.—The amendments made
9 by this section shall take effect as of the first day
10 of the first plan year beginning after June 30, 2008,
11 except that any election a plan sponsor makes pur-
12 suant to this section or the amendments made there-
13 by that affects the plan’s funding standard account
14 for any plan year beginning before October 1, 2009,
15 shall be disregarded for purposes of applying the
16 provisions of section 305 of the Employee Retirement
17 Income Security Act of 1974 and section 432
18 of the Internal Revenue Code of 1986 to that plan
19 year.

20 (2) DEEMED APPROVAL FOR CERTAIN FUNDING
21 METHOD CHANGES.—In the case of a multiemployer
22 plan with respect to which an election has been
23 made under section 304(b)(8) of the Employee Re-
24 tirement Income Security Act of 1974 (as amended

1 by this section) or section 431(b)(8) of the Internal
2 Revenue Code of 1986 (as so amended)—

3 (A) any change in the plan's funding meth-
4 od for a plan year beginning on or after July
5 1, 2008, and on or before December 31, 2010,
6 from a method that does not establish a base
7 for experience gains and losses to one that does
8 establish such a base shall be treated as ap-
9 proved by the Secretary of the Treasury; and

10 (B) any resulting funding method change
11 base shall be treated for purposes of amortiza-
12 tion as a net experience loss or gain.

13 **SEC. 312. OPTIONAL LONGER RECOVERY PERIODS FOR**
14 **MULTIEMPLOYER PLANS IN ENDANGERED**
15 **OR CRITICAL STATUS.**

16 (a) ERISA AMENDMENTS.—

17 (1) FUNDING IMPROVEMENT PERIOD.—Section
18 305(c)(4) of the Employee Retirement Income Secu-
19 rity Act of 1974 is amended—

20 (A) by redesignating subparagraphs (C)
21 and (D) as subparagraphs (D) and (E), respec-
22 tively; and

23 (B) by inserting after subparagraph (B)
24 the following new subparagraph:

1 “(C) ELECTION TO EXTEND PERIOD.—The
2 plan sponsor of an endangered or seriously en-
3 dangered plan may elect to extend the applica-
4 ble funding improvement period by up to 5
5 years, reduced by any extension of the period
6 previously elected pursuant to section 205 of
7 the Worker, Retiree and Employer Relief Act of
8 2008. Such an election shall be made not later
9 than June 30, 2011, and in such form and
10 manner as the Secretary of the Treasury may
11 prescribe.”.

12 (2) REHABILITATION PERIOD.—Section
13 305(e)(4) of such Act is amended—

14 (A) by redesignating subparagraph (B) as
15 subparagraph (C);

16 (B) in last sentence of subparagraph (A),
17 by striking “subparagraph (B)” each place it
18 appears and inserting “subparagraph (C)”; and

19 (C) by inserting after subparagraph (A)
20 the following new subparagraph:

21 “(B) ELECTION TO EXTEND PERIOD.—The
22 plan sponsor of a plan in critical status may
23 elect to extend the rehabilitation period by up
24 to five years, reduced by any extension of the
25 period previously elected pursuant to section

1 (2) REHABILITATION PERIOD.—Section
2 432(e)(4) of such Code is amended—

3 (A) by redesignating subparagraph (B) as
4 subparagraph (C);

5 (B) in last sentence of subparagraph (A),
6 by striking “subparagraph (B)” each place it
7 appears and inserting “subparagraph (C)”; and

8 (C) by inserting after subparagraph (A)
9 the following new subparagraph:

10 “(B) ELECTION TO EXTEND PERIOD.—The
11 plan sponsor of a plan in critical status may
12 elect to extend the rehabilitation period by up
13 to five years, reduced by any extension of the
14 period previously elected pursuant to section
15 205 of the Worker, Retiree and Employer Re-
16 lief Act of 2008. Such an election shall be made
17 not later than June 30, 2011, and in such form
18 and manner as the Secretary may prescribe.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to funding improve-
21 ment periods and rehabilitation periods in connection with
22 funding improvement plans and rehabilitation plans
23 adopted or updated on or after the date of the enactment
24 of this Act.

1 **SEC. 313. MODIFICATION OF CERTAIN AMORTIZATION EX-**
2 **TENSIONS UNDER PRIOR LAW.**

3 (a) **IN GENERAL.**—In the case of an amortization ex-
4 tension that was granted to a multiemployer plan under
5 the terms of section 304 of the Employee Retirement In-
6 come Security Act of 1974 (as in effect immediately prior
7 to enactment of the Pension Protection Act of 2006) or
8 section 412(e) of the Internal Revenue Code (as so in ef-
9 fect), the determination of whether any financial condition
10 on the amortization extension is satisfied shall be made
11 by assuming that for any plan year that contains some
12 or all of the period beginning June 30, 2008, and ending
13 October 31, 2008, the actual rate of return on the plan
14 assets was equal to the interest rate used for purposes
15 of charging or crediting the funding standard account in
16 such plan year, unless the plan sponsor elects otherwise
17 in such form and manner as shall be prescribed by the
18 Secretary of Treasury.

19 (b) **REVOCATION OF AMORTIZATION EXTENSIONS.**—
20 The plan sponsor of a multiemployer plan may, in such
21 form and manner and after such notice as may be pre-
22 scribed by the Secretary, revoke any amortization exten-
23 sion described in subsection (a), effective for plan years
24 following the date of the revocation.

1 **SEC. 314. ALTERNATIVE DEFAULT SCHEDULE FOR PLANS**
2 **IN ENDANGERED OR CRITICAL STATUS.**

3 (a) ERISA AMENDMENTS.—

4 (1) ENDANGERED STATUS.—Section 305(c)(7)
5 of the Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1085(c)(7)) is amended by adding
7 at the end the following new subparagraph:

8 “(D) ALTERNATIVE DEFAULT SCHED-
9 ULE.—

10 “(i) IN GENERAL.—A plan sponsor
11 may, for purposes of this paragraph, des-
12 ignate an alternative schedule of contribu-
13 tion rates and related benefit changes
14 meeting the requirements of clause (ii) as
15 the default schedule, in lieu of the default
16 schedule referred to in subparagraph (A).

17 “(ii) REQUIREMENTS.—An alternative
18 schedule designated pursuant to clause (i)
19 meets the requirements of this clause if
20 such schedule has been adopted in collec-
21 tive bargaining agreements covering at
22 least 75 percent of the active participants
23 as of the date of the designation.”.

24 (2) CRITICAL STATUS.—Section 305(e)(3) of
25 such Act (29 U.S.C. 1085(e)(3)) is amended by add-
26 ing at the end the following new subparagraph:

1 “(D) ALTERNATIVE DEFAULT SCHED-
2 ULE.—

3 “(i) IN GENERAL.—A plan sponsor
4 may, for purposes of subparagraph (C),
5 designate an alternative schedule of con-
6 tribution rates and related benefit changes
7 meeting the requirements of clause (ii) as
8 the default schedule, in lieu of the default
9 schedule referred to in subparagraph
10 (C)(i).

11 “(ii) REQUIREMENTS.—An alternative
12 schedule designated pursuant to clause (i)
13 meets the requirements of this clause if
14 such schedule has been adopted in collec-
15 tive bargaining agreements covering at
16 least 75 percent of the active participants
17 as of the date of the designation.”.

18 (b) INTERNAL REVENUE CODE AMENDMENTS.—

19 (1) ENDANGERED STATUS.—Section 432(e)(7)
20 of the Internal Revenue Code of 1986 is amended by
21 adding at the end the following new subparagraph:

22 “(C) ALTERNATIVE DEFAULT SCHED-
23 ULE.—

24 “(i) IN GENERAL.—A plan sponsor
25 may, for purposes of this paragraph, des-

1 designate an alternative schedule of contribu-
2 tion rates and related benefit changes
3 meeting the requirements of clause (ii) as
4 the default schedule, in lieu of the default
5 schedule referred to in subparagraph (A).

6 “(ii) REQUIREMENTS.—An alternative
7 schedule designated pursuant to clause (i)
8 meets the requirements of this clause if
9 such schedule has been adopted in collec-
10 tive bargaining agreements covering at
11 least 75 percent of the active participants
12 as of the date of the designation.”.

13 (2) CRITICAL STATUS.—Section 432(e)(3) of
14 such Code is amended by adding at the end the fol-
15 lowing new subparagraph:

16 “(D) ALTERNATIVE DEFAULT SCHED-
17 ULE.—

18 “(i) IN GENERAL.—A plan sponsor
19 may, for purposes of subparagraph (C),
20 designate an alternative schedule of con-
21 tribution rates and related benefit changes
22 meeting the requirements of clause (ii) as
23 the default schedule, in lieu of the default
24 schedule referred to in subparagraph
25 (C)(i).

1 “(ii) REQUIREMENTS.—An alternative
2 schedule designated pursuant to clause (i)
3 meets the requirements of this clause if
4 such schedule has been adopted in collec-
5 tive bargaining agreements covering at
6 least 75 percent of the active participants
7 as of the date of the designation.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to designations of default schedules
10 by plan sponsors on or after the date of the enactment
11 of this Act.

12 (d) CROSS-REFERENCE.—For sunset of the amend-
13 ments made by this section, see section 221(c) of the Pen-
14 sion Protection Act of 2006.

15 **SEC. 315. TRANSITION RULE FOR CERTIFICATIONS OF**
16 **PLAN STATUS.**

17 (a) IN GENERAL.—A plan actuary shall not be treat-
18 ed as failing to meet the requirements of section
19 305(b)(3)(A) of the Employee Retirement Income Secu-
20 rity Act of 1974 and section 432(b)(3)(A) of the Internal
21 Revenue Code of 1986 in connection with a certification
22 required under such sections the deadline for which is
23 after the date of the enactment of this Act if the plan
24 actuary makes such certification at any time earlier than
25 75 days after the date of the enactment of this Act.

1 (b) REVISION OF PRIOR CERTIFICATION.—

2 (1) IN GENERAL.—If—

3 (A) a plan sponsor makes an election
4 under section 304(b)(8) of the Employee Re-
5 tirement Income Security Act of 1974 and sec-
6 tion 431(b)(8) of the Internal Revenue Code of
7 1986, or under section 304(c)(2)(B) of such
8 Act and section 432(c)(2)(B) such Code, with
9 respect to a plan for a plan year beginning on
10 or after October 1, 2009; and

11 (B) the plan actuary’s certification of the
12 plan status for such plan year (hereinafter in
13 this subsection referred to as “original certifi-
14 cation”) did not take into account any election
15 so made,

16 then the plan sponsor may direct the plan actuary
17 to make a new certification with respect to the plan
18 for the plan year which takes into account such elec-
19 tion (hereinafter in this subsection referred to as
20 “new certification”) if the plan’s status under sec-
21 tion 305 of such Act and section 432 of such Code
22 would change as a result of such election. Any such
23 new certification shall be treated as the most recent
24 certification referred to in section 304(b)(3)(B)(iii)

1 of such Act and section 431(b)(8)(B)(iii) of such
2 Code.

3 (2) DUE DATE FOR NEW CERTIFICATION.—Any
4 such new certification shall be made pursuant to sec-
5 tion 305(b)(3) of such Act and section 432(b)(3) of
6 such Code; except that any such new certification
7 shall be made not later than 75 days after the date
8 of the enactment of this Act.

9 (3) NOTICE.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), any such new certification
12 shall be treated as the original certification for
13 purposes of section 305(b)(3)(D) of such Act
14 and section 432(b)(3)(D) of such Code.

15 (B) NOTICE ALREADY PROVIDED.—In any
16 case in which notice has been provided under
17 such sections with respect to the original certifi-
18 cation, not later than 30 days after the new
19 certification is made, the plan sponsor shall
20 provide notice of any change in status under
21 rules similar to the rules such sections.

22 (4) EFFECT OF CHANGE IN STATUS.—If a plan
23 ceases to be in critical status pursuant to the new
24 certification, then the plan shall, not later than 30
25 days after the due date described in paragraph (2),

1 cease any restriction of benefit payments, and im-
2 position of contribution surcharges, under section 305
3 of such Act and section 432 of such Code by reason
4 of the original certification.

5 **TITLE IV—REVENUE OFFSETS**

6 **Subtitle A—Foreign Provisions**

7 **SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX**
8 **CREDITS FROM THE INCOME TO WHICH THEY**
9 **RELATE.**

10 (a) IN GENERAL.—Subpart A of part III of sub-
11 chapter N of chapter 1 is amended by adding at the end
12 the following new section:

13 **“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RE-**
14 **LATED INCOME TAKEN INTO ACCOUNT.**

15 “(a) IN GENERAL.—If there is a foreign tax credit
16 splitting event with respect to a foreign income tax paid
17 or accrued by the taxpayer, such tax shall not be taken
18 into account for purposes of this title before the taxable
19 year in which the related income is taken into account
20 under this chapter by the taxpayer.

21 “(b) SPECIAL RULES WITH RESPECT TO SECTION
22 902 CORPORATIONS.—If there is a foreign tax credit split-
23 ting event with respect to a foreign income tax paid or
24 accrued by a section 902 corporation, such tax shall not
25 be taken into account—

1 “(1) for purposes of section 902 or 960, or

2 “(2) for purposes of determining earnings and

3 profits under section 964(a),

4 before the taxable year in which the related income is

5 taken into account under this chapter by such section 902

6 corporation or a domestic corporation which meets the

7 ownership requirements of subsection (a) or (b) of section

8 902 with respect to such section 902 corporation.

9 “(c) SPECIAL RULES.—For purposes of this sec-
10 tion—

11 “(1) APPLICATION TO PARTNERSHIPS, ETC.—In

12 the case of a partnership, subsections (a) and (b)

13 shall be applied at the partner level. Except as oth-

14 erwise provided by the Secretary, a rule similar to

15 the rule of the preceding sentence shall apply in the

16 case of any S corporation or trust.

17 “(2) TREATMENT OF FOREIGN TAXES AFTER

18 SUSPENSION.—In the case of any foreign income tax

19 not taken into account by reason of subsection (a)

20 or (b), except as otherwise provided by the Sec-

21 retary, such tax shall be so taken into account in the

22 taxable year referred to in such subsection (other

23 than for purposes of section 986(a)) as a foreign in-

24 come tax paid or accrued in such taxable year.

25 “(d) DEFINITIONS.—For purposes of this section—

1 “(1) FOREIGN TAX CREDIT SPLITTING
2 EVENT.—There is a foreign tax credit splitting event
3 with respect to a foreign income tax if the related
4 income is (or will be) taken into account under this
5 chapter by a covered person.

6 “(2) FOREIGN INCOME TAX.—The term ‘foreign
7 income tax’ means any income, war profits, or excess
8 profits tax paid or accrued to any foreign country or
9 to any possession of the United States.

10 “(3) RELATED INCOME.—The term ‘related in-
11 come’ means, with respect to any portion of any for-
12 eign income tax, the income (or, as appropriate,
13 earnings and profits) to which such portion of for-
14 eign income tax relates.

15 “(4) COVERED PERSON.—The term ‘covered
16 person’ means, with respect to any person who pays
17 or accrues a foreign income tax (hereafter in this
18 paragraph referred to as the ‘payor’)—

19 “(A) any entity in which the payor holds,
20 directly or indirectly, at least a 10 percent own-
21 ership interest (determined by vote or value),

22 “(B) any person which holds, directly or
23 indirectly, at least a 10 percent ownership in-
24 terest (determined by vote or value) in the
25 payor,

1 “(C) any person which bears a relationship
2 to the payor described in section 267(b) or
3 707(b), and

4 “(D) any other person specified by the
5 Secretary for purposes of this paragraph.

6 “(5) SECTION 902 CORPORATION.—The term
7 ‘section 902 corporation’ means any foreign corpora-
8 tion with respect to which one or more domestic cor-
9 porations meets the ownership requirements of sub-
10 section (a) or (b) of section 902.

11 “(e) REGULATIONS.—The Secretary may issue such
12 regulations or other guidance as is necessary or appro-
13 priate to carry out the purposes of this section, including
14 regulations or other guidance which provides—

15 “(1) appropriate exceptions from the provisions
16 of this section, and

17 “(2) for the proper application of this section
18 with respect to hybrid instruments.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subpart A of part III of subchapter N of chapter 1
21 is amended by adding at the end the following new item:

 “Sec. 909. Suspension of taxes and credits until related income taken into ac-
 count.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to—

1 “(1) IN GENERAL.—In the case of a covered
2 asset acquisition, the disqualified portion of any for-
3 eign income tax determined with respect to the in-
4 come or gain attributable to the relevant foreign as-
5 sets—

6 “(A) shall not be taken into account in de-
7 termining the credit allowed under subsection
8 (a), and

9 “(B) in the case of a foreign income tax
10 paid by a section 902 corporation (as defined in
11 section 909(d)(5)), shall not be taken into ac-
12 count for purposes of section 902 or 960.

13 “(2) COVERED ASSET ACQUISITION.—For pur-
14 poses of this section, the term ‘covered asset acquisi-
15 tion’ means—

16 “(A) a qualified stock purchase (as defined
17 in section 338(d)(3)) to which section 338(a)
18 applies,

19 “(B) any transaction which—

20 “(i) is treated as an acquisition of as-
21 sets for purposes of this chapter, and

22 “(ii) is treated as the acquisition of
23 stock of a corporation (or is disregarded)
24 for purposes of the foreign income taxes of
25 the relevant jurisdiction,

1 “(C) any acquisition of an interest in a
2 partnership which has an election in effect
3 under section 754, and

4 “(D) to the extent provided by the Sec-
5 retary, any other similar transaction.

6 “(3) DISQUALIFIED PORTION.—For purposes of
7 this section—

8 “(A) IN GENERAL.—The term ‘disqualified
9 portion’ means, with respect to any covered
10 asset acquisition, for any taxable year, the ratio
11 (expressed as a percentage) of—

12 “(i) the aggregate basis differences
13 (but not below zero) allocable to such tax-
14 able year under subparagraph (B) with re-
15 spect to all relevant foreign assets, divided
16 by

17 “(ii) the income on which the foreign
18 income tax referred to in paragraph (1) is
19 determined (or, if the taxpayer fails to sub-
20 stantiate such income to the satisfaction of
21 the Secretary, such income shall be deter-
22 mined by dividing the amount of such for-
23 eign income tax by the highest marginal
24 tax rate applicable to such income in the
25 relevant jurisdiction).

1 “(B) ALLOCATION OF BASIS DIF-
2 FERENCE.—For purposes of subparagraph
3 (A)(i)—

4 “(i) IN GENERAL.—The basis dif-
5 ference with respect to any relevant foreign
6 asset shall be allocated to taxable years
7 using the applicable cost recovery method
8 under this chapter.

9 “(ii) SPECIAL RULE FOR DISPOSITION
10 OF ASSETS.—Except as otherwise provided
11 by the Secretary, in the case of the disposi-
12 tion of any relevant foreign asset—

13 “(I) the basis difference allocated
14 to the taxable year which includes the
15 date of such disposition shall be the
16 excess of the basis difference with re-
17 spect to such asset over the aggregate
18 basis difference with respect to such
19 asset which has been allocated under
20 clause (i) to all prior taxable years,
21 and

22 “(II) no basis difference with re-
23 spect to such asset shall be allocated
24 under clause (i) to any taxable year
25 thereafter.

1 “(C) BASIS DIFFERENCE.—

2 “(i) IN GENERAL.—The term ‘basis
3 difference’ means, with respect to any rel-
4 evant foreign asset, the excess of—

5 “(I) the adjusted basis of such
6 asset immediately after the covered
7 asset acquisition, over

8 “(II) the adjusted basis of such
9 asset immediately before the covered
10 asset acquisition.

11 “(ii) BUILT-IN LOSS ASSETS.—In the
12 case of a relevant foreign asset with re-
13 spect to which the amount described in
14 clause (i)(II) exceeds the amount described
15 in clause (i)(I), such excess shall be taken
16 into account under this subsection as a
17 basis difference of a negative amount.

18 “(iii) SPECIAL RULE FOR SECTION 338
19 ELECTIONS.—In the case of a covered
20 asset acquisition described in paragraph
21 (2)(A), the covered asset acquisition shall
22 be treated for purposes of this subpara-
23 graph as occurring at the close of the ac-
24 quisition date (as defined in section
25 338(h)(2)).

1 “(4) RELEVANT FOREIGN ASSETS.—For pur-
2 poses of this section, the term ‘relevant foreign
3 asset’ means, with respect to any covered asset ac-
4 quisition, any asset (including any goodwill, going
5 concern value, or other intangible) with respect to
6 such acquisition if income, deduction, gain, or loss
7 attributable to such asset is taken into account in
8 determining the foreign income tax referred to in
9 paragraph (1).

10 “(5) FOREIGN INCOME TAX.—For purposes of
11 this section, the term ‘foreign income tax’ means
12 any income, war profits, or excess profits tax paid
13 or accrued to any foreign country or to any posses-
14 sion of the United States.

15 “(6) TAXES ALLOWED AS A DEDUCTION, ETC.—
16 Sections 275 and 78 shall not apply to any tax
17 which is not allowable as a credit under subsection
18 (a) by reason of this subsection.

19 “(7) REGULATIONS.—The Secretary may issue
20 such regulations or other guidance as is necessary or
21 appropriate to carry out the purposes of this sub-
22 section, including to exempt from the application of
23 this subsection certain covered asset acquisitions,
24 and relevant foreign assets with respect to which the
25 basis difference is de minimis.”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to covered asset acquisitions (as defined
5 in section 901(m)(2) of the Internal Revenue Code
6 of 1986, as added by this section) after—

7 (A) May 20, 2010, if the transferor and
8 the transferee are related; and

9 (B) the date of the enactment of this Act
10 in any other case.

11 (2) TRANSITION RULE.—The amendments
12 made by this section shall not apply to any covered
13 asset acquisition (as so defined) with respect to
14 which the transferor and the transferee are not re-
15 lated if such acquisition is—

16 (A) made pursuant to a written agreement
17 which was binding on May 20, 2010, and at all
18 times thereafter,

19 (B) described in a ruling request submitted
20 to the Internal Revenue Service on or before
21 such date; or

22 (C) described on or before such date in a
23 public announcement or in a filing with the Se-
24 curities and Exchange Commission.

1 (3) RELATED PERSONS.—For purposes of this
2 subsection, a person shall be treated as related to
3 another person if the relationship between such per-
4 sons is described in section 267 or 707(b) of the In-
5 ternal Revenue Code of 1986.

6 **SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CRED-**
7 **IT LIMITATION, ETC., TO ITEMS RESOURCED**
8 **UNDER TREATIES.**

9 (a) IN GENERAL.—Subsection (d) of section 904 is
10 amended by redesignating paragraph (6) as paragraph (7)
11 and by inserting after paragraph (5) the following new
12 paragraph:

13 “(6) SEPARATE APPLICATION TO ITEMS
14 RESOURCED UNDER TREATIES.—

15 “(A) IN GENERAL.—If—

16 “(i) without regard to any treaty obli-
17 gation of the United States, any item of
18 income would be treated as derived from
19 sources within the United States,

20 “(ii) under a treaty obligation of the
21 United States, such item would be treated
22 as arising from sources outside the United
23 States, and

24 “(iii) the taxpayer chooses the bene-
25 fits of such treaty obligation,

1 subsections (a), (b), and (c) of this section and
2 sections 902, 907, and 960 shall be applied sep-
3 arately with respect to each such item.

4 “(B) COORDINATION WITH OTHER PROVI-
5 SIONS.—This paragraph shall not apply to any
6 item of income to which subsection (h)(10) or
7 section 865(h) applies.

8 “(C) REGULATIONS.—The Secretary may
9 issue such regulations or other guidance as is
10 necessary or appropriate to carry out the pur-
11 poses of this paragraph, including regulations
12 or other guidance which provides that related
13 items of income may be aggregated for pur-
14 poses of this paragraph.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 the date of the enactment of this Act.

18 **SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES**
19 **DEEMED PAID WITH RESPECT TO SECTION**
20 **956 INCLUSIONS.**

21 (a) IN GENERAL.—Section 960 is amended by adding
22 at the end the following new subsection:

23 “(c) LIMITATION WITH RESPECT TO SECTION 956
24 INCLUSIONS.—

1 “(1) IN GENERAL.—If there is included under
2 section 951(a)(1)(B) in the gross income of a do-
3 mestic corporation any amount attributable to the
4 earnings and profits of a foreign corporation which
5 is a member of a qualified group (as defined in sec-
6 tion 902(b)) with respect to the domestic corpora-
7 tion, the amount of any foreign income taxes deemed
8 to have been paid during the taxable year by such
9 domestic corporation under section 902 by reason of
10 subsection (a) with respect to such inclusion in gross
11 income shall not exceed the amount of the foreign
12 income taxes which would have been deemed to have
13 been paid during the taxable year by such domestic
14 corporation if cash in an amount equal to the
15 amount of such inclusion in gross income were dis-
16 tributed as a series of distributions (determined
17 without regard to any foreign taxes which would be
18 imposed on an actual distribution) through the chain
19 of ownership which begins with such foreign cor-
20 poration and ends with such domestic corporation.

21 “(2) AUTHORITY TO PREVENT ABUSE.—The
22 Secretary shall issue such regulations or other guid-
23 ance as is necessary or appropriate to carry out the
24 purposes of this subsection, including regulations or
25 other guidance which prevent the inappropriate use

1 of the foreign corporation's foreign income taxes not
2 deemed paid by reason of paragraph (1).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to acquisitions of United States
5 property (as defined in section 956(c) of the Internal Rev-
6 enue Code of 1986) after May 20, 2010.

7 **SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN RE-**
8 **DEMPTIONS BY FOREIGN SUBSIDIARIES.**

9 (a) **IN GENERAL.**—Paragraph (5) of section 304(b)
10 is amended by redesignating subparagraph (B) as sub-
11 paragraph (C) and by inserting after subparagraph (A)
12 the following new subparagraph:

13 “(B) **SPECIAL RULE IN CASE OF FOREIGN**
14 **ACQUIRING CORPORATION.**—In the case of any
15 acquisition to which subsection (a) applies in
16 which the acquiring corporation is a foreign
17 corporation, no earnings and profits shall be
18 taken into account under paragraph (2)(A)
19 (and subparagraph (A) shall not apply) if more
20 than 50 percent of the dividends arising from
21 such acquisition (determined without regard to
22 this subparagraph) would not—

23 “(i) be subject to tax under this chap-
24 ter for the taxable year in which the divi-
25 dends arise, or

1 “(ii) be includible in the earnings and
2 profits of a controlled foreign corporation
3 (as defined in section 957 and without re-
4 gard to section 953(c)).”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to acquisitions after May 20, 2010.

7 **SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PUR-**
8 **POSES OF RULES ALLOCATING INTEREST EX-**
9 **PENSE.**

10 (a) **IN GENERAL.**—Subparagraph (A) of section
11 864(e)(5) is amended by adding at the end the following:
12 “Notwithstanding the preceding sentence, a foreign cor-
13 poration shall be treated as a member of the affiliated
14 group if—

15 “(i) more than 50 percent of the gross
16 income of such foreign corporation for the
17 taxable year is effectively connected with
18 the conduct of a trade or business within
19 the United States, and

20 “(ii) at least 80 percent of either the
21 vote or value of all outstanding stock of
22 such foreign corporation is owned directly
23 or indirectly by members of the affiliated
24 group (determined with regard to this sen-
25 tence).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST**
5 **AND DIVIDENDS RECEIVED FROM PERSONS**
6 **MEETING THE 80-PERCENT FOREIGN BUSI-**
7 **NESS REQUIREMENTS.**

8 (a) IN GENERAL.—Paragraph (1) of section 861(a)
9 is amended by striking subparagraph (A) and by redesignig-
10 nating subparagraphs (B) and (C) as subparagraphs (A)
11 and (B), respectively.

12 (b) GRANDFATHER RULE WITH RESPECT TO WITH-
13 HOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM
14 PERSONS MEETING THE 80-PERCENT FOREIGN BUSI-
15 NESS REQUIREMENTS.—

16 (1) IN GENERAL.—Subparagraph (B) of section
17 871(i)(2) is amended to read as follows:

18 “(B) The active foreign business percent-
19 age of—

20 “(i) any dividend paid by an existing
21 80/20 company, and

22 “(ii) any interest paid by an existing
23 80/20 company.”.

24 (2) DEFINITIONS AND SPECIAL RULES.—Sec-
25 tion 871 is amended by redesignating subsections (l)

1 and (m) as subsections (m) and (n), respectively,
2 and by inserting after subsection (k) the following
3 new subsection:

4 “(l) RULES RELATING TO EXISTING 80/20 COMPA-
5 NIES.—For purposes of this subsection and subsection
6 (i)(2)(B)—

7 “(1) EXISTING 80/20 COMPANY.—

8 “(A) IN GENERAL.—The term ‘existing 80/
9 20 company’ means any corporation if—

10 “(i) such corporation met the 80-per-
11 cent foreign business requirements of sec-
12 tion 861(c)(1) (as in effect before the en-
13 actment of this subsection) for such cor-
14 poration’s last taxable year beginning be-
15 fore January 1, 2011,

16 “(ii) such corporation meets the 80-
17 percent foreign business requirements of
18 subparagraph (B) with respect to each tax-
19 able year after the taxable year referred to
20 in clause (i), and

21 “(iii) there has not been an addition
22 of a substantial line of business with re-
23 spect to such corporation after the date of
24 the enactment of this subsection.

1 “(B) FOREIGN BUSINESS REQUIRE-
2 MENTS.—

3 “(i) IN GENERAL.—A corporation
4 meets the 80-percent foreign business re-
5 quirements of this subparagraph if it is
6 shown to the satisfaction of the Secretary
7 that at least 80 percent of the gross in-
8 come from all sources of such corporation
9 for the testing period is active foreign busi-
10 ness income.

11 “(ii) ACTIVE FOREIGN BUSINESS IN-
12 COME.—For purposes of clause (i), the
13 term ‘active foreign business income’
14 means gross income which—

15 “(I) is derived from sources out-
16 side the United States (as determined
17 under this subchapter), and

18 “(II) is attributable to the active
19 conduct of a trade or business in a
20 foreign country or possession of the
21 United States.

22 “(iii) TESTING PERIOD.—For pur-
23 poses of this subsection, the term ‘testing
24 period’ means the 3-year period ending
25 with the close of the taxable year of the

1 corporation preceding the payment (or
2 such part of such period as may be appli-
3 cable). If the corporation has no gross in-
4 come for such 3-year period (or part there-
5 of), the testing period shall be the taxable
6 year in which the payment is made.

7 “(2) ACTIVE FOREIGN BUSINESS PERCENT-
8 AGE.—The term ‘active foreign business percentage’
9 means, with respect to any existing 80/20 company,
10 the percentage which—

11 “(A) the active foreign business income of
12 such company for the testing period, is of

13 “(B) the gross income of such company for
14 the testing period from all sources.

15 “(3) AGGREGATION RULES.—For purposes of
16 applying paragraph (1) (other than subparagraph
17 (A)(i) thereof) and paragraph (2)—

18 “(A) IN GENERAL.—The corporation re-
19 ferred to in paragraph (1)(A) and all of such
20 corporation’s subsidiaries shall be treated as
21 one corporation.

22 “(B) SUBSIDIARIES.—For purposes of sub-
23 paragraph (A), the term ‘subsidiary’ means any
24 corporation in which the corporation referred to
25 in subparagraph (A) owns (directly or indi-

1 rectly) stock meeting the requirements of sec-
2 tion 1504(a)(2) (determined by substituting ‘50
3 percent’ for ‘80 percent’ each place it appears
4 and without regard to section 1504(b)(3)).

5 “(4) REGULATIONS.—The Secretary may issue
6 such regulations or other guidance as is necessary or
7 appropriate to carry out the purposes of this section,
8 including regulations or other guidance which pro-
9 vide for the proper application of the aggregation
10 rules described in paragraph (3).”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 861 is amended by striking sub-
13 section (c) and by redesignating subsections (d), (e),
14 and (f) as subsections (c), (d), and (e), respectively.

15 (2) Paragraph (9) of section 904(h) is amended
16 to read as follows:

17 “(9) TREATMENT OF CERTAIN DOMESTIC COR-
18 PORATIONS.—In the case of any dividend treated as
19 not from sources within the United States under
20 section 861(a)(2)(A), the corporation paying such
21 dividend shall be treated for purposes of this sub-
22 section as a United States-owned foreign corpora-
23 tion.”.

24 (3) Subsection (c) of section 2104 is amended
25 in the last sentence by striking “or to a debt obliga-

1 tion of a domestic corporation” and all that follows
2 and inserting a period.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to taxable years beginning after Decem-
7 ber 31, 2010.

8 (2) GRANDFATHER RULE FOR OUTSTANDING
9 DEBT OBLIGATIONS.—

10 (A) IN GENERAL.—The amendments made
11 by this section shall not apply to payments of
12 interest on obligations issued before the date of
13 the enactment of this Act.

14 (B) EXCEPTION FOR RELATED PARTY
15 DEBT.—Subparagraph (A) shall not apply to
16 any interest which is payable to a related per-
17 son (determined under rules similar to the rules
18 of section 954(d)(3)).

19 (C) SIGNIFICANT MODIFICATIONS TREAT-
20 ED AS NEW ISSUES.—For purposes of subpara-
21 graph (A), a significant modification of the
22 terms of any obligation (including any extension
23 of the term of such obligation) shall be treated
24 as a new issue.

1 **SEC. 408. SOURCE RULES FOR INCOME ON GUARANTEES.**

2 (a) AMOUNTS SOURCED WITHIN THE UNITED
3 STATES.—Subsection (a) of section 861 is amended by
4 adding at the end the following new paragraph:

5 “(9) GUARANTEES.—Amounts—

6 “(A) received with respect to a guarantee
7 of an obligation of a noncorporate resident or
8 domestic corporation, and

9 “(B) paid by any foreign person with re-
10 spect to guarantees if such amount is connected
11 with income which is effectively connected (or
12 treated as effectively connected) with the con-
13 duct of a trade or business in the United
14 States.”.

15 (b) AMOUNTS SOURCED WITHOUT THE UNITED
16 STATES.—Subsection (a) of section 862 is amended by
17 striking “and” at the end of paragraph (7), by striking
18 the period at the end of paragraph (8) and inserting “;
19 and”, and by adding at the end the following new para-
20 graph:

21 “(9) amounts received with respect to guaran-
22 tees other than those derived from sources within
23 the United States as provided in section 861(a)(9).”.

24 (c) CONFORMING AMENDMENT.—Clause (ii) of sec-
25 tion 864(c)(4)(B) is amended by striking “dividends or in-

1 terest” and inserting “dividends, interest, or amounts with
2 respect to guarantees”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to guarantees issued after the date
5 of the enactment of this Act.

6 **SEC. 409. LIMITATION ON EXTENSION OF STATUTE OF LIM-**
7 **TATIONS FOR FAILURE TO NOTIFY SEC-**
8 **RETARY OF CERTAIN FOREIGN TRANSFERS.**

9 (a) **IN GENERAL.**—Paragraph (8) of section 6501(c)
10 is amended—

11 (1) by striking “In the case of any information”
12 and inserting the following:

13 “(A) **IN GENERAL.**—In the case of any in-
14 formation”; and

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

16 “(B) **APPLICATION TO FAILURES DUE TO**
17 **REASONABLE CAUSE.**—If the failure to furnish
18 the information referred to in subparagraph (A)
19 is due to reasonable cause and not willful ne-
20 glect, subparagraph (A) shall apply only to the
21 item or items related to such failure.”.

22 (b) **EFFECTIVE DATE.**—The amendments made by
23 this section shall take effect as if included in section 513
24 of the Hiring Incentives to Restore Employment Act.

1 **Subtitle B—Personal Service In-**
2 **come Earned in Pass-thru Enti-**
3 **ties**

4 **SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN**
5 **CONNECTION WITH PERFORMANCE OF SERV-**
6 **ICES.**

7 (a) MODIFICATION TO ELECTION TO INCLUDE PART-
8 NERSHIP INTEREST IN GROSS INCOME IN YEAR OF
9 TRANSFER.—Subsection (c) of section 83 is amended by
10 redesignating paragraph (4) as paragraph (5) and by in-
11 serting after paragraph (3) the following new paragraph:

12 “(4) PARTNERSHIP INTERESTS.—Except as
13 provided by the Secretary, in the case of any trans-
14 fer of an interest in a partnership in connection with
15 the provision of services to (or for the benefit of)
16 such partnership—

17 “(A) the fair market value of such interest
18 shall be treated for purposes of this section as
19 being equal to the amount of the distribution
20 which the partner would receive if the partner-
21 ship sold (at the time of the transfer) all of its
22 assets at fair market value and distributed the
23 proceeds of such sale (reduced by the liabilities
24 of the partnership) to its partners in liquidation
25 of the partnership, and

1 “(B) the person receiving such interest
2 shall be treated as having made the election
3 under subsection (b)(1) unless such person
4 makes an election under this paragraph to have
5 such subsection not apply.”.

6 (b) CONFORMING AMENDMENT.—Paragraph (2) of
7 section 83(b) is amended by inserting “or subsection
8 (c)(4)(B)” after “paragraph (1)”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to interests in partnerships trans-
11 ferred after the date of the enactment of this Act.

12 **SEC. 412. INCOME OF PARTNERS FOR PERFORMING IN-**
13 **VESTMENT MANAGEMENT SERVICES TREAT-**
14 **ED AS ORDINARY INCOME RECEIVED FOR**
15 **PERFORMANCE OF SERVICES.**

16 (a) IN GENERAL.—Part I of subchapter K of chapter
17 1 is amended by adding at the end the following new sec-
18 tion:

19 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
20 **VESTMENT MANAGEMENT SERVICES TO**
21 **PARTNERSHIP.**

22 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
23 PARTNERSHIP ITEMS.—For purposes of this title, in the
24 case of an investment services partnership interest—

1 “(1) IN GENERAL.—Notwithstanding section
2 702(b)—

3 “(A) any net income with respect to such
4 interest for any partnership taxable year shall
5 be treated as ordinary income, and

6 “(B) any net loss with respect to such in-
7 terest for such year, to the extent not dis-
8 allowed under paragraph (2) for such year,
9 shall be treated as an ordinary loss.

10 All items of income, gain, deduction, and loss which
11 are taken into account in computing net income or
12 net loss shall be treated as ordinary income or ordi-
13 nary loss (as the case may be).

14 “(2) TREATMENT OF LOSSES.—

15 “(A) LIMITATION.—Any net loss with re-
16 spect to such interest shall be allowed for any
17 partnership taxable year only to the extent that
18 such loss does not exceed the excess (if any)
19 of—

20 “(i) the aggregate net income with re-
21 spect to such interest for all prior partner-
22 ship taxable years, over

23 “(ii) the aggregate net loss with re-
24 spect to such interest not disallowed under

1 interest under section 702 with respect to
2 such interest for such year, over

3 “(ii) all items of deduction and loss so
4 taken into account.

5 “(B) NET LOSS.—The term ‘net loss’
6 means, with respect to such interest for such
7 year, the excess (if any) of the amount de-
8 scribed in subparagraph (A)(ii) over the amount
9 described in subparagraph (A)(i).

10 “(4) SPECIAL RULE FOR DIVIDENDS.—Any div-
11 idend taken into account in determining net income
12 or net loss for purposes of paragraph (1) shall not
13 be treated as qualified dividend income for purposes
14 of section 1(h).

15 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

16 “(1) GAIN.—Any gain on the disposition of an
17 investment services partnership interest shall be—

18 “(A) treated as ordinary income, and

19 “(B) recognized notwithstanding any other
20 provision of this subtitle.

21 “(2) LOSS.—Any loss on the disposition of an
22 investment services partnership interest shall be
23 treated as an ordinary loss to the extent of the ex-
24 cess (if any) of—

1 “(A) the aggregate net income with respect
2 to such interest for all partnership taxable
3 years to which this section applies, over

4 “(B) the aggregate net loss with respect to
5 such interest allowed under subsection (a)(2)
6 for all partnership taxable years to which this
7 section applies.

8 “(3) EXCEPTION FOR CERTAIN DISPOSITIONS
9 OF INTERESTS IN A PUBLICLY TRADED PARTNER-
10 SHIP.—

11 “(A) IN GENERAL.—Paragraphs (1), (2),
12 and (7) shall not apply in the case of an appli-
13 cable disposition of an investment services part-
14 nership interest which is an interest in a pub-
15 licly traded partnership (as defined in section
16 7704) if—

17 “(i) in the case of a disposition de-
18 scribed in subparagraph (C)(i), neither the
19 individual nor any member of such individ-
20 ual’s family (within the meaning of section
21 318(a)(1)), or

22 “(ii) in the case of a disposition de-
23 scribed in subparagraph (C)(ii), neither the
24 regulated investment company or real es-
25 tate investment trust (nor any person re-

1 ment company treated as closely held
2 (within the meaning of section
3 856(h)(1)), or

4 “(II) except as provided by the
5 Secretary, a real estate investment
6 trust.

7 “(4) ELECTION WITH RESPECT TO CERTAIN EX-
8 CHANGES.—Paragraph (1)(B) shall not apply to the
9 contribution of an investment services partnership
10 interest to a partnership in exchange for an interest
11 in such partnership if—

12 “(A) the taxpayer makes an irrevocable
13 election to treat the partnership interest re-
14 ceived in the exchange as an investment serv-
15 ices partnership interest, and

16 “(B) the taxpayer agrees to comply with
17 such reporting and recordkeeping requirements
18 as the Secretary may prescribe.

19 “(5) DISPOSITION OF PORTION OF INTEREST.—
20 In the case of any disposition of an investment serv-
21 ices partnership interest, the amount of net loss
22 which otherwise would have (but for subsection
23 (a)(2)(C)) applied to reduce the basis of such inter-
24 est shall be disregarded for purposes of this section
25 for all succeeding partnership taxable years.

1 “(6) DISTRIBUTIONS OF PARTNERSHIP PROP-
2 ERTY.—In the case of any distribution of property
3 by a partnership with respect to any investment
4 services partnership interest held by a partner—

5 “(A) the excess (if any) of—

6 “(i) the fair market value of such
7 property at the time of such distribution,
8 over

9 “(ii) the adjusted basis of such prop-
10 erty in the hands of the partnership,

11 shall be taken into account as an increase in
12 such partner’s distributive share of the taxable
13 income of the partnership (except to the extent
14 such excess is otherwise taken into account in
15 determining the taxable income of the partner-
16 ship),

17 “(B) such property shall be treated for
18 purposes of subpart B of part II as money dis-
19 tributed to such partner in an amount equal to
20 such fair market value, and

21 “(C) the basis of such property in the
22 hands of such partner shall be such fair market
23 value.

24 Subsection (b) of section 734 shall be applied with-
25 out regard to the preceding sentence. In the case of

1 a taxpayer which satisfies requirements similar to
2 the requirements of subparagraphs (A) and (B) of
3 paragraph (4), this paragraph and paragraph (1)(B)
4 shall not apply to the distribution of a partnership
5 interest if such distribution is in connection with a
6 contribution (or deemed contribution) of any prop-
7 erty of the partnership to which section 721 applies
8 pursuant to a transaction described in paragraph
9 (1)(B) or (2) of section 708(b).

10 “(7) APPLICATION OF SECTION 751.—In apply-
11 ing section 751, an investment services partnership
12 interest shall be treated as an inventory item.

13 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
14 EST.—For purposes of this section—

15 “(1) IN GENERAL.—The term ‘investment serv-
16 ices partnership interest’ means any interest in a
17 partnership which is held (directly or indirectly) by
18 any person if it was reasonably expected (at the time
19 that such person acquired such interest) that such
20 person (or any person related to such person) would
21 provide (directly or indirectly) a substantial quantity
22 of any of the following services with respect to assets
23 held (directly or indirectly) by the partnership:

1 “(A) Advising as to the advisability of in-
2 vesting in, purchasing, or selling any specified
3 asset.

4 “(B) Managing, acquiring, or disposing of
5 any specified asset.

6 “(C) Arranging financing with respect to
7 acquiring specified assets.

8 “(D) Any activity in support of any service
9 described in subparagraphs (A) through (C).

10 “(2) SPECIFIED ASSET.—The term ‘specified
11 asset’ means securities (as defined in section
12 475(c)(2) without regard to the last sentence there-
13 of), real estate held for rental or investment, inter-
14 ests in partnerships, commodities (as defined in sec-
15 tion 475(e)(2)), or options or derivative contracts
16 with respect to any of the foregoing.

17 “(3) EXCEPTION FOR FAMILY FARMS.—The
18 term ‘specified asset’ shall not include any farm
19 used for farming purposes if such farm is held by
20 a partnership all of the interests in which are held
21 (directly or indirectly) by members of the same fam-
22 ily. Terms used in the preceding sentence which are
23 also used in section 2032A shall have the same
24 meaning as when used in such section.

1 “(4) RELATED PERSONS.—A person shall be
2 treated as related to another person if the relation-
3 ship between such persons is described in section
4 267 or 707(b).

5 “(d) EXCEPTION FOR CERTAIN CAPITAL INTER-
6 ESTS.—

7 “(1) IN GENERAL.—In the case of any portion
8 of an investment services partnership interest which
9 is a qualified capital interest, all items of income,
10 gain, loss, and deduction which are allocated to such
11 qualified capital interest shall not be taken into ac-
12 count under subsection (a) if—

13 “(A) allocations of items are made by the
14 partnership to such qualified capital interest in
15 the same manner as such allocations are made
16 to other qualified capital interests held by part-
17 ners who do not provide any services described
18 in subsection (c)(1) and who are not related to
19 the partner holding the qualified capital inter-
20 est, and

21 “(B) the allocations made to such other in-
22 terests are significant compared to the alloca-
23 tions made to such qualified capital interest.

24 “(2) AUTHORITY TO PROVIDE EXCEPTIONS TO
25 ALLOCATION REQUIREMENTS.—To the extent pro-

1 vided by the Secretary in regulations or other guid-
2 ance—

3 “(A) ALLOCATIONS TO PORTION OF QUALI-
4 FIED CAPITAL INTEREST.—Paragraph (1) may
5 be applied separately with respect to a portion
6 of a qualified capital interest.

7 “(B) NO OR INSIGNIFICANT ALLOCATIONS
8 TO NONSERVICE PROVIDERS.—In any case in
9 which the requirements of paragraph (1)(B) are
10 not satisfied, items of income, gain, loss, and
11 deduction shall not be taken into account under
12 subsection (a) to the extent that such items are
13 properly allocable under such regulations or
14 other guidance to qualified capital interests.

15 “(C) ALLOCATIONS TO SERVICE PRO-
16 VIDERS’ QUALIFIED CAPITAL INTERESTS WHICH
17 ARE LESS THAN OTHER ALLOCATIONS.—Alloca-
18 tions shall not be treated as failing to meet the
19 requirement of paragraph (1)(A) merely be-
20 cause the allocations to the qualified capital in-
21 terest represent a lower return than the alloca-
22 tions made to the other qualified capital inter-
23 ests referred to in such paragraph.

24 “(3) SPECIAL RULE FOR CHANGES IN SERV-
25 ICES.—In the case of an interest in a partnership

1 which is not an investment services partnership in-
2 terest and which, by reason of a change in the serv-
3 ices with respect to assets held (directly or indi-
4 rectly) by the partnership, would (without regard to
5 the reasonable expectation exception of subsection
6 (c)(1)) have become such an interest—

7 “(A) notwithstanding subsection (c)(1),
8 such interest shall be treated as an investment
9 services partnership interest as of the time of
10 such change, and

11 “(B) for purposes of this subsection, the
12 qualified capital interest of the holder of such
13 partnership interest immediately after such
14 change shall not be less than the fair market
15 value of such interest (determined immediately
16 before such change).

17 “(4) SPECIAL RULE FOR TIERED PARTNER-
18 SHIPS.—Except as otherwise provided by the Sec-
19 retary, in the case of tiered partnerships, all items
20 which are allocated in a manner which meets the re-
21 quirements of paragraph (1) to qualified capital in-
22 terests in a lower-tier partnership shall retain such
23 character to the extent allocated on the basis of
24 qualified capital interests in any upper-tier partner-
25 ship.

1 “(5) EXCEPTION FOR NO-SELF-CHARGED
2 CARRY AND MANAGEMENT FEE PROVISIONS.—Ex-
3 cept as otherwise provided by the Secretary, an in-
4 terest shall not fail to be treated as satisfying the
5 requirement of paragraph (1)(A) merely because the
6 allocations made by the partnership to such interest
7 do not reflect the cost of services described in sub-
8 section (c)(1) which are provided (directly or indi-
9 rectly) to the partnership by the holder of such in-
10 terest (or a related person).

11 “(6) SPECIAL RULE FOR DISPOSITIONS.—In the
12 case of any investment services partnership interest
13 any portion of which is a qualified capital interest,
14 subsection (b) shall not apply to so much of any
15 gain or loss as bears the same proportion to the en-
16 tire amount of such gain or loss as—

17 “(A) the distributive share of gain or loss
18 that would have been allocated to the qualified
19 capital interest (consistent with the require-
20 ments of paragraph (1)) if the partnership had
21 sold all of its assets at fair market value imme-
22 diately before the disposition, bears to

23 “(B) the distributive share of gain or loss
24 that would have been so allocated to the invest-

1 ment services partnership interest of which such
2 qualified capital interest is a part.

3 “(7) QUALIFIED CAPITAL INTEREST.—For pur-
4 poses of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified
6 capital interest’ means so much of a partner’s
7 interest in the capital of the partnership as is
8 attributable to—

9 “(i) the fair market value of any
10 money or other property contributed to the
11 partnership in exchange for such interest
12 (determined without regard to section
13 752(a)),

14 “(ii) any amounts which have been in-
15 cluded in gross income under section 83
16 with respect to the transfer of such inter-
17 est, and

18 “(iii) the excess (if any) of—

19 “(I) any items of income and
20 gain taken into account under section
21 702 with respect to such interest, over

22 “(II) any items of deduction and
23 loss so taken into account.

24 “(B) ADJUSTMENT TO QUALIFIED CAPITAL
25 INTEREST.—

1 “(i) DISTRIBUTIONS AND LOSSES.—
2 The qualified capital interest shall be re-
3 duced by distributions from the partner-
4 ship with respect to such interest and by
5 the excess (if any) of the amount described
6 in subparagraph (A)(iii)(II) over the
7 amount described in subparagraph
8 (A)(iii)(I).

9 “(ii) SPECIAL RULE FOR CONTRIBU-
10 TIONS OF PROPERTY.—In the case of any
11 contribution of property described in sub-
12 paragraph (A)(i) with respect to which the
13 fair market value of such property is not
14 equal to the adjusted basis of such prop-
15 erty immediately before such contribution,
16 proper adjustments shall be made to the
17 qualified capital interest to take into ac-
18 count such difference consistent with such
19 regulations or other guidance as the Sec-
20 retary may provide.

21 “(8) TREATMENT OF CERTAIN LOANS.—

22 “(A) PROCEEDS OF PARTNERSHIP LOANS
23 NOT TREATED AS QUALIFIED CAPITAL INTER-
24 EST OF SERVICE PROVIDING PARTNERS.—For
25 purposes of this subsection, an investment serv-

1 ices partnership interest shall not be treated as
2 a qualified capital interest to the extent that
3 such interest is acquired in connection with the
4 proceeds of any loan or other advance made or
5 guaranteed, directly or indirectly, by any other
6 partner or the partnership (or any person re-
7 lated to any such other partner or the partner-
8 ship).

9 “(B) REDUCTION IN ALLOCATIONS TO
10 QUALIFIED CAPITAL INTERESTS FOR LOANS
11 FROM NONSERVICE PROVIDING PARTNERS TO
12 THE PARTNERSHIP.—For purposes of this sub-
13 section, any loan or other advance to the part-
14 nership made or guaranteed, directly or indi-
15 rectly, by a partner not providing services de-
16 scribed in subsection (c)(1) to the partnership
17 (or any person related to such partner) shall be
18 taken into account in determining the qualified
19 capital interests of the partners in the partner-
20 ship.

21 “(e) OTHER INCOME AND GAIN IN CONNECTION
22 WITH INVESTMENT MANAGEMENT SERVICES.—

23 “(1) IN GENERAL.—If—

1 “(A) a person performs (directly or indi-
2 rectly) investment management services for any
3 entity,

4 “(B) such person holds (directly or indi-
5 rectly) a disqualified interest with respect to
6 such entity, and

7 “(C) the value of such interest (or pay-
8 ments thereunder) is substantially related to
9 the amount of income or gain (whether or not
10 realized) from the assets with respect to which
11 the investment management services are per-
12 formed,

13 any income or gain with respect to such interest
14 shall be treated as ordinary income. Rules similar to
15 the rules of subsections (a)(4) and (d) shall apply
16 for purposes of this subsection.

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

19 “(A) DISQUALIFIED INTEREST.—

20 “(i) IN GENERAL.—The term ‘dis-
21 qualified interest’ means, with respect to
22 any entity—

23 “(I) any interest in such entity
24 other than indebtedness,

1 “(II) convertible or contingent
2 debt of such entity,

3 “(III) any option or other right
4 to acquire property described in sub-
5 clause (I) or (II), and

6 “(IV) any derivative instrument
7 entered into (directly or indirectly)
8 with such entity or any investor in
9 such entity.

10 “(ii) EXCEPTIONS.—Such term shall
11 not include—

12 “(I) a partnership interest,

13 “(II) except as provided by the
14 Secretary, any interest in a taxable
15 corporation, and

16 “(III) except as provided by the
17 Secretary, stock in an S corporation.

18 “(B) TAXABLE CORPORATION.—The term
19 ‘taxable corporation’ means—

20 “(i) a domestic C corporation, or

21 “(ii) a foreign corporation substan-
22 tially all of the income of which is—

23 “(I) effectively connected with
24 the conduct of a trade or business in
25 the United States, or

1 “(II) subject to a comprehensive
2 foreign income tax (as defined in sec-
3 tion 457A(d)(2)).

4 “(C) INVESTMENT MANAGEMENT SERV-
5 ICES.—The term ‘investment management serv-
6 ices’ means a substantial quantity of any of the
7 services described in subsection (c)(1).

8 “(f) REGULATIONS.—The Secretary shall prescribe
9 such regulations or other guidance as is necessary or ap-
10 propriate to carry out the purposes of this section, includ-
11 ing regulations or other guidance to—

12 “(1) provide modifications to the application of
13 this section (including treating related persons as
14 not related to one another) to the extent such modi-
15 fication is consistent with the purposes of this sec-
16 tion,

17 “(2) prevent the avoidance of the purposes of
18 this section, and

19 “(3) coordinate this section with the other pro-
20 visions of this title.

21 “(g) SPECIAL RULES FOR INDIVIDUALS.—In the case
22 of an individual—

23 “(1) IN GENERAL.—Subsection (a)(1) shall
24 apply only to the applicable percentage of the net in-
25 come or net loss referred to in such subsection.

1 “(2) DISPOSITIONS, ETC.—The amount which
2 (but for this paragraph) would be treated as ordi-
3 nary income by reason of subsection (b) or (e) shall
4 be the applicable percentage of such amount.

5 “(3) PRO RATA ALLOCATION TO ITEMS.—For
6 purposes of applying subsections (a) and (e), the ag-
7 gregate amount treated as ordinary income for any
8 such taxable year shall be allocated ratably among
9 the items of income, gain, loss, and deduction taken
10 into account in determining such amount.

11 “(4) SPECIAL RULE FOR RECOGNITION OF
12 GAIN.—Gain which (but for this section) would not
13 be recognized shall be recognized by reason of sub-
14 section (b) only to the extent that such gain is treat-
15 ed as ordinary income after application of paragraph
16 (2).

17 “(5) COORDINATION WITH LIMITATION ON
18 LOSSES.—For purposes of applying paragraph (2) of
19 subsection (a) with respect to any net loss for any
20 taxable year—

21 “(A) such paragraph shall only apply with
22 respect to the applicable percentage of such net
23 loss for such taxable year,

24 “(B) in the case of a prior partnership tax-
25 able year referred to in clause (i) or (ii) of sub-

1 paragraph (A) of such paragraph, only the ap-
2 plicable percentage (as in effect for such prior
3 taxable year) of net income or net loss for such
4 prior partnership taxable year shall be taken
5 into account, and

6 “(C) any net loss carried forward to the
7 succeeding partnership taxable year under sub-
8 paragraph (B) of such paragraph shall—

9 “(i) be taken into account in such
10 succeeding year without reduction under
11 this subsection, and

12 “(ii) in lieu of being taken into ac-
13 count as an item of loss in such succeeding
14 year, shall be taken into account—

15 “(I) as an increase in net loss or
16 as a reduction in net income (includ-
17 ing below zero), as the case may be,
18 and

19 “(II) after any reduction in the
20 amount of such net loss or net income
21 under this subsection.

22 A rule similar to the rule of the preceding sentence
23 shall apply for purposes of subsection (b)(2)(A).

24 “(6) COORDINATION WITH TREATMENT OF
25 DIVIDENDS.—Subsection (a)(4) shall only apply to

1 the applicable percentage of dividends described
2 therein.

3 “(7) APPLICABLE PERCENTAGE.—For purposes
4 of this subsection—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the term ‘applicable percent-
7 age’ means 65 percent (50 percent in the case
8 of any taxable year beginning before January 1,
9 2013).

10 “(B) EXCEPTIONS FOR SALES OF ASSETS
11 HELD AT LEAST 7 YEARS.—In the case of any
12 taxable year beginning after December 31,
13 2012, the applicable percentage shall be 55 per-
14 cent with respect to any net income or net loss
15 under subsection (a)(1), or any income or gain
16 under subsection (e), which is properly allocable
17 to gain or loss from the sale or exchange of any
18 asset which is held at least 7 years.

19 “(h) CROSS REFERENCE.—For 40 percent penalty on
20 certain underpayments due to the avoidance of this sec-
21 tion, see section 6662.”.

22 (b) TREATMENT FOR PURPOSES OF SECTION
23 7704.—Subsection (d) of section 7704 is amended by add-
24 ing at the end the following new paragraph:

1 “(6) INCOME FROM INVESTMENT SERVICES
2 PARTNERSHIP INTERESTS NOT QUALIFIED.—

3 “(A) IN GENERAL.—Items of income and
4 gain shall not be treated as qualifying income
5 if such items are treated as ordinary income by
6 reason of the application of section 710 (relat-
7 ing to special rules for partners providing in-
8 vestment management services to partnership).
9 The preceding sentence shall not apply to any
10 item described in paragraph (1)(E) (or so much
11 of paragraph (1)(F) as relates to paragraph
12 (1)(E)).

13 “(B) SPECIAL RULES FOR CERTAIN PART-
14 NERSHIPS.—

15 “(i) CERTAIN PARTNERSHIPS OWNED
16 BY REAL ESTATE INVESTMENT TRUSTS.—
17 Subparagraph (A) shall not apply in the
18 case of a partnership which meets each of
19 the following requirements:

20 “(I) Such partnership is treated
21 as publicly traded under this section
22 solely by reason of interests in such
23 partnership being convertible into in-
24 terests in a real estate investment
25 trust which is publicly traded.

1 “(II) 50 percent or more of the
2 capital and profits interests of such
3 partnership are owned, directly or in-
4 directly, at all times during the tax-
5 able year by such real estate invest-
6 ment trust (determined with the ap-
7 plication of section 267(c)).

8 “(III) Such partnership meets
9 the requirements of paragraphs (2),
10 (3), and (4) of section 856(c).

11 “(ii) CERTAIN PARTNERSHIPS OWN-
12 ING OTHER PUBLICLY TRADED PARTNER-
13 SHIPS.—Subparagraph (A) shall not apply
14 in the case of a partnership which meets
15 each of the following requirements:

16 “(I) Substantially all of the as-
17 sets of such partnership consist of in-
18 terests in one or more publicly traded
19 partnerships (determined without re-
20 gard to subsection (b)(2)).

21 “(II) Substantially all of the in-
22 come of such partnership is ordinary
23 income or section 1231 gain (as de-
24 fined in section 1231(a)(3)).

1 “(C) TRANSITIONAL RULE.—Subpara-
2 graph (A) shall not apply to any taxable year
3 of the partnership beginning before the date
4 which is 10 years after the date of the enact-
5 ment of this paragraph.”.

6 (c) IMPOSITION OF PENALTY ON UNDERPAY-
7 MENTS.—

8 (1) IN GENERAL.—Subsection (b) of section
9 6662 is amended by inserting after paragraph (7)
10 the following new paragraph:

11 “(8) The application of subsection (e) of section
12 710 or the regulations prescribed under section
13 710(f) to prevent the avoidance of the purposes of
14 section 710.”.

15 (2) AMOUNT OF PENALTY.—

16 (A) IN GENERAL.—Section 6662 is amend-
17 ed by adding at the end the following new sub-
18 section:

19 “(k) INCREASE IN PENALTY IN CASE OF PROPERTY
20 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
21 ICES.—In the case of any portion of an underpayment to
22 which this section applies by reason of subsection (b)(8),
23 subsection (a) shall be applied with respect to such portion
24 by substituting ‘40 percent’ for ‘20 percent’.”.

1 (B) CONFORMING AMENDMENT.—Subpara-
2 graph (B) of section 6662A(e)(2) is amended
3 by striking “or (i)” and inserting “, (i), or (k)”.

4 (3) SPECIAL RULES FOR APPLICATION OF REA-
5 SONABLE CAUSE EXCEPTION.—Subsection (e) of sec-
6 tion 6664 is amended—

7 (A) by redesignating paragraphs (3) and
8 (4) as paragraphs (4) and (5), respectively;

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

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

14 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
15 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
16 ICES.—

17 “(A) IN GENERAL.—Paragraph (1) shall
18 not apply to any portion of an underpayment to
19 which this section applies by reason of sub-
20 section (b)(8) unless—

21 “(i) the relevant facts affecting the
22 tax treatment of the item are adequately
23 disclosed,

24 “(ii) there is or was substantial au-
25 thority for such treatment, and

1 “(iii) the taxpayer reasonably believed
2 that such treatment was more likely than
3 not the proper treatment.

4 “(B) RULES RELATING TO REASONABLE
5 BELIEF.—Rules similar to the rules of sub-
6 section (d)(3) shall apply for purposes of sub-
7 paragraph (A)(iii).”.

8 (d) INCOME AND LOSS FROM INVESTMENT SERVICES
9 PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DE-
10 TERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

11 (1) INTERNAL REVENUE CODE.—Section
12 1402(a) is amended by striking “and” at the end of
13 paragraph (16), by striking the period at the end of
14 paragraph (17) and inserting “; and”, and by insert-
15 ing after paragraph (17) the following new para-
16 graph:

17 “(18) notwithstanding the preceding provisions
18 of this subsection, in the case of any individual en-
19 gaged in the trade or business of providing services
20 described in section 710(c)(1) with respect to any
21 entity, any amount treated as ordinary income or or-
22 dinary loss of such individual under section 710 with
23 respect to such entity shall be taken into account in
24 determining the net earnings from self-employment
25 of such individual.”.

1 (2) SOCIAL SECURITY ACT.—Section 211(a) of
2 the Social Security Act is amended by striking
3 “and” at the end of paragraph (15), by striking the
4 period at the end of paragraph (16) and inserting “;
5 and”, and by inserting after paragraph (16) the fol-
6 lowing new paragraph:

7 “(17) Notwithstanding the preceding provisions
8 of this subsection, in the case of any individual en-
9 gaged in the trade or business of providing services
10 described in section 710(c)(1) of the Internal Rev-
11 enue Code of 1986 with respect to any entity, any
12 amount treated as ordinary income or ordinary loss
13 of such individual under section 710 of such Code
14 with respect to such entity shall be taken into ac-
15 count in determining the net earnings from self-em-
16 ployment of such individual.”.

17 (e) CONFORMING AMENDMENTS.—

18 (1) Subsection (d) of section 731 is amended by
19 inserting “section 710(b)(4) (relating to distribu-
20 tions of partnership property),” after “to the extent
21 otherwise provided by”.

22 (2) Section 741 is amended by inserting “or
23 section 710 (relating to special rules for partners
24 providing investment management services to part-
25 nership)” before the period at the end.

1 (3) The table of sections for part I of sub-
2 chapter K of chapter 1 is amended by adding at the
3 end the following new item:

 “Sec. 710. Special rules for partners providing investment management services
 to partnership.”.

4 (f) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments made by
7 this section shall apply to taxable years ending after
8 December 31, 2010.

9 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
10 CLUDE EFFECTIVE DATE.—In applying section
11 710(a) of the Internal Revenue Code of 1986 (as
12 added by this section) in the case of any partnership
13 taxable year which includes December 31, 2010, the
14 amount of the net income referred to in such section
15 shall be treated as being the lesser of the net income
16 for the entire partnership taxable year or the net in-
17 come determined by only taking into account items
18 attributable to the portion of the partnership taxable
19 year which is after such date.

20 (3) DISPOSITIONS OF PARTNERSHIP INTER-
21 ESTS.—Section 710(b) of the Internal Revenue Code
22 of 1986 (as added by this section) shall apply to dis-
23 positions and distributions after December 31, 2010.

1 (4) OTHER INCOME AND GAIN IN CONNECTION
2 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
3 tion 710(e) of such Code (as added by this section)
4 shall take effect on December 31, 2010.

5 **SEC. 413. EMPLOYMENT TAX TREATMENT OF PROFES-**
6 **SIONAL SERVICE BUSINESSES.**

7 (a) IN GENERAL.—Section 1402 is amended by add-
8 ing at the end the following new subsection:

9 “(m) SPECIAL RULES FOR PROFESSIONAL SERVICE
10 BUSINESSES.—

11 “(1) SHAREHOLDERS PROVIDING SERVICES TO
12 DISQUALIFIED S CORPORATIONS.—

13 “(A) IN GENERAL.—In the case of any dis-
14 qualified S corporation, each shareholder of
15 such disqualified S corporation who provides
16 substantial services with respect to the profes-
17 sional service business referred to in subpara-
18 graph (C) shall take into account such share-
19 holder’s pro rata share of all items of income or
20 loss described in section 1366 which are attrib-
21 utable to such business in determining the
22 shareholder’s net earnings from self-employ-
23 ment.

24 “(B) TREATMENT OF FAMILY MEMBERS.—
25 Except as otherwise provided by the Secretary,

1 the shareholder's pro rata share of items re-
2 ferred to in subparagraph (A) shall be increased
3 by the pro rata share of such items of each
4 member of such shareholder's family (within
5 the meaning of section 318(a)(1)) who does not
6 provide substantial services with respect to such
7 professional service business.

8 “(C) DISQUALIFIED S CORPORATION.—For
9 purposes of this subsection, the term ‘disquali-
10 fied S corporation’ means—

11 “(i) any S corporation which is a
12 partner in a partnership which is engaged
13 in a professional service business if sub-
14 stantially all of the activities of such S cor-
15 poration are performed in connection with
16 such partnership, and

17 “(ii) any other S corporation which is
18 engaged in a professional service business
19 if the principal asset of such business is
20 the reputation and skill of 3 or fewer em-
21 ployees.

22 “(2) PARTNERS.—In the case of any partner-
23 ship which is engaged in a professional service busi-
24 ness, subsection (a)(13) shall not apply to any part-

1 ner who provides substantial services with respect to
2 such professional service business.

3 “(3) PROFESSIONAL SERVICE BUSINESS.—For
4 purposes of this subsection, the term ‘professional
5 service business’ means any trade or business if sub-
6 stantially all of the activities of such trade or busi-
7 ness involve providing services in the fields of health,
8 law, lobbying, engineering, architecture, accounting,
9 actuarial science, performing arts, consulting, ath-
10 letics, investment advice or management, or broker-
11 age services.

12 “(4) REGULATIONS.—The Secretary shall pre-
13 scribe such regulations as may be necessary or ap-
14 propriate to carry out the purposes of this sub-
15 section, including regulations which prevent the
16 avoidance of the purposes of this subsection through
17 tiered entities or otherwise.

18 “(5) CROSS REFERENCE.—For employment tax
19 treatment of wages paid to shareholders of S cor-
20 porations, see subtitle C.”.

21 (b) CONFORMING AMENDMENT.—Section 211 of the
22 Social Security Act is amended by adding at the end the
23 following new subsection:

24 “(1) SPECIAL RULES FOR PROFESSIONAL SERVICE
25 BUSINESSES.—

1 “(1) SHAREHOLDERS PROVIDING SERVICES TO
2 DISQUALIFIED S CORPORATIONS.—

3 “(A) IN GENERAL.—In the case of any dis-
4 qualified S corporation, each shareholder of
5 such disqualified S corporation who provides
6 substantial services with respect to the profes-
7 sional service business referred to in subpara-
8 graph (C) shall take into account such share-
9 holder’s pro rata share of all items of income or
10 loss described in section 1366 of the Internal
11 Revenue Code of 1986 which are attributable to
12 such business in determining the shareholder’s
13 net earnings from self-employment.

14 “(B) TREATMENT OF FAMILY MEMBERS.—
15 Except as otherwise provided by the Secretary
16 of the Treasury, the shareholder’s pro rata
17 share of items referred to in subparagraph (A)
18 shall be increased by the pro rata share of such
19 items of each member of such shareholder’s
20 family (within the meaning of section 318(a)(1)
21 of the Internal Revenue Code of 1986) who
22 does not provide substantial services with re-
23 spect to such professional service business.

1 “(C) DISQUALIFIED S CORPORATION.—For
2 purposes of this subsection, the term ‘disquali-
3 fied S corporation’ means—

4 “(i) any S corporation which is a
5 partner in a partnership which is engaged
6 in a professional service business if sub-
7 stantially all of the activities of such S cor-
8 poration are performed in connection with
9 such partnership, and

10 “(ii) any other S corporation which is
11 engaged in a professional service business
12 if the principal asset of such business is
13 the reputation and skill of 3 or fewer em-
14 ployees.

15 “(2) PARTNERS.—In the case of any partner-
16 ship which is engaged in a professional service busi-
17 ness, subsection (a)(12) shall not apply to any part-
18 ner who provides substantial services with respect to
19 such professional service business.

20 “(3) PROFESSIONAL SERVICE BUSINESS.—For
21 purposes of this subsection, the term ‘professional
22 service business’ means any trade or business if sub-
23 stantially all of the activities of such trade or busi-
24 ness involve providing services in the fields of health,
25 law, lobbying, engineering, architecture, accounting,

1 actuarial science, performing arts, consulting, ath-
2 letics, investment advice or management, or broker-
3 age services.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2010.

7 **Subtitle C—Corporate Provisions**

8 **SEC. 421. TREATMENT OF SECURITIES OF A CONTROLLED** 9 **CORPORATION EXCHANGED FOR ASSETS IN** 10 **CERTAIN REORGANIZATIONS.**

11 (a) IN GENERAL.—Section 361 (relating to non-
12 recognition of gain or loss to corporations; treatment of
13 distributions) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING
16 SECTION 355 DISTRIBUTIONS.—In the case of a reorga-
17 nization described in section 368(a)(1)(D) with respect to
18 which stock or securities of the corporation to which the
19 assets are transferred are distributed in a transaction
20 which qualifies under section 355—

21 “(1) this section shall be applied by substituting
22 ‘stock other than nonqualified preferred stock (as
23 defined in section 351(g)(2))’ for ‘stock or securities’
24 in subsections (a) and (b)(1), and

1 “(2) the first sentence of subsection (b)(3) shall
2 apply only to the extent that the sum of the money
3 and the fair market value of the other property
4 transferred to such creditors does not exceed the ad-
5 justed bases of such assets transferred (reduced by
6 the amount of the liabilities assumed (within the
7 meaning of section 357(c)).”.

8 (b) CONFORMING AMENDMENT.—Paragraph (3) of
9 section 361(b) is amended by striking the last sentence.

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall apply to exchanges after the date of the enact-
14 ment of this Act.

15 (2) TRANSITION RULE.—The amendments
16 made by this section shall not apply to any exchange
17 pursuant to a transaction which is—

18 (A) made pursuant to a written agreement
19 which was binding on March 15, 2010, and at
20 all times thereafter;

21 (B) described in a ruling request submitted
22 to the Internal Revenue Service on or before
23 such date; or

1 (C) described on or before such date in a
2 public announcement or in a filing with the Se-
3 curities and Exchange Commission.

4 **SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZA-**
5 **TIONS.**

6 (a) IN GENERAL.—Paragraph (2) of section 356(a)
7 is amended—

8 (1) by striking “If an exchange” and inserting
9 “Except as otherwise provided by the Secretary—

10 “(A) IN GENERAL.—If an exchange”;

11 (2) by striking “then there shall be” and all
12 that follows through “February 28, 1913” and in-
13 sserting “then the amount of other property or
14 money shall be treated as a dividend to the extent
15 of the earnings and profits of the corporation”; and

16 (3) by adding at the end the following new sub-
17 paragraph:

18 “(B) CERTAIN REORGANIZATIONS.—In the
19 case of a reorganization described in section
20 368(a)(1)(D) to which section 354(b)(1) applies
21 or any other reorganization specified by the
22 Secretary, in applying subparagraph (A)—

23 “(i) the earnings and profits of each
24 corporation which is a party to the reorga-
25 nization shall be taken into account, and

1 “(ii) the amount which is a dividend
2 (and source thereof) shall be determined
3 under rules similar to the rules of para-
4 graphs (2) and (5) of section 304(b).”.

5 (b) EARNINGS AND PROFITS.—Paragraph (7) of sec-
6 tion 312(n) is amended by adding at the end the following:
7 “A similar rule shall apply to an exchange to which section
8 356(a)(1) applies.”.

9 (c) CONFORMING AMENDMENT.—Paragraph (1) of
10 section 356(a) is amended by striking “then the gain” and
11 inserting “then (except as provided in paragraph (2)) the
12 gain”.

13 (d) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall apply to exchanges after the date of the enact-
17 ment of this Act.

18 (2) TRANSITION RULE.—The amendments
19 made by this section shall not apply to any exchange
20 between unrelated persons pursuant to a transaction
21 which is—

22 (A) made pursuant to a written agreement
23 which was binding on May 20, 2010, and at all
24 times thereafter;

1 (B) described in a ruling request submitted
2 to the Internal Revenue Service on or before
3 such date; or

4 (C) described in a public announcement or
5 filing with the Securities and Exchange Com-
6 mission on or before such date.

7 (3) RELATED PERSONS.—For purposes of this
8 subsection, a person shall be treated as related to
9 another person if the relationship between such per-
10 sons is described in section 267 or 707(b) of the In-
11 ternal Revenue Code of 1986.

12 **Subtitle D—Other Provisions**

13 **SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LI-** 14 **ABILITY TRUST FUND.**

15 (a) EXTENSION OF APPLICATION OF OIL SPILL LI-
16 ABILITY TRUST FUND FINANCING RATE.—Paragraph (2)
17 of section 4611(f) is amended by striking “December 31,
18 2017” and inserting “December 31, 2020”.

19 (b) INCREASE IN OIL SPILL LIABILITY TRUST FUND
20 FINANCING RATE.—Subparagraph (B) of section
21 4611(c)(2) is amended to read as follows:

22 “(B) the Oil Spill Liability Trust Fund fi-
23 nancing rate is 41 cents a barrel.”

1 (c) INCREASE IN PER INCIDENT LIMITATIONS ON
2 EXPENDITURES.—Subparagraph (A) of section
3 9509(c)(2) is amended—

4 (1) by striking “\$1,000,000,000” in clause (i)
5 and inserting “\$5,000,000,000”;

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

8 (3) by striking “\$1,000,000,000 PER INCIDENT,
9 ETC” in the heading and inserting “PER INCIDENT
10 LIMITATIONS”.

11 (d) EFFECTIVE DATE.—

12 (1) EXTENSION OF FINANCING RATE.—Except
13 as provided in paragraph (2), the amendments made
14 by this section shall take effect on the date of the
15 enactment of this Act.

16 (2) INCREASE IN FINANCING RATE.—The
17 amendment made by subsection (b) shall apply to
18 crude oil received and petroleum products entered
19 during calendar quarters beginning more than 60
20 days after the date of the enactment of this Act.

21 **SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
22 **TAXES.**

23 The percentage under paragraph (2) of section 561
24 of the Hiring Incentives to Restore Employment Act in

1 effect on the date of the enactment of this Act is increased
2 by 36 percentage points.

3 **TITLE V—UNEMPLOYMENT,**
4 **HEALTH, AND OTHER ASSIST-**
5 **ANCE**

6 **Subtitle A—Unemployment**
7 **Insurance and Other Assistance**

8 **SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE**
9 **PROVISIONS.**

10 (a) IN GENERAL.—(1) Section 4007 of the Supple-
11 mental Appropriations Act, 2008 (Public Law 110–252;
12 26 U.S.C. 3304 note) is amended—

13 (A) by striking “June 2, 2010” each place it
14 appears and inserting “November 30, 2010”;

15 (B) in the heading for subsection (b)(2), by
16 striking “JUNE 2, 2010” and inserting “NOVEMBER
17 30, 2010”; and

18 (C) in subsection (b)(3), by striking “November
19 6, 2010” and inserting “April 30, 2011”.

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

24 (A) in paragraph (1)(B), by striking “June 2,
25 2010” and inserting “November 30, 2010”;

1 (B) in the heading for paragraph (2), by strik-
2 ing “JUNE 2, 2010” and inserting “NOVEMBER 30,
3 2010”; and

4 (C) in paragraph (3), by striking “December 7,
5 2010” and inserting “May 31, 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 “June 2, 2010” each place it
11 appears and inserting “December 1, 2010”; and

12 (B) in subsection (c), by striking “November 6,
13 2010” and inserting “May 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 “November 6, 2010”
17 and inserting “April 30, 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 (D), by striking “and” at
22 the end; and

23 (2) by inserting after subparagraph (E) the fol-
24 lowing:

1 “(g) COORDINATION OF EMERGENCY UNEMPLOY-
2 MENT COMPENSATION WITH REGULAR COMPENSA-
3 TION.—

4 “(1) If—

5 “(A) an individual has been determined to
6 be entitled to emergency unemployment com-
7 pensation with respect to a benefit year,

8 “(B) that benefit year has expired,

9 “(C) that individual has remaining entitle-
10 ment to emergency unemployment compensa-
11 tion with respect to that benefit year, and

12 “(D) that individual would qualify for a
13 new benefit year in which the weekly benefit
14 amount of regular compensation is at least ei-
15 ther \$100 or 25 percent less than the individ-
16 ual’s weekly benefit amount in the benefit year
17 referred to in subparagraph (A),

18 then the State shall determine eligibility for com-
19 pensation as provided in paragraph (2).

20 “(2) For individuals described in paragraph (1),
21 the State shall determine whether the individual is
22 to be paid emergency unemployment compensation
23 or regular compensation for a week of unemploy-
24 ment using one of the following methods:

1 “(A) The State shall, if permitted by State
2 law, establish a new benefit year, but defer the
3 payment of regular compensation with respect
4 to that new benefit year until exhaustion of all
5 emergency unemployment compensation payable
6 with respect to the benefit year referred to in
7 paragraph (1)(A);

8 “(B) The State shall, if permitted by State
9 law, defer the establishment of a new benefit
10 year (which uses all the wages and employment
11 which would have been used to establish a ben-
12 efit year but for the application of this para-
13 graph), until exhaustion of all emergency unem-
14 ployment compensation payable with respect to
15 the benefit year referred to in paragraph(1)(A);

16 “(C) The State shall pay, if permitted by
17 State law—

18 “(i) regular compensation equal to the
19 weekly benefit amount established under
20 the new benefit year, and

21 “(ii) emergency unemployment com-
22 pensation equal to the difference between
23 that weekly benefit amount and the weekly
24 benefit amount for the expired benefit
25 year; or

1 through fiscal year 2010 and shall be used
2 to make grants to States in each of fiscal
3 years 2009 and 2010 in accordance with
4 paragraph (3), except that the amounts
5 shall remain available through fiscal year
6 2011 to make grants and payments to
7 States in accordance with paragraph
8 (3)(C) to cover expenditures to subsidize
9 employment positions held by individuals
10 placed in the positions before fiscal year
11 2011.

12 “(ii) FISCAL YEAR 2011.—Subject to
13 clause (iii), the amounts appropriated to
14 the Emergency Fund under subparagraph
15 (A) for fiscal year 2011 shall remain avail-
16 able through fiscal year 2012 and shall be
17 used to make grants to States based on ex-
18 penditures in fiscal year 2011 for benefits
19 and services provided in fiscal year 2011 in
20 accordance with the requirements of para-
21 graph (3).

22 “(iii) RESERVATION OF FUNDS.—Of
23 the amounts appropriated to the Emer-
24 gency Fund under subparagraph (A) for
25 fiscal year 2011, \$500,000 shall be placed

1 in reserve for use in fiscal year 2012, and
2 shall be used to award grants for any ex-
3 penditures described in this subsection in-
4 curred by States after September 30,
5 2011.”;

6 (3) in paragraph (2)(C), by striking “2010”
7 and inserting “2012”;

8 (4) in paragraph (3)—

9 (A) in clause (i) of each of subparagraphs
10 (A), (B), and (C)—

11 (i) by striking “year 2009 or 2010”
12 and inserting “years 2009 through 2011”;

13 (ii) by striking “and” at the end of
14 subclause (I);

15 (iii) by striking the period at the end
16 of subclause (II) and inserting “; and”;
17 and

18 (iv) by adding at the end the fol-
19 lowing:

20 “(III) if the quarter is in fiscal
21 year 2011, has provided the Secretary
22 with such information as the Sec-
23 retary may find necessary in order to
24 make the determinations, or take any

1 other action, described in paragraph
2 (5)(C).”; and

3 (B) in subparagraph (C), by adding at the
4 end the following:

5 “(iv) LIMITATION ON EXPENDITURES
6 FOR SUBSIDIZED EMPLOYMENT.—An ex-
7 penditure for subsidized employment shall
8 be taken into account under clause (ii)
9 only if the expenditure is used to subsidize
10 employment for—

11 “(I) a member of a needy family
12 (without regard to whether the family
13 is receiving assistance under the State
14 program funded under this part); or

15 “(II) an individual who has ex-
16 hausted (or, within 60 days, will ex-
17 haust) all rights to receive unemploy-
18 ment compensation under Federal and
19 State law, and who is a member of a
20 needy family.”;

21 (5) by striking paragraph (5) and inserting the
22 following:

23 “(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT
24 AUTHORITY.—

1 “(A) FISCAL YEARS 2009 AND 2010.—The
2 total amount payable to a single State under
3 subsection (b) and this subsection for fiscal
4 years 2009 and 2010 combined shall not exceed
5 50 percent of the annual State family assist-
6 ance grant.

7 “(B) FISCAL YEAR 2011.—Subject to sub-
8 paragraph (C), the total amount payable to a
9 single State under subsection (b) and this sub-
10 section for fiscal year 2011 shall not exceed 30
11 percent of the annual State family assistance
12 grant.

13 “(C) ADJUSTMENT AUTHORITY.—If the
14 Secretary determines that the Emergency Fund
15 is at risk of being depleted before September
16 30, 2011, or that funds are available to accom-
17 modate additional State requests under this
18 subsection, the Secretary may, through program
19 instructions issued without regard to the re-
20 quirements of section 553 of title 5, United
21 States Code—

22 “(i) specify priority criteria for award-
23 ing grants to States during fiscal year
24 2011; and

1 “(ii) adjust the percentage limitation
2 applicable under subparagraph (B) with
3 respect to the total amount payable to a
4 single State for fiscal year 2011.”; and

5 (6) in paragraph (6), by inserting “or for ex-
6 penditures described in paragraph (3)(C)(iv)” before
7 the period.

8 (b) CONFORMING AMENDMENTS.—Section 2101 of
9 division B of the American Recovery and Reinvestment
10 Act of 2009 (Public Law 111–5) is amended—

11 (1) in subsection (a)(2)—

12 (A) by striking “2010” and inserting
13 “2011”; and

14 (B) by striking all that follows “repealed”
15 and inserting a period; and

16 (2) in subsection (d)(1), by striking “2010”
17 and inserting “2011”.

18 (c) PROGRAM GUIDANCE.—The Secretary of Health
19 and Human Services shall issue program guidance, with-
20 out regard to the requirements of section 553 of title 5,
21 United States Code, which ensures that the funds provided
22 under the amendments made by this section to a jurisdic-
23 tion for subsidized employment do not support any sub-
24 sidized employment position the annual salary of which
25 is greater than, at State option—

1 (1) 200 percent of the poverty line (within the
2 meaning of section 673(2) of the Omnibus Budget
3 Reconciliation Act of 1981, including any revision
4 required by such section 673(2)) for a family of 4;
5 or

6 (2) the median wage in the jurisdiction.

7 **Subtitle B—Health Provisions**

8 **SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

9 (a) IN GENERAL.—Section 106(a) of division B of
10 the Tax Relief and Health Care Act of 2006 (42 U.S.C.
11 1395 note), as amended by section 117 of the Medicare,
12 Medicaid, and SCHIP Extension Act of 2007 (Public Law
13 110–173), section 124 of the Medicare Improvements for
14 Patients and Providers Act of 2008 (Public Law 110–
15 275), and sections 3137(a) and 10317 of Public Law 111–
16 148, is amended by striking “September 30, 2010” and
17 inserting “September 30, 2011”.

18 (b) CONFORMING AMENDMENT.—Section 117(a)(3)
19 of the Medicare, Medicaid, and SCHIP Extension Act of
20 2007 (Public Law 110–173), is amended by inserting “in
21 fiscal years 2008 and 2009” after “For purposes of imple-
22 mentation of this subsection”.

23 **SEC. 512. REPEAL OF DELAY OF RUG-IV.**

24 Effective as if included in the enactment of Public
25 Law 111–148, section 10325 of such Act is repealed.

1 **SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS**
2 **FOR CERTAIN CLINICAL DIAGNOSTIC LAB-**
3 **ORATORY TESTS FURNISHED TO HOSPITAL**
4 **PATIENTS IN CERTAIN RURAL AREAS.**

5 Section 3122 of Public Law 111–148 is repealed and
6 the provision of law amended by such section is restored
7 as if such section had not been enacted.

8 **SEC. 514. FUNDING FOR CLAIMS REPROCESSING.**

9 For purposes of carrying out the provisions of, and
10 amendments made by, this Act that relate to title XVIII
11 of the Social Security Act, and other provisions of such
12 title that involve reprocessing of claims, there are appro-
13 priated to the Secretary of Health and Human Services
14 for the Centers for Medicare & Medicaid Services Program
15 Management Account, from amounts in the general fund
16 of the Treasury not otherwise appropriated,
17 \$175,000,000. Amounts appropriated under the preceding
18 sentence shall remain available until expended.

19 **SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

20 (a) **REPEAL OF EXCLUSION OF CERTAIN INDIVID-**
21 **UALS AND ENTITIES FROM MEDICAID.**—Section 6502 of
22 Public Law 111–148 is repealed and the provisions of law
23 amended by such section are restored as if such section
24 had never been enacted. Nothing in the previous sentence
25 shall affect the execution or placement of the insertion
26 made by section 6503 of such Act.

1 (b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER
2 MEDICAID.—Effective as if included in the enactment of
3 Public Law 111–148, section 2001(a)(5)(B) of such Act
4 is amended by striking all that follows “is amended” and
5 inserting the following: “by inserting after ‘100 percent’
6 the following: ‘(or, beginning January 1, 2014, 133 per-
7 cent)’.”.

8 (c) CALCULATION AND PUBLICATION OF PAYMENT
9 ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—
10 Section 601(b) of the Children’s Health Insurance Pro-
11 gram Reauthorization Act of 2009 (Public Law 111–3)
12 is amended by adding at the end the following: “The Sec-
13 retary is not required under this subsection to calculate
14 or publish a national or a State-specific error rate for fis-
15 cal year 2009 or fiscal year 2010.”.

16 (d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION
17 OF CHILDREN OF CERTAIN EMPLOYEES.—Section
18 2110(b)(6) of the Social Security Act (42 U.S.C.
19 1397jj(b)(6)) is amended—

20 (1) in subparagraph (B)—

21 (A) by striking “PER PERSON” in the
22 heading; and

23 (B) by striking “each employee” and in-
24 serting “employees”; and

1 (2) in subparagraph (C), by striking “, on a
2 case-by-case basis,”.

3 (e) ELECTRONIC HEALTH RECORDS.—Effective as if
4 included in the enactment of section 4201(a)(2) of the
5 American Recovery and Reinvestment Act of 2009 (Public
6 Law 111–5), section 1903(t) of the Social Security Act
7 (42 U.S.C. 1396b(t)) is amended—

8 (1) in paragraph (3)(E), by striking “reduced
9 by any payment that is made to such Medicaid pro-
10 vider from any other source (other than under this
11 subsection or by a State or local government)” and
12 inserting “reduced by the average payment the Sec-
13 retary estimates will be made to such Medicaid pro-
14 viders (determined on a percentage or other basis
15 for such classes or types of providers as the Sec-
16 retary may specify) from other sources (other than
17 under this subsection, or by the Federal government
18 or a State or local government)”; and

19 (2) in paragraph (6)(B), by inserting before the
20 period the following: “and shall be determined to
21 have met such responsibility to the extent that the
22 payment to the Medicaid provider is not in excess of
23 85 percent of the net average allowable cost”.

24 (f) CORRECTIONS OF DESIGNATIONS.—

1 (1) Section 1902 of the Social Security Act (42
2 U.S.C. 1396a) is amended—

3 (A) in subsection (a)(10), in the matter
4 following subparagraph (G), by striking “and”
5 before “(XVI) the medical” and by striking
6 “(XVI) if” and inserting “(XVII) if”; and

7 (B) in subsection (ii)(2), by striking
8 “(XV)” and inserting “(XVI)”.

9 (2) Section 2107(e)(1) of the Social Security
10 Act (42 U.S.C. 1397gg(e)(1)) is amended by redesi-
11 gnating the subparagraph (N) of that section added
12 by 2101(e) of Public Law 111–148 as subparagraph
13 (O).

14 **SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PRO-**
15 **GRAM TO 340B DRUG DISCOUNT PROGRAM.**

16 (a) **ADDITION OF INPATIENT DRUG DISCOUNT.**—
17 Title III of the Public Health Service Act is amended by
18 inserting after section 340B (42 U.S.C. 256b) the fol-
19 lowing:

20 **“SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVID-**
21 **UALS WITHOUT PRESCRIPTION DRUG COV-**
22 **ERAGE.**

23 “(a) **REQUIREMENTS FOR AGREEMENTS WITH THE**
24 **SECRETARY.**—

25 “(1) **IN GENERAL.**—

1 “(A) AGREEMENT.—The Secretary shall
2 enter into an agreement with each manufac-
3 turer of covered inpatient drugs under which
4 the amount required to be paid (taking into ac-
5 count any rebate or discount, as provided by
6 the Secretary) to the manufacturer for covered
7 inpatient drugs (other than drugs described in
8 paragraph (3)) purchased by a covered entity
9 on or after January 1, 2011, does not exceed
10 an amount equal to the average manufacturer
11 price for the drug under title XIX of the Social
12 Security Act in the preceding calendar quarter,
13 reduced by the rebate percentage described in
14 paragraph (2). For a covered inpatient drug
15 that also is a covered outpatient drug under
16 section 340B, the amount required to be paid
17 under the preceding sentence shall be equal to
18 the amount required to be paid under section
19 340B(a)(1) for such drug. The agreement with
20 a manufacturer under this subparagraph may,
21 at the discretion of the Secretary, be included
22 in the agreement with the same manufacturer
23 under section 340B.

24 “(B) CEILING PRICE.—Each such agree-
25 ment shall require that the manufacturer fur-

1 nish the Secretary with reports, on a quarterly
2 basis, of the price for each covered inpatient
3 drug subject to the agreement that, according
4 to the manufacturer, represents the maximum
5 price that covered entities may permissibly be
6 required to pay for the drug (referred to in this
7 section as the ‘ceiling price’), and shall require
8 that the manufacturer offer each covered entity
9 covered inpatient drugs for purchase at or
10 below the applicable ceiling price if such drug
11 is made available to any other purchaser at any
12 price.

13 “(C) ALLOCATION METHOD.—Each such
14 agreement shall require that, if the supply of a
15 covered inpatient drug is insufficient to meet
16 demand, then the manufacturer may use an al-
17 location method that is reported in writing to,
18 and approved by, the Secretary and does not
19 discriminate on the basis of the price paid by
20 covered entities or on any other basis related to
21 the participation of an entity in the program
22 under this section.

23 “(2) REBATE PERCENTAGE DEFINED.—

24 “(A) IN GENERAL.—For a covered inpa-
25 tient drug purchased in a calendar quarter, the

1 ‘rebate percentage’ is the amount (expressed as
2 a percentage) equal to—

3 “(i) the average total rebate required
4 under section 1927(c) of the Social Secu-
5 rity Act (or the average total rebate that
6 would be required if the drug were a cov-
7 ered outpatient drug under such section)
8 with respect to the drug (for a unit of the
9 dosage form and strength involved) during
10 the preceding calendar quarter; divided by

11 “(ii) the average manufacturer price
12 for such a unit of the drug during such
13 quarter.

14 “(B) OVER THE COUNTER DRUGS.—

15 “(i) IN GENERAL.—For purposes of
16 subparagraph (A), in the case of over the
17 counter drugs, the ‘rebate percentage’ shall
18 be determined as if the rebate required
19 under section 1927(c) of the Social Secu-
20 rity Act is based on the applicable percent-
21 age provided under section 1927(c)(3) of
22 such Act.

23 “(ii) DEFINITION.—The term ‘over
24 the counter drug’ means a drug that may
25 be sold without a prescription and which is

1 prescribed by a physician (or other persons
2 authorized to prescribe such drug under
3 State law).

4 “(3) DRUGS PROVIDED UNDER STATE MED-
5 ICAID PLANS.—Drugs described in this paragraph
6 are drugs purchased by the entity for which payment
7 is made by the State under the State plan for med-
8 ical assistance under title XIX of the Social Security
9 Act.

10 “(4) REQUIREMENTS FOR COVERED ENTI-
11 TIES.—

12 “(A) PROHIBITING DUPLICATE DISCOUNTS
13 OR REBATES.—

14 “(i) IN GENERAL.—A covered entity
15 shall not request payment under title XIX
16 of the Social Security Act for medical as-
17 sistance described in section 1905(a)(12)
18 of such Act with respect to a drug that is
19 subject to an agreement under this section
20 if the drug is subject to the payment of a
21 rebate to the State under section 1927 of
22 such Act.

23 “(ii) ESTABLISHMENT OF MECHA-
24 NISM.—The Secretary shall establish a
25 mechanism to ensure that covered entities

1 comply with clause (i). If the Secretary
2 does not establish a mechanism under the
3 previous sentence within 12 months of the
4 enactment of this section, the requirements
5 of section 1927(a)(5)(C) of the Social Se-
6 curity Act shall apply.

7 “(iii) PROHIBITING DISCLOSURE TO
8 GROUP PURCHASING ORGANIZATIONS.—In
9 the event that a covered entity is a mem-
10 ber of a group purchasing organization,
11 such entity shall not disclose the price or
12 any other information pertaining to any
13 purchases under this section directly or in-
14 directly to such group purchasing organi-
15 zation.

16 “(B) PROHIBITING RESALE, DISPENSING,
17 OR ADMINISTRATION OF DRUGS EXCEPT TO
18 CERTAIN PATIENTS.—With respect to any cov-
19 ered inpatient drug that is subject to an agree-
20 ment under this subsection, a covered entity
21 shall not dispense, administer, resell, or other-
22 wise transfer the covered inpatient drug to a
23 person unless—

24 “(i) such person is a patient of the
25 entity; and

1 “(ii) such person does not have health
2 plan coverage (as defined in subsection
3 (c)(3)) that provides prescription drug cov-
4 erage in the inpatient setting with respect
5 to such covered inpatient drug.

6 For purposes of clause (ii), a person shall be
7 treated as having health plan coverage (as de-
8 fined in subsection (c)(3)) with respect to a cov-
9 ered inpatient drug if benefits are not payable
10 under such coverage with respect to such drug
11 for reasons such as the application of a deduct-
12 ible or cost sharing or the use of utilization
13 management.

14 “(C) AUDITING.—A covered entity shall
15 permit the Secretary and the manufacturer of a
16 covered inpatient drug that is subject to an
17 agreement under this subsection with the entity
18 (acting in accordance with procedures estab-
19 lished by the Secretary relating to the number,
20 duration, and scope of audits) to audit at the
21 Secretary’s or the manufacturer’s expense the
22 records of the entity that directly pertain to the
23 entity’s compliance with the requirements de-
24 scribed in subparagraph (A) or (B) with respect
25 to drugs of the manufacturer. The use or dis-

1 closure of information for performance of such
2 an audit shall be treated as a use or disclosure
3 required by law for purposes of section
4 164.512(a) of title 45, Code of Federal Regula-
5 tions.

6 “(D) ADDITIONAL SANCTION FOR NON-
7 COMPLIANCE.—If the Secretary finds, after no-
8 tice and hearing, that a covered entity is in vio-
9 lation of a requirement described in subpara-
10 graph (A) or (B), the covered entity shall be
11 liable to the manufacturer of the covered inpa-
12 tient drug that is the subject of the violation in
13 an amount equal to the reduction in the price
14 of the drug (as described in subparagraph (A))
15 provided under the agreement between the Sec-
16 retary and the manufacturer under this sub-
17 section.

18 “(E) MAINTENANCE OF RECORDS.—

19 “(i) IN GENERAL.—A covered entity
20 shall establish and maintain an effective
21 recordkeeping system to comply with this
22 section and shall certify to the Secretary
23 that such entity is in compliance with sub-
24 paragraphs (A) and (B). The Secretary
25 shall require that hospitals that purchase

1 covered inpatient drugs for inpatient dis-
2 pensing or administration under this sub-
3 section appropriately segregate inventory
4 of such covered inpatient drugs, either
5 physically or electronically, from drugs for
6 outpatient use, as well as from drugs for
7 inpatient dispensing or administration to
8 individuals who have (for purposes of sub-
9 paragraph (B)) health plan coverage de-
10 scribed in clause (ii) of such subparagraph.

11 “(ii) CERTIFICATION OF NO THIRD-
12 PARTY PAYER.—A covered entity shall
13 maintain records that contain certification
14 by the covered entity that no third party
15 payment was received for any covered in-
16 patient drug that is subject to an agree-
17 ment under this subsection and that was
18 dispensed to an inpatient.

19 “(5) TREATMENT OF DISTINCT UNITS OF HOS-
20 PITALS.—In the case of a covered entity that is a
21 distinct part of a hospital, the distinct part of the
22 hospital shall not be considered a covered entity
23 under this subsection unless the hospital is otherwise
24 a covered entity under this subsection.

1 “(6) NOTICE TO MANUFACTURERS.—The Sec-
2 retary shall notify manufacturers of covered inpa-
3 tient drugs and single State agencies under section
4 1902(a)(5) of the Social Security Act of the identi-
5 ties of covered entities under this subsection, and of
6 entities that no longer meet the requirements of
7 paragraph (4), by means of timely updates of the
8 Internet website supported by the Department of
9 Health and Human Services relating to this section.

10 “(7) NO PROHIBITION ON LARGER DISCOUNT.—
11 Nothing in this subsection shall prohibit a manufac-
12 turer from charging a price for a drug that is lower
13 than the maximum price that may be charged under
14 paragraph (1).

15 “(b) COVERED ENTITY DEFINED.—In this section,
16 the term ‘covered entity’ means an entity that meets the
17 requirements described in subsection (a)(4) and is one of
18 the following:

19 “(1) A subsection (d) hospital (as defined in
20 section 1886(d)(1)(B) of the Social Security Act)
21 that—

22 “(A) is owned or operated by a unit of
23 State or local government, is a public or private
24 non-profit corporation which is formally granted
25 governmental powers by a unit of State or local

1 government, or is a private nonprofit hospital
2 which has a contract with a State or local gov-
3 ernment to provide health care services to low
4 income individuals who are not entitled to bene-
5 fits under title XVIII of the Social Security Act
6 or eligible for assistance under the State plan
7 for medical assistance under title XIX of such
8 Act; and

9 “(B) for the most recent cost reporting pe-
10 riod that ended before the calendar quarter in-
11 volved, had a disproportionate share adjustment
12 percentage (as determined using the method-
13 ology under section 1886(d)(5)(F) of the Social
14 Security Act as in effect on the date of enact-
15 ment of this section) greater than 20.20 percent
16 or was described in section 1886(d)(5)(F)(i)(II)
17 of such Act (as so in effect on the date of en-
18 actment of this section).

19 “(2) A children’s hospital excluded from the
20 Medicare prospective payment system pursuant to
21 section 1886(d)(1)(B)(iii) of the Social Security Act
22 that would meet the requirements of paragraph (1),
23 including the disproportionate share adjustment per-
24 centage requirement under subparagraph (B) of
25 such paragraph, if the hospital were a subsection (d)

1 hospital as defined by section 1886(d)(1)(B) of the
2 Social Security Act.

3 “(3) A free-standing cancer hospital excluded
4 from the Medicare prospective payment system pur-
5 suant to section 1886(d)(1)(B)(v) of the Social Se-
6 curity Act that would meet the requirements of
7 paragraph (1), including the disproportionate share
8 adjustment percentage requirement under subpara-
9 graph (B) of such paragraph, if the hospital were a
10 subsection (d) hospital as defined by section
11 1886(d)(1)(B) of the Social Security Act.

12 “(4) An entity that is a critical access hospital
13 (as determined under section 1820(c)(2) of the So-
14 cial Security Act), and that meets the requirements
15 of paragraph (1)(A).

16 “(5) An entity that is a rural referral center, as
17 defined by section 1886(d)(5)(C)(i) of the Social Se-
18 curity Act, or a sole community hospital, as defined
19 by section 1886(d)(5)(C)(iii) of such Act, and that
20 both meets the requirements of paragraph (1)(A)
21 and has a disproportionate share adjustment per-
22 centage equal to or greater than 8 percent.

23 “(c) OTHER DEFINITIONS.—In this section:

24 “(1) AVERAGE MANUFACTURER PRICE.—

1 “(A) IN GENERAL.—The term ‘average
2 manufacturer price’—

3 “(i) has the meaning given such term
4 in section 1927(k) of the Social Security
5 Act, except that such term shall be applied
6 under this section with respect to covered
7 inpatient drugs in the same manner (as
8 applicable) as such term is applied under
9 such section 1927(k) with respect to cov-
10 ered outpatient drugs (as defined in such
11 section); and

12 “(ii) with respect to a covered inpa-
13 tient drug for which there is no average
14 manufacturer price (as defined in clause
15 (i)), shall be the amount determined under
16 regulations promulgated by the Secretary
17 under subparagraph (B).

18 “(B) RULEMAKING.—The Secretary shall
19 by regulation, in consultation with the Adminis-
20 trator of the Centers for Medicare & Medicaid
21 Services, establish a method for determining the
22 average manufacturer price for covered inpa-
23 tient drugs for which there is no average manu-
24 facturer price (as defined in subparagraph
25 (A)(i)). Regulations promulgated with respect

1 to covered inpatient drugs under the preceding
2 sentence shall provide for the application of
3 methods for determining the average manufac-
4 turer price that are the same as the methods
5 used to determine such price in calculating re-
6 bates required for such drugs under an agree-
7 ment between a manufacturer and a State that
8 satisfies the requirements of section 1927(b) of
9 the Social Security Act, as applicable.

10 “(2) COVERED INPATIENT DRUG.—The term
11 ‘covered inpatient drug’ means a drug—

12 “(A) that is described in section
13 1927(k)(2) of the Social Security Act;

14 “(B) that, notwithstanding paragraph
15 (3)(A) of section 1927(k) of such Act, is used
16 in connection with an inpatient service provided
17 by a covered entity that is enrolled to partici-
18 pate in the drug discount program under this
19 section; and

20 “(C) that is not purchased by the covered
21 entity through or under contract with a group
22 purchasing organization.

23 “(3) HEALTH PLAN COVERAGE.—The term
24 ‘health plan coverage’ means—

1 “(A) health insurance coverage (as defined
2 in section 2791, and including coverage under
3 a State health benefits risk pool);

4 “(B) coverage under a group health plan
5 (as defined in such section, and including cov-
6 erage under a church plan, a governmental
7 plan, or a collectively bargained plan);

8 “(C) coverage under a Federal health care
9 program (as defined by section 1128B(f) of the
10 Social Security Act); or

11 “(D) such other health benefits coverage
12 as the Secretary recognizes for purposes of this
13 section.

14 “(4) MANUFACTURER.—The term ‘manufac-
15 turer’ has the meaning given such term in section
16 1927(k) of the Social Security Act.

17 “(d) PROGRAM INTEGRITY.—

18 “(1) MANUFACTURER COMPLIANCE.—

19 “(A) IN GENERAL.—From amounts appro-
20 priated under subsection (f), the Secretary shall
21 provide for improvements in compliance by
22 manufacturers with the requirements of this
23 section in order to prevent overcharges and
24 other violations of the discounted pricing re-
25 quirements specified in this section.

1 “(B) IMPROVEMENTS.—The improvements
2 described in subparagraph (A) shall include the
3 following:

4 “(i) The establishment of a process to
5 enable the Secretary to verify the accuracy
6 of ceiling prices calculated by manufactur-
7 ers under subsection (a)(1) and charged to
8 covered entities, which shall include the
9 following:

10 “(I) Developing and publishing
11 through an appropriate policy or regu-
12 latory issuance, precisely defined
13 standards and methodology for the
14 calculation of ceiling prices under
15 such subsection.

16 “(II) Comparing regularly the
17 ceiling prices calculated by the Sec-
18 retary with the quarterly pricing data
19 that is reported by manufacturers to
20 the Secretary.

21 “(III) Conducting periodic moni-
22 toring of sales transactions by covered
23 entities.

24 “(IV) Inquiring into any discrep-
25 ancies between ceiling prices and

1 manufacturer pricing data that may
2 be identified and taking, or requiring
3 manufacturers to take, corrective ac-
4 tion in response to such discrepancies,
5 including the issuance of refunds pur-
6 suant to the procedures set forth in
7 clause (ii).

8 “(ii) The establishment of procedures
9 for manufacturers to issue refunds to cov-
10 ered entities in the event that there is an
11 overcharge by the manufacturers, including
12 the following:

13 “(I) Providing the Secretary with
14 an explanation of why and how the
15 overcharge occurred, how the refunds
16 will be calculated, and to whom the
17 refunds will be issued.

18 “(II) Oversight by the Secretary
19 to ensure that the refunds are issued
20 accurately and within a reasonable pe-
21 riod of time.

22 “(iii) The provision of access through
23 the Internet website supported by the De-
24 partment of Health and Human Services
25 to the applicable ceiling prices for covered

1 inpatient drugs as calculated and verified
2 by the Secretary in accordance with this
3 section, in a manner (such as through the
4 use of password protection) that limits
5 such access to covered entities and ade-
6 quately assures security and protection of
7 privileged pricing data from unauthorized
8 re-disclosure.

9 “(iv) The development of a mecha-
10 nism by which—

11 “(I) rebates, discounts, or other
12 price concessions provided by manu-
13 facturers to other purchasers subse-
14 quent to the sale of covered inpatient
15 drugs to covered entities are reported
16 to the Secretary; and

17 “(II) appropriate credits and re-
18 funds are issued to covered entities if
19 such discounts, rebates, or other price
20 concessions have the effect of lowering
21 the applicable ceiling price for the rel-
22 evant quarter for the drugs involved.

23 “(v) Selective auditing of manufactur-
24 ers and wholesalers to ensure the integrity

1 of the drug discount program under this
2 section.

3 “(vi) The establishment of a require-
4 ment that manufacturers and wholesalers
5 use the identification system developed by
6 the Secretary for purposes of facilitating
7 the ordering, purchasing, and delivery of
8 covered inpatient drugs under this section,
9 including the processing of chargebacks for
10 such drugs.

11 “(vii) The imposition of sanctions in
12 the form of civil monetary penalties,
13 which—

14 “(I) shall be assessed according
15 to standards and procedures estab-
16 lished in regulations to be promul-
17 gated by the Secretary not later than
18 January 1, 2011;

19 “(II) shall not exceed \$10,000
20 per single dosage form of a covered
21 inpatient drug purchased by a covered
22 entity where a manufacturer know-
23 ingly charges such covered entity a
24 price for such drug that exceeds the

1 ceiling price under subsection (a)(1);
2 and

3 “(III) shall not exceed \$100,000
4 for each instance where a manufac-
5 turer withholds or provides materially
6 false information to the Secretary or
7 to covered entities under this section
8 or knowingly violates any provision of
9 this section (other than subsection
10 (a)(1)).

11 “(2) COVERED ENTITY COMPLIANCE.—

12 “(A) IN GENERAL.—From amounts appro-
13 priated under subsection (f), the Secretary shall
14 provide for improvements in compliance by cov-
15 ered entities with the requirements of this sec-
16 tion in order to prevent diversion and violations
17 of the duplicate discount provision and other re-
18 quirements specified under subsection (a)(4).

19 “(B) IMPROVEMENTS.—The improvements
20 described in subparagraph (A) shall include the
21 following:

22 “(i) The development of procedures to
23 enable and require covered entities to up-
24 date at least annually the information on
25 the Internet website supported by the De-

1 partment of Health and Human Services
2 relating to this section.

3 “(ii) The development of procedures
4 for the Secretary to verify the accuracy of
5 information regarding covered entities that
6 is listed on the website described in clause
7 (i).

8 “(iii) The development of more de-
9 tailed guidance describing methodologies
10 and options available to covered entities for
11 billing covered inpatient drugs to State
12 Medicaid agencies in a manner that avoids
13 duplicate discounts pursuant to subsection
14 (a)(4)(A).

15 “(iv) The establishment of a single,
16 universal, and standardized identification
17 system by which each covered entity site
18 and each covered entity’s purchasing sta-
19 tus under sections 340B and this section
20 can be identified by manufacturers, dis-
21 tributors, covered entities, and the Sec-
22 retary for purposes of facilitating the or-
23 dering, purchasing, and delivery of covered
24 inpatient drugs under this section, includ-

1 ing the processing of chargebacks for such
2 drugs.

3 “(v) The imposition of sanctions in
4 the form of civil monetary penalties,
5 which—

6 “(I) shall be assessed according
7 to standards and procedures estab-
8 lished in regulations promulgated by
9 the Secretary; and

10 “(II) shall not exceed \$10,000
11 for each instance where a covered en-
12 tity knowingly violates subsection
13 (a)(4)(B) or knowingly violates any
14 other provision of this section.

15 “(vi) The termination of a covered en-
16 tity’s participation in the program under
17 this section, for a period of time to be de-
18 termined by the Secretary, in cases in
19 which the Secretary determines, in accord-
20 ance with standards and procedures estab-
21 lished by regulation, that—

22 “(I) the violation by a covered
23 entity of a requirement of this section
24 was repeated and knowing; and

1 “(II) imposition of a monetary
2 penalty would be insufficient to rea-
3 sonably ensure compliance with the
4 requirements of this section.

5 “(vii) The referral of matters, as ap-
6 propriate, to the Food and Drug Adminis-
7 tration, the Office of the Inspector General
8 of the Department of Health and Human
9 Services, or other Federal or State agen-
10 cies.

11 “(3) ADMINISTRATIVE DISPUTE RESOLUTION
12 PROCESS.—From amounts appropriated under sub-
13 section (f), the Secretary may establish and imple-
14 ment an administrative process for the resolution of
15 the following:

16 “(A) Claims by covered entities that manu-
17 facturers have violated the terms of their agree-
18 ment with the Secretary under subsection
19 (a)(1).

20 “(B) Claims by manufacturers that cov-
21 ered entities have violated subsection (a)(4)(A)
22 or (a)(4)(B).

23 “(e) AUDIT AND SANCTIONS.—

24 “(1) AUDIT.—From amounts appropriated
25 under subsection (f), the Inspector General of the

1 Department of Health and Human Services (re-
2 ferred to in this subsection as the ‘Inspector Gen-
3 eral’) shall audit covered entities under this section
4 to verify compliance with criteria for eligibility and
5 participation under this section, including the
6 antidiversion prohibitions under subsection
7 (a)(4)(B), and take enforcement action or provide
8 information to the Secretary who shall take action to
9 ensure program compliance, as appropriate. A cov-
10 ered entity shall provide to the Inspector General,
11 upon request, records relevant to such audits.

12 “(2) REPORT.—For each audit conducted under
13 paragraph (1), the Inspector General shall prepare
14 and publish in a timely manner a report which shall
15 include findings and recommendations regarding—

16 “(A) the appropriateness of covered entity
17 eligibility determinations and, as applicable,
18 certifications;

19 “(B) the effectiveness of antidiversion pro-
20 hibitions; and

21 “(C) the effectiveness of restrictions on in-
22 patient dispensing and administration.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as may be necessary for fiscal year 2011 and
2 each succeeding fiscal year.”.

3 (b) RULEMAKING.—Not later than January 1, 2011,
4 the Secretary shall promulgate regulations implementing
5 section 340B–1 of the Public Health Service Act (as added
6 by subsection (a)).

7 (c) CONFORMING AMENDMENT TO SECTION 340B.—
8 Paragraph (1) of section 340B(a) of the Public Health
9 Service Act (42 U.S.C. 256b(a)) is amended by adding
10 at the end the following: “Such agreement shall further
11 require that, if the supply of a covered outpatient drug
12 is insufficient to meet demand, then the manufacturer
13 may use an allocation method that is reported in writing
14 to, and approved by, the Secretary and does not discrimi-
15 nate on the basis of the price paid by covered entities or
16 on any other basis related to the participation of an entity
17 in the program under this section. The agreement with
18 a manufacturer under this paragraph may, at the discre-
19 tion of the Secretary, be included in the agreement with
20 the same manufacturer under section 340B–1.”.

21 (d) CONFORMING AMENDMENTS TO MEDICAID.—
22 Section 1927 of the Social Security Act (42 U.S.C. 1396r–
23 8) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), in the first sentence,
2 by striking “and paragraph (6)” and inserting
3 “, paragraph (6), and paragraph (8)”; and

4 (B) by adding at the end the following new
5 paragraph:

6 “(8) LIMITATION ON PRICES OF DRUGS PUR-
7 CHASED BY 340B–1-COVERED ENTITIES.—

8 “(A) AGREEMENT WITH SECRETARY.—A
9 manufacturer meets the requirements of this
10 paragraph if the manufacturer has entered into
11 an agreement with the Secretary that meets the
12 requirements of section 340B–1 of the Public
13 Health Service Act with respect to covered in-
14 patient drugs (as defined in such section) pur-
15 chased by a 340B–1-covered entity on or after
16 January 1, 2011.

17 “(B) 340B–1-COVERED ENTITY DE-
18 FINED.—In this subsection, the term ‘340B–1-
19 covered entity’ means an entity described in
20 section 340B–1(b) of the Public Health Service
21 Act.”; and

22 (2) in subsection (c)(1)(C)(i)(I)—

23 (A) by striking “or” before “a covered en-
24 tity”; and

1 (B) by inserting before the semicolon the
2 following: “, or a covered entity for a covered
3 inpatient drug (as such terms are defined in
4 section 340B–1of the Public Health Service
5 Act)”.

6 **SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN**
7 **DEFINITION OF COVERED OUTPATIENT**
8 **DRUGS WITH RESPECT TO CHILDREN’S HOS-**
9 **PITALS UNDER THE 340B DRUG DISCOUNT**
10 **PROGRAM.**

11 (a) DEFINITION OF COVERED OUTPATIENT DRUG.—

12 (1) AMENDMENT.—Subsection (e) of section
13 340B of the Public Health Service Act (42 U.S.C.
14 256b) is amended by striking “covered entities de-
15 scribed in subparagraph (M)”and inserting “covered
16 entities described in subparagraph (M) (other than
17 a children’s hospital described in subparagraph
18 (M))”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect as if included in
21 the enactment of section 2302 of the Health Care
22 and Education Reconciliation Act of 2010 (Public
23 Law 111–152).

24 (b) TECHNICAL AMENDMENT.—Subparagraph (B) of
25 section 1927(a)(5) of the Social Security Act (42 U.S.C.

1 1396r–8(a)(5)) is amended by striking “and a children’s
2 hospital” and all that follows through the end of the sub-
3 paragraph and inserting a period.

4 **SEC. 518. CONFORMING AMENDMENT RELATED TO WAIVER**
5 **OF COINSURANCE FOR PREVENTIVE SERV-**
6 **ICES.**

7 Effective as if included in section 10501(i)(2)(A) of
8 Public Law 111–148, section 1833(a)(3)(A) of the Social
9 Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by
10 striking “section 1861(s)(10)(A)” and inserting “section
11 1861(ddd)(3)”.

12 **SEC. 519. ESTABLISH A CMS-IRS DATA MATCH TO IDENTIFY**
13 **FRAUDULENT PROVIDERS.**

14 (a) **AUTHORITY TO DISCLOSE RETURN INFORMATION**
15 **CONCERNING OUTSTANDING TAX DEBTS FOR PURPOSES**
16 **OF ENHANCING MEDICARE PROGRAM INTEGRITY.—**

17 (1) **IN GENERAL.—**Section 6103(l) of the Inter-
18 nal Revenue Code of 1986 is amended by adding at
19 the end the following new paragraph:

20 “(22) **DISCLOSURE OF RETURN INFORMATION**
21 **TO DEPARTMENT OF HEALTH AND HUMAN SERVICES**
22 **FOR PURPOSES OF ENHANCING MEDICARE PROGRAM**
23 **INTEGRITY.—**

24 “(A) **IN GENERAL.—**The Secretary shall,
25 upon written request from the Secretary of

1 Health and Human Services, disclose to officers
2 and employees of the Department of Health
3 and Human Services return information with
4 respect to a taxpayer who has applied to enroll,
5 or reenroll, as a provider of services or supplier
6 under the Medicare program under title XVIII
7 of the Social Security Act. Such return infor-
8 mation shall be limited to—

9 “(i) the taxpayer identity information
10 with respect to such taxpayer;

11 “(ii) the amount of the delinquent tax
12 debt owed by that taxpayer; and

13 “(iii) the taxable year to which the de-
14 linquent tax debt pertains.

15 “(B) RESTRICTION ON DISCLOSURE.—Re-
16 turn information disclosed under subparagraph
17 (A) may be used by officers and employees of
18 the Department of Health and Human Services
19 for the purposes of, and to the extent necessary
20 in, establishing the taxpayer’s eligibility for en-
21 rollment or reenrollment in the Medicare pro-
22 gram, or in any administrative or judicial pro-
23 ceeding relating to, or arising from, a denial of
24 such enrollment or reenrollment, or in deter-
25 mining the level of enhanced oversight to be ap-

1 plied with respect to such taxpayer pursuant to
2 section 1866(j)(3) of the Social Security Act.

3 “(C) DELINQUENT TAX DEBT.—For pur-
4 poses of this paragraph, the term ‘delinquent
5 tax debt’ means an outstanding debt under this
6 title for which a notice of lien has been filed
7 pursuant to section 6323, but the term does not
8 include a debt that is being paid in a timely
9 manner pursuant to an agreement under sec-
10 tion 6159 or 7122, or a debt with respect to
11 which a collection due process hearing under
12 section 6330 is requested, pending, or com-
13 pleted and no payment is required.”.

14 (2) CONFORMING AMENDMENTS.—Section
15 6103(p)(4) of such Code, as amended by sections
16 1414 and 3308 of Public Law 111–148, in the mat-
17 ter preceding subparagraph (A) and in subpara-
18 graph (F)(ii), is amended by striking “or (17)” and
19 inserting “(17), or (22)” each place it appears.

20 (b) SECRETARY’S AUTHORITY TO USE INFORMATION
21 FROM THE DEPARTMENT OF TREASURY IN MEDICARE
22 ENROLLMENTS AND REENROLLMENTS.—Section
23 1866(j)(2) of the Social Security Act (42 U.S.C.
24 1395cc(j)), as inserted by section 6401(a) of Public Law
25 111–148, is further amended—

1 (1) by redesignating subparagraph (E) as sub-
2 paragraph (F); and

3 (2) by inserting after subparagraph (D) the fol-
4 lowing new subparagraph:

5 “(E) USE OF INFORMATION FROM THE
6 DEPARTMENT OF TREASURY CONCERNING TAX
7 DEBTS.—In reviewing the application of a pro-
8 vider of services or supplier to enroll or reenroll
9 under the program under this title, the Sec-
10 retary shall take into account the information
11 supplied by the Secretary of the Treasury pur-
12 suant to section 6103(l)(22) of the Internal
13 Revenue Code of 1986, in determining whether
14 to deny such application or to apply enhanced
15 oversight to such provider of services or sup-
16 plier pursuant to paragraph (3) if the Secretary
17 determines such provider of services or supplier
18 owes such a debt.”.

19 (c) AUTHORITY TO ADJUST PAYMENTS OF PRO-
20 VIDERS OF SERVICES AND SUPPLIERS WITH THE SAME
21 TAX IDENTIFICATION NUMBER FOR MEDICARE OBLIGA-
22 TIONS.—Section 1866(j)(5) of the Social Security Act (42
23 U.S.C. 1395cc(j)(5)), as inserted by section 6401(a) of
24 Public Law 111–148, is amended—

1 (1) in the paragraph heading, by striking
2 “PAST-DUE” and inserting “MEDICARE”;

3 (2) in subparagraph (A), by striking “past-due
4 obligations described in subparagraph (B)(ii) of an”
5 and inserting “amount described in subparagraph
6 (B)(ii) due from such”; and

7 (3) in subparagraph (B)(ii), by striking “a
8 past-due obligation” and inserting “an amount that
9 is more than the amount required to be paid”.

10 **SEC. 520. CLARIFICATION OF EFFECTIVE DATE OF PART B**

11 **SPECIAL ENROLLMENT PERIOD FOR DIS-**
12 **ABLED TRICARE BENEFICIARIES.**

13 Effective as if included in the enactment of Public
14 Law 111–148, section 3110(a)(2) of such Act is amended
15 to read as follows:

16 “(2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply to elections made after
18 the date of the enactment of this Act.”.

19 **SEC. 521. PHYSICIAN PAYMENT UPDATE.**

20 (a) IN GENERAL.—Section 1848(d) of the Social Se-
21 curity Act (42 U.S.C. 1395w–4(d)) is amended—

22 (1) in paragraph (10), in the heading, by strik-
23 ing “PORTION” and inserting “THE FIRST 5 MONTHS
24 ”; and

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

3 “(11) UPDATE FOR THE LAST 7 MONTHS OF
4 2010.—

5 “(A) IN GENERAL.—Subject to paragraphs
6 (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of
7 the update to the single conversion factor estab-
8 lished in paragraph (1)(C) that would otherwise
9 apply for 2010 for the period beginning on
10 June 1, 2010, and ending on December 31,
11 2010, the update to the single conversion factor
12 shall be 2.2 percent.

13 “(B) NO EFFECT ON COMPUTATION OF
14 CONVERSION FACTOR FOR 2011 AND SUBSE-
15 QUENT YEARS.—The conversion factor under
16 this subsection shall be computed under para-
17 graph (1)(A) for 2011 and subsequent years as
18 if subparagraph (A) had never applied.

19 “(12) UPDATE FOR 2011.—

20 “(A) IN GENERAL.—Subject to paragraphs
21 (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in
22 lieu of the update to the single conversion fac-
23 tor established in paragraph (1)(C) that would
24 otherwise apply for 2011, the update to the sin-
25 gle conversion factor shall be 1.0 percent.

1 “(B) NO EFFECT ON COMPUTATION OF
2 CONVERSION FACTOR FOR 2012 AND SUBSE-
3 QUENT YEARS.—The conversion factor under
4 this subsection shall be computed under para-
5 graph (1)(A) for 2012 and subsequent years as
6 if subparagraph (A) had never applied.”.

7 (b) STATUTORY PAYGO.—The budgetary effects of
8 this Act, for the purpose of complying with the Statutory
9 Pay-As-You-Go Act of 2010, shall be determined by ref-
10 erence to the latest statement titled “Budgetary Effects
11 of PAYGO Legislation” for this Act, jointly submitted for
12 printing in the Congressional Record by the Chairmen of
13 the House and Senate Budget Committees, provided that
14 such statement has been submitted prior to the vote on
15 passage in the House acting first on this conference report
16 or amendment between the Houses.

17 **SEC. 522. ADJUSTMENT TO MEDICARE PAYMENT LOCAL-**
18 **ITIES.**

19 (a) IN GENERAL.—Section 1848(e) of the Social Se-
20 curity Act (42 U.S.C.1395w-4(e)) is amended by adding
21 at the end the following new paragraph:

22 “(6) TRANSITION TO USE OF MSAS AS FEE
23 SCHEDULE AREAS IN CALIFORNIA.—

24 “(A) IN GENERAL.—

1 “(i) REVISION.—Subject to clause (ii)
2 and notwithstanding the previous provi-
3 sions of this subsection, for services fur-
4 nished on or after January 1, 2012, the
5 Secretary shall revise the fee schedule
6 areas used for payment under this section
7 applicable to the State of California using
8 the Metropolitan Statistical Area (MSA)
9 iterative Geographic Adjustment Factor
10 methodology as follows:

11 “(I) The Secretary shall con-
12 figure the physician fee schedule areas
13 using the Metropolitan Statistical
14 Areas (each in this paragraph referred
15 to as an ‘MSA’), as defined by the Di-
16 rector of the Office of Management
17 and Budget as of the date of the en-
18 actment of this paragraph, as the
19 basis for the fee schedule areas.

20 “(II) For purposes of this clause,
21 the Secretary shall treat all areas not
22 included in an MSA as a single rest-
23 of-State MSA and any reference in
24 this paragraph to an MSA shall be

1 deemed to include a reference to such
2 rest-of-State MSA.

3 “(III) The Secretary shall list all
4 MSAs within the State by Geographic
5 Adjustment Factor described in para-
6 graph (2) (in this paragraph referred
7 to as a ‘GAF’) in descending order.

8 “(IV) In the first iteration, the
9 Secretary shall compare the GAF of
10 the highest cost MSA in the State to
11 the weighted-average GAF of all the
12 remaining MSAs in the State. If the
13 ratio of the GAF of the highest cost
14 MSA to the weighted-average of the
15 GAF of remaining lower cost MSAs is
16 1.05 or greater, the highest cost MSA
17 shall be a separate fee schedule area.

18 “(V) In the next iteration, the
19 Secretary shall compare the GAF of
20 the MSA with the second-highest
21 GAF to the weighted-average GAF of
22 the all the remaining MSAs (excluding
23 MSAs that become separate fee sched-
24 ule areas). If the ratio of the second-
25 highest MSA’s GAF to the weighted-

1 average of the remaining lower cost
2 MSAs is 1.05 or greater, the second-
3 highest MSA shall be a separate fee
4 schedule area.

5 “(VI) The iterative process shall
6 continue until the ratio of the GAF of
7 the MSA with highest remaining GAF
8 to the weighted-average of the remain-
9 ing MSAs with lower GAFs is less
10 than 1.05, and the remaining group of
11 MSAs with lower GAFs shall be treat-
12 ed as a single rest-of-State fee sched-
13 ule area.

14 “(VII) For purposes of the
15 iterative process described in this
16 clause, if two MSAs have identical
17 GAFs, they shall be combined.

18 “(ii) TRANSITION.—For services fur-
19 nished on or after January 1, 2012, and
20 before January 1, 2017, in the State of
21 California, after calculating the work, prac-
22 tice expense, and malpractice geographic
23 indices that would otherwise be determined
24 under clauses (i), (ii), and (iii) of para-
25 graph (1)(A) for a fee schedule area deter-

1 mined under clause (i), if the index for a
2 county within a fee schedule area is less
3 than the index that would otherwise be in
4 effect for such county, the Secretary shall
5 instead apply the index that would other-
6 wise be in effect for such county.

7 “(B) SUBSEQUENT REVISIONS.—After the
8 transition described in subparagraph (A)(ii),
9 not less than every 3 years the Secretary shall
10 review and update the fee schedule areas using
11 the methodology described in subparagraph
12 (A)(i) and any updated MSAs as defined by the
13 Director of the Office of Management and
14 Budget. The Secretary shall review and make
15 any changes pursuant to such reviews concu-
16 rent with the application of the periodic review
17 of the adjustment factors required under para-
18 graph (1)(C) for California.

19 “(C) REFERENCES TO FEE SCHEDULE
20 AREAS.—Effective for services furnished on or
21 after January 1, 2012, for the State of Cali-
22 fornia, any reference in this section to a fee
23 schedule area shall be deemed a reference to a
24 fee schedule area established in accordance with
25 this paragraph.”.

1 (b) CONFORMING AMENDMENT TO DEFINITION OF
2 FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social
3 Security Act (42 U.S.C. 1395w(j)(2)) is amended by strik-
4 ing “The term” and inserting “Except as provided in sub-
5 section (e)(6)(C), the term”.

6 **SEC. 523. CLARIFICATION OF 3-DAY PAYMENT WINDOW.**

7 (a) IN GENERAL.—Section 1886 of the Social Secu-
8 rity Act (42 U.S.C. 1395ww) is amended—

9 (1) by adding at the end of subsection (a)(4)
10 the following new sentence: “In applying the first
11 sentence of this paragraph, the term ‘other services
12 related to the admission’ includes all services that
13 are not diagnostic services (other than ambulance
14 and maintenance renal dialysis services) for which
15 payment may be made under this title that are pro-
16 vided by a hospital (or an entity wholly owned or op-
17 erated by the hospital) to a patient—

18 “(A) on the date of the patient’s inpatient
19 admission; or

20 “(B) during the 3 days (or, in the case of
21 a hospital that is not a subsection (d) hospital,
22 during the 1 day) immediately preceding the
23 date of such admission unless the hospital dem-
24 onstrates (in a form and manner, and at a
25 time, specified by the Secretary) that such serv-

1 ices are not related (as determined by the Sec-
2 retary) to such admission.”; and

3 (2) in subsection (d)(7)—

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

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

8 (C) by adding at the end the following new
9 subparagraph:

10 “(C) the determination of whether services
11 provided prior to a patient’s inpatient admis-
12 sion are related to the admission (as described
13 in subsection (a)(4)).”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 subsection (a) shall apply to services furnished on or after
16 the date of the enactment of this Act.

17 (c) **NO REOPENING OF PREVIOUSLY BUNDLED**
18 **CLAIMS.**—

19 (1) **IN GENERAL.**—The Secretary of Health and
20 Human Services may not reopen a claim, adjust a
21 claim, or make a payment pursuant to any request
22 for payment under title XVIII of the Social Security
23 Act, submitted by an entity (including a hospital or
24 an entity wholly owned or operated by the hospital)
25 for services described in paragraph (2) for purposes

1 of treating, as unrelated to a patient's inpatient ad-
2 mission, services provided during the 3 days (or, in
3 the case of a hospital that is not a subsection (d)
4 hospital, during the 1 day) immediately preceding
5 the date of the patient's inpatient admission.

6 (2) SERVICES DESCRIBED.—For purposes of
7 paragraph (1), the services described in this para-
8 graph are other services related to the admission (as
9 described in section 1886(a)(4) of the Social Secu-
10 rity Act (42 U.S.C. 1395ww(a)(4)), as amended by
11 subsection (a)) which were previously included on a
12 claim or request for payment submitted under part
13 A of title XVIII of such Act for which a reopening,
14 adjustment, or request for payment under part B of
15 such title, was not submitted prior to the date of the
16 enactment of this Act.

17 (d) IMPLEMENTATION.—Notwithstanding any other
18 provision of law, the Secretary of Health and Human
19 Services may implement the provisions of this section (and
20 amendments made by this section) by program instruction
21 or otherwise.

22 (e) RULE OF CONSTRUCTION.—Nothing in the
23 amendments made by this section shall be construed as
24 changing the policy described in section 1886(a)(4) of the
25 Social Security Act (42 U.S.C. 1395ww(a)(4)), as applied

1 by the Secretary of Health and Human Services before
2 the date of the enactment of this Act, with respect to diag-
3 nostic services.

4 **SEC. 524. EXTENSION OF ARRA INCREASE IN FMAP.**

5 Section 5001 of the American Recovery and Reinvest-
6 ment Act of 2009 (Public Law 111–5) is amended—

7 (1) in subsection (a)(3), by striking “first cal-
8 endar quarter” and inserting “first 3 calendar quar-
9 ters”;

10 (2) in subsection (c)—

11 (A) in paragraph (2)(B), by striking “July
12 1, 2010” and inserting “January 1, 2011”;

13 (B) in paragraph (3)(B)(i), by striking
14 “July 1, 2010” and inserting “January 1,
15 2011” each place it appears; and

16 (C) in paragraph (4)(C)(ii), by striking
17 “the 3-consecutive-month period beginning with
18 January 2010” and inserting “any 3-consecu-
19 tive-month period that begins after December
20 2009 and ends before January 2011”;

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

23 “Notwithstanding paragraph (5), effective for payments
24 made on or after January 1, 2010, the increases in the
25 FMAP for a State under this section shall apply to pay-

1 ments under title XIX of such Act that are attributable
2 to expenditures for medical assistance provided to non-
3 pregnant childless adults made eligible under a State plan
4 under such title (including under any waiver under such
5 title or under section 1115 of such Act (42 U.S.C. 1315))
6 who would have been eligible for child health assistance
7 or other health benefits under eligibility standards in ef-
8 fect as of December 31, 2009, of a waiver of the State
9 child health plan under the title XXI of such Act.”;

10 (4) in subsection (g)—

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

14 (B) in paragraph (2), by inserting “of such
15 Act” after “1923”; and

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

17 “(3) CERTIFICATION BY CHIEF EXECUTIVE OF-
18 FICER.—No additional Federal funds shall be paid
19 to a State as a result of this section with respect to
20 a calendar quarter occurring during the period be-
21 ginning on January 1, 2011, and ending on June
22 30, 2011, unless, not later than 45 days after the
23 date of enactment of this paragraph, the chief execu-
24 tive officer of the State certifies that the State will

1 request and use such additional Federal funds.”;

2 and

3 (5) in subsection (h)(3), by striking “December

4 31, 2010” and inserting “June 30, 2011”.

5 **TITLE VI—OTHER PROVISIONS**

6 **SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE**

7 **PROGRAM.**

8 (a) EXTENSION.—Section 129 of the Continuing Ap-
9 propriations Resolution, 2010 (Public Law 111–68), as
10 amended by section 7(a) of Public Law 111–157, is
11 amended by striking “by substituting” and all that follows
12 through the period at the end, and inserting “by sub-
13 stituting December 31, 2010, for the date specified in each
14 such section.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall be considered to have taken effect on
17 May 31, 2010.

18 **SEC. 602. ALLOCATION OF GEOTHERMAL RECEIPTS.**

19 Notwithstanding any other provision of law, for fiscal
20 year 2010 only, all funds received from sales, bonuses,
21 royalties, and rentals under the Geothermal Steam Act of
22 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the
23 Treasury, of which—

24 (1) 50 percent shall be used by the Secretary
25 of the Treasury to make payments to States within

1 the boundaries of which the leased land and geo-
2 thermal resources are located;

3 (2) 25 percent shall be used by the Secretary
4 of the Treasury to make payments to the counties
5 within the boundaries of which the leased land or
6 geothermal resources are located; and

7 (3) 25 percent shall be deposited in miscella-
8 neous receipts.

9 **SEC. 603. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**
10 **MENT EXTENSIONS.**

11 (a) APPROPRIATION.—There is appropriated, out of
12 any funds in the Treasury not otherwise appropriated, for
13 an additional amount for “Small Business Administra-
14 tion—Business Loans Program Account”, \$505,000,000,
15 to remain available through December 31, 2010, for the
16 cost of—

17 (1) fee reductions and eliminations under sec-
18 tion 501 of division A of the American Recovery and
19 Reinvestment Act of 2009 (Public Law 111–5; 123
20 Stat. 151), as amended by this section; and

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

1 Such costs, including the cost of modifying such loans,
2 shall be as defined in section 502 of the Congressional
3 Budget Act of 1974.

4 (b) EXTENSION OF PROGRAMS.—

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

10 (2) LOAN GUARANTEES.—Section 502(f) of di-
11 vision A of the American Recovery and Reinvest-
12 ment Act of 2009 (Public Law 111–5; 123 Stat.
13 153) is amended by striking “May 31, 2010” and
14 inserting “December 31, 2010”.

15 (c) APPROPRIATION.—There is appropriated for an
16 additional amount, out of any funds in the Treasury not
17 otherwise appropriated, for administrative expenses to
18 carry out sections 501 and 502 of division A of the Amer-
19 ican Recovery and Reinvestment Act of 2009 (Public Law
20 111–5), \$5,000,000, to remain available until expended,
21 which may be transferred and merged with the appropria-
22 tion for “Small Business Administration—Salaries and
23 Expenses”.

1 **SEC. 604. EMERGENCY AGRICULTURAL DISASTER ASSIST-**
2 **ANCE.**

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

5 (1) DISASTER COUNTY.—

6 (A) IN GENERAL.—The term “disaster
7 county” means a county included in the geo-
8 graphic area covered by a qualifying natural
9 disaster declaration for the 2009 crop year.

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

12 (2) ELIGIBLE AQUACULTURE PRODUCER.—The
13 term “eligible aquaculture producer” means an
14 aquaculture producer that during the 2009 calendar
15 year, as determined by the Secretary—

16 (A) produced an aquaculture species for
17 which feed costs represented a substantial per-
18 centage of the input costs of the aquaculture
19 operation; and

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

23 (3) ELIGIBLE PRODUCER.—The term “eligible
24 producer” means an agricultural producer in a dis-
25 aster county.

1 (4) ELIGIBLE SPECIALTY CROP PRODUCER.—

2 The term “eligible specialty crop producer” means
3 an agricultural producer that, for the 2009 crop
4 year, as determined by the Secretary—

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

7 (B) experienced specialty crop losses in a
8 disaster county due to drought, excessive rain-
9 fall, or a related condition.

10 (5) QUALIFYING NATURAL DISASTER DECLARA-

11 TION.—The term “qualifying natural disaster dec-
12 laration” means a natural disaster declared by the
13 Secretary for production losses under section 321(a)
14 of the Consolidated Farm and Rural Development
15 Act (7 U.S.C. 1961(a)).

16 (6) SECRETARY.—The term “Secretary” means
17 the Secretary of Agriculture.

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

22 (b) SUPPLEMENTAL DIRECT PAYMENT.—

23 (1) IN GENERAL.—Of the funds of the Com-
24 modity Credit Corporation, the Secretary shall use
25 such sums as are necessary to make supplemental

1 payments under sections 1103 and 1303 of the
2 Food, Conservation, and Energy Act of 2008 (7
3 U.S.C. 8713, 8753) to eligible producers on farms
4 located in disaster counties that had at least 1 crop
5 of economic significance (other than specialty crops
6 or crops intended for grazing) suffer at least a 5-
7 percent crop loss on a farm due to a natural dis-
8 aster, including quality losses, as determined by the
9 Secretary, in an amount equal to 90 percent of the
10 direct payment the eligible producers received for the
11 2009 crop year on the farm.

12 (2) ACRE PROGRAM.—Eligible producers that
13 received direct payments under section 1105 of the
14 Food, Conservation, and Energy Act of 2008 (7
15 U.S.C. 8715) for the 2009 crop year and that other-
16 wise meet the requirements of paragraph (1) shall
17 be eligible to receive supplemental payments under
18 that paragraph in an amount equal to 112.5 percent
19 of the reduced direct payment the eligible producers
20 received for the 2009 crop year under section 1103
21 or 1303 of the Food, Conservation, and Energy Act
22 of 2008 (7 U.S.C. 8713, 8753).

23 (3) RELATIONSHIP TO OTHER LAW.—Assistance
24 received under this subsection shall be included in
25 the calculation of farm revenue for the 2009 crop

1 year under section 531(b)(4)(A) of the Federal Crop
2 Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section
3 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.
4 2497(b)(4)(A)).

5 (c) SPECIALTY CROP ASSISTANCE.—

6 (1) IN GENERAL.—Of the funds of the Com-
7 modity Credit Corporation, the Secretary shall use
8 not more than \$300,000,000, to remain available
9 until September 30, 2011, to carry out a program
10 of grants to States to assist eligible specialty crop
11 producers for losses due to a natural disaster affect-
12 ing the 2009 crops, of which not more than—

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

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

21 (2) NOTIFICATION.—Not later than 45 days
22 after the date of enactment of this Act, the Sec-
23 retary shall notify the State department of agri-
24 culture (or similar entity) in each State of the avail-
25 ability of funds to assist eligible specialty crop pro-

1 ducers, including such terms as are determined by
2 the Secretary to be necessary for the equitable treat-
3 ment of eligible specialty crop producers.

4 (3) PROVISION OF GRANTS.—

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

10 (B) ADMINISTRATIVE COSTS.—State Sec-
11 retary of Agriculture may not use more than
12 five percent of the funds provided for costs as-
13 sociated with the administration of the grants
14 provided in paragraph (1).

15 (C) ADMINISTRATION OF GRANTS.—State
16 Secretary of Agriculture may enter into a con-
17 tract with the Department of Agriculture to ad-
18 minister the grants provided in paragraph (1).

19 (D) TIMING.—Not later than 90 days after
20 the date of enactment of this Act, the Secretary
21 shall make grants to States to provide assist-
22 ance under this subsection.

23 (E) MAXIMUM GRANT.—The maximum
24 amount of a grant made to a State for counties

1 described in paragraph (1)(B) may not exceed
2 \$40,000,000.

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

7 (A) use grant funds to issue payments to
8 eligible specialty crop producers;

9 (B) provide assistance to eligible specialty
10 crop producers not later than 60 days after the
11 date on which the State receives grant funds;
12 and

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

17 (i) the manner in which the State pro-
18 vided assistance;

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

21 (iii) the process by which the State
22 determined the levels of assistance to eligi-
23 ble specialty crop producers.

24 (D) RELATION TO OTHER LAW.—Assist-
25 ance received under this subsection shall be in-

1 cluded in the calculation of farm revenue for
2 the 2009 crop year under section 531(b)(4)(A)
3 of the Federal Crop Insurance Act (7 U.S.C.
4 1531(b)(4)(A)) and section 901(b)(4)(A) of the
5 Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

6 (d) COTTONSEED ASSISTANCE.—

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

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

19 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-
20 retary shall distribute assistance to first handlers for
21 the benefit of eligible producers in a disaster county
22 in an amount equal to the product obtained by mul-
23 tiplying—

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

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

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

5 (A) the total funds made available to carry
6 out this subsection; by

7 (B) the sum of the county-eligible produc-
8 tion, as determined under paragraph (5).

9 (5) COUNTY-ELIGIBLE PRODUCTION.—The
10 county-eligible production shall be equal to the prod-
11 uct obtained by multiplying—

12 (A) the number of acres planted to cotton
13 in the disaster county, as reported to the Sec-
14 retary by first handlers;

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

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

25 (e) AQUACULTURE ASSISTANCE.—

1 (1) IN GENERAL.—Of the funds of the Com-
2 modity Credit Corporation, the Secretary shall use
3 not more than \$25,000,000, to remain available
4 until September 30, 2011, to carry out a program
5 of grants to States to assist eligible aquaculture pro-
6 ducers for losses associated with high feed input
7 costs during the 2009 calendar year.

8 (2) NOTIFICATION.—Not later than 45 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 aquaculture pro-
13 ducers, including such terms as are determined by
14 the Secretary to be necessary for the equitable treat-
15 ment of eligible aquaculture producers.

16 (3) PROVISION OF GRANTS.—

17 (A) IN GENERAL.—The Secretary shall
18 make grants to States under this subsection on
19 a pro rata basis based on the amount of aqua-
20 culture feed used in each State during the 2009
21 calendar year, as determined by the Secretary.

22 (B) TIMING.—Not later than 90 days after
23 the date of enactment of this Act, the Secretary
24 shall make grants to States to provide assist-
25 ance under this subsection.

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

5 (A) use grant funds to assist eligible aqua-
6 culture producers;

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

11 (C) not later than 30 days after the date
12 on which the State provides assistance to eligi-
13 ble aquaculture producers, submit to the Sec-
14 retary a report that describes—

15 (i) the manner in which the State pro-
16 vided assistance;

17 (ii) the amounts of assistance pro-
18 vided per species of aquaculture; and

19 (iii) the process by which the State
20 determined the levels of assistance to eligi-
21 ble aquaculture producers.

22 (5) REDUCTION IN PAYMENTS.—An eligible
23 aquaculture producer that receives assistance under
24 this subsection shall not be eligible to receive any
25 other assistance under the supplemental agricultural

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

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

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

12 (B) includes the information reported to
13 the Secretary under paragraph (4)(C).

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

22 (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

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

6 (B) INCLUSION.—The term “disaster
7 county” includes a contiguous county.

8 (2) PAYMENTS.—Of the funds of the Com-
9 modity Credit Corporation, the Secretary shall use
10 not more than \$50,000,000 to carry out a program
11 to make payments to eligible producers that had
12 grazing losses in disaster counties in calendar year
13 2009.

14 (3) CRITERIA.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), assistance under this sub-
17 section shall be determined under the same cri-
18 teria as are used to carry out the programs
19 under section 531(d) of the Federal Crop In-
20 surance Act (7 U.S.C. 1531(d)) and section
21 901(d) of the Trade Act of 1974 (19 U.S.C.
22 2497(d)).

23 (B) DROUGHT INTENSITY.—For purposes
24 of this subsection, an eligible producer shall not
25 be required to meet the drought intensity re-

1 quirements of section 531(d)(3)(D)(ii) of the
2 Federal Crop Insurance Act (7 U.S.C.
3 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)
4 of the Trade Act of 1974 (19 U.S.C.
5 2497(d)(3)(D)(ii)).

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

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

19 (h) EMERGENCY LOANS FOR POULTRY PRO-
20 DUCERS.—

21 (1) DEFINITIONS.—In this subsection:

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

1 (B) POULTRY INTEGRATOR.—The term
2 “poultry integrator” means a poultry integrator
3 that filed proceedings under chapter 11 of title
4 11, United States Code, in United States Bank-
5 ruptcy Court during the 30-day period begin-
6 ning on December 1, 2008.

7 (2) LOAN PROGRAM.—

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

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

20 (3) LOANS.—

21 (A) IN GENERAL.—An emergency loan
22 made to a poultry producer under this sub-
23 section shall be for the purpose of providing fi-
24 nancing to the poultry producer in response to
25 financial losses associated with the termination

1 or nonrenewal of any contract between the poul-
2 try producer and a poultry integrator.

3 (B) ELIGIBILITY.—

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

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

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

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

24 (4) ADDITIONAL REQUIREMENTS.—

1 (A) IN GENERAL.—A poultry producer
2 that receives an emergency loan under this sub-
3 section may use the emergency loan proceeds
4 only to repay the amount that the poultry pro-
5 ducer owes to any lender for the purchase, im-
6 provement, or operation of the poultry farm.

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

15 (i) STATE AND LOCAL GOVERNMENTS.—Section
16 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C.
17 1308(f)(6)(A)) is amended by inserting “(other than the
18 conservation reserve program established under sub-
19 chapter B of chapter 1 of subtitle D of title XII of this
20 Act)” before the period at the end.

21 (j) ADMINISTRATION.—

22 (1) REGULATIONS.—

23 (A) IN GENERAL.—As soon as practicable
24 after the date of enactment of this Act, the Sec-
25 retary shall promulgate such regulations as are

1 necessary to implement this section and the
2 amendment made by this section.

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

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

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

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

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

23 (2) ADMINISTRATIVE COSTS.—Of the funds of
24 the Commodity Credit Corporation, the Secretary
25 may use up to \$10,000,000 to pay administrative

1 costs incurred by the Secretary that are directly re-
2 lated to carrying out this Act.

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

7 **SEC. 605. SUMMER EMPLOYMENT FOR YOUTH.**

8 There is appropriated, out of any funds in the Treas-
9 ury not otherwise appropriated, for an additional amount
10 for “Department of Labor—Employment and Training
11 Administration—Training and Employment Services” for
12 activities under the Workforce Investment Act of 1998
13 (“WIA”), \$1,000,000,000 shall be available for obligation
14 on the date of enactment of this Act for grants to States
15 for youth activities, including summer employment for
16 youth: *Provided*, That no portion of such funds shall be
17 reserved to carry out section 127(b)(1)(A) of the WIA:
18 *Provided further*, That for purposes of section
19 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
20 tivities shall be allotted as if the total amount available
21 for youth activities in the fiscal year does not exceed
22 \$1,000,000,000: *Provided further*, That with respect to the
23 youth activities provided with such funds, section
24 101(13)(A) of the WIA shall be applied by substituting
25 “age 24” for “age 21”: *Provided further*, That the work

1 readiness performance indicator described in section
2 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
3 of performance used to assess the effectiveness of summer
4 employment for youth provided with such funds: *Provided*
5 *further*, That an amount that is not more than 1 percent
6 of such amount may be used for the administration, man-
7 agement, and oversight of the programs, activities, and
8 grants carried out with such funds, including the evalua-
9 tion of the use of such funds: *Provided further*, That funds
10 available under the preceding proviso, together with funds
11 described in section 801(a) of division A of the American
12 Recovery and reinvestment Act of 2009 (Public Law 111–
13 5), and funds provided in such Act under the heading
14 “Department of Labor–Departmental Management–Sala-
15 ries and Expenses”, shall remain available for obligation
16 through September 30, 2011.

17 **SEC. 606. HOUSING TRUST FUND.**

18 (a) FUNDING.—There is hereby appropriated for the
19 Housing Trust Fund established pursuant to section 1338
20 of the Federal Housing Enterprises Financial Safety and
21 Soundness Act of 1992 (12 U.S.C. 4568),
22 \$1,065,000,000, for use under such section: *Provided*,
23 That of the total amount provided under this heading,
24 \$65,000,000 shall be available to the Secretary of Housing
25 and Urban Development only for incremental project-

1 based voucher assistance to be allocated to States to be
2 used solely in conjunction with grant funds awarded under
3 such section 1338, pursuant to the formula established
4 under section 1338 and taking into account different per
5 unit subsidy needs among states, as determined by the
6 Secretary.

7 (b) AMENDMENTS.—Section 1338 of the Federal
8 Housing Enterprises Financial Safety and Soundness Act
9 of 1992 (12 U.S.C. 4568) is amended—

10 (1) in subsection (c)—

11 (A) in paragraph (4)(A) by inserting after
12 the period at the end the following: “Notwith-
13 standing any other provision of law, for the fis-
14 cal year following enactment of this sentence
15 and thereafter, the Secretary may make such
16 notice available only on the Internet at the ap-
17 propriate government website or websites or
18 through other electronic media, as determined
19 by the Secretary.”;

20 (B) in paragraph (5)(C), by striking “(8)”
21 and inserting “(9)”; and

22 (C) in paragraph (7)(A)—

23 (i) by striking “section
24 1335(a)(2)(B)” and inserting “section
25 1335(a)(1)(B)”; and

1 (ii) by inserting “the units funded
2 under” after “75 percent of”; and

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

5 “(k) ENVIRONMENTAL REVIEW.—For the purpose of
6 environmental compliance review, funds awarded under
7 this section shall be subject to section 288 of the HOME
8 Investment Partnerships Act (12 U.S.C. 12838) and shall
9 be treated as funds under the program established by such
10 Act.”.

11 **SEC. 607. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITI-**
12 **GATION SETTLEMENT ACT OF 2010.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Individual Indian Money Account Litigation Settlement
15 Act of 2010”.

16 (b) DEFINITIONS.—In this section:

17 (1) AMENDED COMPLAINT.—The term
18 “Amended Complaint” means the Amended Com-
19 plaint attached to the Settlement.

20 (2) LAND CONSOLIDATION PROGRAM.—The
21 term “Land Consolidation Program” means a pro-
22 gram conducted in accordance with the Settlement
23 and the Indian Land Consolidation Act (25 U.S.C.
24 2201 et seq.) under which the Secretary may pur-
25 chase fractional interests in trust or restricted land.

1 (3) LITIGATION.—The term “Litigation” means
2 the case entitled *Elouise Cobell et al. v. Ken Salazar*
3 *et al.*, United States District Court, District of Co-
4 lumbia, Civil Action No. 96–1285 (JR).

5 (4) PLAINTIFF.—The term “Plaintiff” means a
6 member of any class certified in the Litigation.

7 (5) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (6) SETTLEMENT.—The term “Settlement”
10 means the Class Action Settlement Agreement dated
11 December 7, 2009, in the Litigation, as modified by
12 the parties to the Litigation.

13 (7) TRUST ADMINISTRATION CLASS.—The term
14 “Trust Administration Class” means the Trust Ad-
15 ministration Class as defined in the Settlement.

16 (c) PURPOSE.—The purpose of this section is to au-
17 thorize the Settlement.

18 (d) AUTHORIZATION.—The Settlement is authorized,
19 ratified, and confirmed.

20 (e) JURISDICTIONAL PROVISIONS.—

21 (1) IN GENERAL.—Notwithstanding the limita-
22 tion of jurisdiction of district courts contained in
23 section 1346(a)(2) of title 28, United States Code,
24 the United States District Court for the District of
25 Columbia shall have jurisdiction over the claims as-

1 serted in the Amended Complaint for purposes of
2 the Settlement.

3 (2) CERTIFICATION OF TRUST ADMINISTRATION
4 CLASS.—

5 (A) IN GENERAL.—Notwithstanding the
6 requirements of the Federal Rules of Civil Pro-
7 cedure, the court overseeing the Litigation may
8 certify the Trust Administration Class.

9 (B) TREATMENT.—On certification under
10 subparagraph (A), the Trust Administration
11 Class shall be treated as a class under Federal
12 Rule of Civil Procedure 23(b)(3) for purposes
13 of the Settlement.

14 (f) TRUST LAND CONSOLIDATION.—

15 (1) TRUST LAND CONSOLIDATION FUND.—

16 (A) ESTABLISHMENT.—On final approval
17 (as defined in the Settlement) of the Settle-
18 ment, there shall be established in the Treasury
19 of the United States a fund, to be known as the
20 “Trust Land Consolidation Fund”.

21 (B) AVAILABILITY OF AMOUNTS.—
22 Amounts in the Trust Land Consolidation
23 Fund shall be made available to the Secretary
24 during the 10-year period beginning on the date
25 of final approval of the Settlement—

1 (i) to conduct the Land Consolidation
2 Program; and

3 (ii) for other costs specified in the
4 Settlement.

5 (C) DEPOSITS.—

6 (i) IN GENERAL.—On final approval
7 (as defined in the Settlement) of the Set-
8 tlement, the Secretary of the Treasury
9 shall deposit in the Trust Land Consolida-
10 tion Fund \$2,000,000,000 of the amounts
11 appropriated by section 1304 of title 31,
12 United States Code.

13 (ii) CONDITIONS MET.—The condi-
14 tions described in section 1304 of title 31,
15 United States Code, shall be considered to
16 be met for purposes of clause (i).

17 (D) TRANSFERS.—In a manner designed
18 to encourage participation in the Land Consoli-
19 dation Program, the Secretary may transfer, at
20 the discretion of the Secretary, not more than
21 \$60,000,000 of amounts in the Trust Land
22 Consolidation Fund to the Indian Education
23 Scholarship Holding Fund established under
24 paragraph 2.

1 (2) INDIAN EDUCATION SCHOLARSHIP HOLDING
2 FUND.—

3 (A) ESTABLISHMENT.—On the final ap-
4 proval (as defined in the Settlement) of the Set-
5 tlement, there shall be established in the Treas-
6 ury of the United States a fund, to be known
7 as the “Indian Education Scholarship Holding
8 Fund”.

9 (B) AVAILABILITY.—Notwithstanding any
10 other provision of law governing competition,
11 public notification, or Federal procurement or
12 assistance, amounts in the Indian Education
13 Scholarship Holding Fund shall be made avail-
14 able, without further appropriation, to the Sec-
15 retary to contribute to an Indian Education
16 Scholarship Fund, as described in the Settle-
17 ment, to provide scholarships for Native Ameri-
18 cans.

19 (3) ACQUISITION OF TRUST OR RESTRICTED
20 LAND.—The Secretary may acquire, at the discre-
21 tion of the Secretary and in accordance with the
22 Land Consolidation Program, any fractional interest
23 in trust or restricted land.

24 (4) TREATMENT OF UNLOCATABLE PLAIN-
25 TIFFS.—A Plaintiff the whereabouts of whom are

1 unknown and who, after reasonable efforts by the
2 Secretary, cannot be located during the 5 year pe-
3 riod beginning on the date of final approval (as de-
4 fined in the Settlement) of the Settlement shall be
5 considered to have accepted an offer made pursuant
6 to the Land Consolidation Program.

7 (g) TAXATION AND OTHER BENEFITS.—

8 (1) INTERNAL REVENUE CODE.—For purposes
9 of the Internal Revenue Code of 1986, amounts re-
10 ceived by an individual Indian as a lump sum or a
11 periodic payment pursuant to the Settlement—

12 (A) shall not be included in gross income;
13 and

14 (B) shall not be taken into consideration
15 for purposes of applying any provision of the
16 Internal Revenue Code of 1986 that takes into
17 account excludible income in computing ad-
18 justed gross income or modified adjusted gross
19 income, including section 86 of that Code (re-
20 lating to Social Security and tier 1 railroad re-
21 tirement benefits).

22 (2) OTHER BENEFITS.—Notwithstanding any
23 other provision of law, for purposes of determining
24 initial eligibility, ongoing eligibility, or level of bene-
25 fits under any Federal or federally assisted program,

1 amounts received by an individual Indian as a lump
2 sum or a periodic payment pursuant to the Settle-
3 ment shall not be treated for any household member,
4 during the 1-year period beginning on the date of re-
5 ceipt—

6 (A) as income for the month during which
7 the amounts were received; or

8 (B) as a resource.

9 **SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
10 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
11 **ERS DISCRIMINATION LITIGATION.**

12 (a) DEFINITIONS.—In this section:

13 (1) SETTLEMENT AGREEMENT.—The term
14 “Settlement Agreement” means the settlement
15 agreement dated February 18, 2010 (including any
16 modifications agreed to by the parties and approved
17 by the court under that agreement) between certain
18 plaintiffs, by and through their counsel, and the Sec-
19 retary of Agriculture to resolve, fully and forever,
20 the claims raised or that could have been raised in
21 the cases consolidated in *In re Black Farmers Dis-*
22 *crimination Litigation*, No. 08–511 (D.D.C.), in-
23 cluding Pigford claims asserted under section 14012
24 of the Food, Conservation, and Energy Act of 2008
25 (Public Law 110–246; 122 Stat. 2209).

1 (2) PIGFORD CLAIM.—The term “Pigford
2 claim” has the meaning given that term in section
3 14012(a)(3) of the Food, Conservation, and Energy
4 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

5 (b) APPROPRIATION OF FUNDS.—There is hereby ap-
6 propriated to the Secretary of Agriculture
7 \$1,150,000,000, to remain available until expended, to
8 carry out the terms of the Settlement Agreement if the
9 Settlement Agreement is approved by a court order that
10 is or becomes final and nonappealable. The funds appro-
11 priated by this subsection are in addition to the
12 \$100,000,000 of funds of the Commodity Credit Corpora-
13 tion made available by section 14012(i) of the Food, Con-
14 servation, and Energy Act of 2008 (Public Law 110–246;
15 122 Stat. 2212) and shall be available for obligation only
16 after those Commodity Credit Corporation funds are fully
17 obligated. If the Settlement Agreement is not approved as
18 provided in this subsection, the \$100,000,000 of funds of
19 the Commodity Credit Corporation made available by sec-
20 tion 14012(i) of the Food, Conservation, and Energy Act
21 of 2008 shall be the sole funding available for Pigford
22 claims.

23 (c) USE OF FUNDS.—The use of the funds appro-
24 priated by subsection (b) shall be subject to the express
25 terms of the Settlement Agreement.

1 (d) TREATMENT OF REMAINING FUNDS.—If any of
2 the funds appropriated by subsection (b) are not obligated
3 and expended to carry out the Settlement Agreement, the
4 Secretary of Agriculture shall return the unused funds to
5 the Treasury and may not make the unused funds avail-
6 able for any purpose related to section 14012 of the Food,
7 Conservation, and Energy Act of 2008, for any other set-
8 tlement agreement executed in *In re Black Farmers Dis-*
9 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
10 other purpose.

11 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed as requiring the United States, any
13 of its officers or agencies, or any other party to enter into
14 the Settlement Agreement or any other settlement agree-
15 ment. Nothing in this section shall be construed as cre-
16 ating the basis for a Pigford claim.

17 (f) CONFORMING AMENDMENTS.—Section 14012 of
18 the Food, Conservation, and Energy Act of 2008 (Public
19 Law 110–246; 122 Stat. 2209) is amended—

20 (1) in subsection (c)(1)—

21 (A) by striking “subsection (h)” and in-
22 serting “subsection (g)”; and

23 (B) by striking “subsection (i)” and insert-
24 ing “subsection (h)”;
25 (2) by striking subsection (e);

1 (3) in subsection (g), by striking “subsection
2 (f)” and inserting “subsection (e)”;

3 (4) in subsection (i)—

4 (A) by striking “(1) IN GENERAL.—Of the
5 funds” and inserting “Of the funds”; and

6 (B) by striking paragraph (2);

7 (5) by striking subsection (j); and

8 (6) by redesignating subsections (f), (g), (h),
9 (i), and (k) as subsections (e), (f), (g), (h), and (i),
10 respectively.

11 **SEC. 609. EXPANSION OF ELIGIBILITY FOR CONCURRENT**
12 **RECEIPT OF MILITARY RETIRED PAY AND**
13 **VETERANS’ DISABILITY COMPENSATION TO**
14 **INCLUDE ALL CHAPTER 61 DISABILITY RE-**
15 **TIREES REGARDLESS OF DISABILITY RATING**
16 **PERCENTAGE OR YEARS OF SERVICE.**

17 (a) PHASED EXPANSION CONCURRENT RECEIPT.—

18 Subsection (a) of section 1414 of title 10, United States
19 Code, is amended to read as follows:

20 “(a) PAYMENT OF BOTH RETIRED PAY AND DIS-
21 ABILITY COMPENSATION.—

22 “(1) PAYMENT OF BOTH REQUIRED.—

23 “(A) IN GENERAL.—Subject to subsection
24 (b), a member or former member of the uni-
25 formed services who is entitled for any month

1 to retired pay and who is also entitled for that
2 month to veterans' disability compensation for a
3 qualifying service-connected disability (in this
4 section referred to as a 'qualified retiree') is en-
5 titled to be paid both for that month without
6 regard to sections 5304 and 5305 of title 38.

7 “(B) APPLICABILITY OF FULL CONCUR-
8 RENT RECEIPT PHASE-IN REQUIREMENT.—Dur-
9 ing the period beginning on January 1, 2004,
10 and ending on December 31, 2013, payment of
11 retired pay to a qualified retiree is subject to
12 subsection (c).

13 “(C) PHASE-IN EXCEPTION FOR 100 PER-
14 CENT DISABLED RETIREES.—The payment of
15 retired pay is subject to subsection (c) only dur-
16 ing the period beginning on January 1, 2004,
17 and ending on December 31, 2004, in the case
18 of the following qualified retirees:

19 “(i) A qualified retiree receiving vet-
20 erans' disability compensation for a dis-
21 ability rated as 100 percent.

22 “(ii) A qualified retiree receiving vet-
23 erans' disability compensation at the rate
24 payable for a 100 percent disability by rea-

1 son of a determination of individual
2 unemployability.

3 “(D) TEMPORARY PHASE-IN EXCEPTION
4 FOR CERTAIN CHAPTER 61 DISABILITY RETIR-
5 EES; TERMINATION.—Subject to subsection (b),
6 during the period beginning on January 1,
7 2011, and ending on September 30, 2012, sub-
8 section (c) shall not apply to a qualified retiree
9 described in subparagraph (B) or (C) of para-
10 graph (2).

11 “(2) QUALIFYING SERVICE-CONNECTED DIS-
12 ABILITY DEFINED.—In this section:

13 “(A) 50 PERCENT RATING THRESHOLD.—
14 In the case of a member or former member re-
15 ceiving retired pay under any provision of law
16 other than chapter 61 of this title, or under
17 chapter 61 with 20 years or more of service
18 otherwise creditable under section 1405 or com-
19 puted under section 12732 of this title, the
20 term ‘qualifying service-connected disability’
21 means a service-connected disability or com-
22 bination of service-connected disabilities that is
23 rated as not less than 50 percent disabling by
24 the Secretary of Veterans Affairs. However,
25 during the period specified in paragraph (1)(D),

1 members or former members receiving retired
2 pay under chapter 61 with 20 years or more of
3 creditable service computed under section
4 12732 of this title, but not otherwise entitled to
5 retired pay under any other provision of this
6 title, shall qualify in accordance with subpara-
7 graphs (B) and (C).

8 “(B) INCLUSION OF MEMBERS NOT OTH-
9 ERWISE ENTITLED TO RETIRED PAY.—In the
10 case of a member or former member receiving
11 retired pay under chapter 61 of this title, but
12 who is not otherwise entitled to retired pay
13 under any other provision of this title, the term
14 ‘qualifying service-connected disability’ means a
15 service-connected disability or combination of
16 service-connected disabilities that is rated by
17 the Secretary of Veterans Affairs at the dis-
18 abling level specified in one of the following
19 clauses (which, subject to paragraph (3), is ef-
20 fective on or after the date specified in the ap-
21 plicable clause):

22 “(i) January 1, 2011, rated 100 per-
23 cent, or a rate payable at 100 percent by
24 reason of individual unemployability or
25 rated 90 percent.

1 “(ii) January 1, 2012, rated 80 per-
2 cent or 70 percent.

3 “(iii) January 1, 2013, rated 60 per-
4 cent or 50 percent.

5 “(C) ELIMINATION OF RATING THRESH-
6 OLD.—In the case of a member or former mem-
7 ber receiving retired pay under chapter 61 re-
8 gardless of being otherwise eligible for retire-
9 ment, the term ‘qualifying service-connected
10 disability’ means a service-connected disability
11 or combination of service-connected disabilities
12 that is rated by the Secretary of Veterans Af-
13 fairs at the disabling level specified in one of
14 the following clauses (which, subject to para-
15 graph (3), is effective on or after the date speci-
16 fied in the applicable clause):

17 “(i) January 1, 2014, rated 40 per-
18 cent or 30 percent.

19 “(ii) January 1, 2015, any rating.

20 “(3) LIMITED DURATION.—Notwithstanding
21 the effective date specified in each clause of subpara-
22 graphs (B) and (C) of paragraph (2), the clause—

23 “(A) shall apply only if the termination
24 date specified in paragraph (1)(D) would occur

1 during or after the calendar year specified in
2 the clause; and

3 “(B) shall not apply beyond the termi-
4 nation date specified in paragraph (1)(D).”.

5 (b) CONFORMING AMENDMENT TO SPECIAL RULES
6 FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b)
7 of such section is amended to read as follows:

8 “(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY
9 RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED
10 FOR SUCH RETIREES.—

11 “(1) GENERAL REDUCTION RULE.—The retired
12 pay of a member retired under chapter 61 of this
13 title is subject to reduction under sections 5304 and
14 5305 of title 38, but only to the extent that the
15 amount of the members retired pay under chapter
16 61 of this title exceeds the amount of retired pay to
17 which the member would have been entitled under
18 any other provision of law based upon the member’s
19 service in the uniformed services if the member had
20 not been retired under chapter 61 of this title.

21 “(2) CHAPTER 61 RETIREES NOT OTHERWISE
22 ENTITLED TO RETIRED PAY.—

23 “(A) BEFORE TERMINATION DATE.—If a
24 member with a qualifying service-connected dis-
25 ability (as defined in subsection (a)(2)) is re-

1 tired under chapter 61 of this title, but is not
2 otherwise entitled to retired pay under any
3 other provision of this title, and the termination
4 date specified in subsection (a)(1)(D) has not
5 occurred, the retired pay of the member is sub-
6 ject to reduction under sections 5304 and 5305
7 of title 38, but only to the extent that the
8 amount of the member's retired pay under
9 chapter 61 of this title exceeds the amount
10 equal to 2½ percent of the member's years of
11 creditable service multiplied by the member's
12 retired pay base under section 1406(b)(1) or
13 1407 of this title, whichever is applicable to the
14 member.

15 “(B) AFTER TERMINATION DATE.—Sub-
16 section (a) does not apply to a member de-
17 scribed in subparagraph (A) if the termination
18 date specified in subsection (a)(1)(D) has oc-
19 curred.”.

20 (c) CONFORMING AMENDMENT TO FULL CONCUR-
21 RENT RECEIPT PHASE-IN.—Subsection (c) of such section
22 is amended by striking “the second sentence of”.

23 (d) CLERICAL AMENDMENTS.—

24 (1) SECTION HEADING.—The heading of such
25 section is amended to read as follows:

1 **“§ 1414. Concurrent receipt of retired pay and vet-**
2 **erans’ disability compensation”.**

3 (2) TABLE OF SECTIONS.—The table of sections
4 at the beginning of chapter 71 of such title is
5 amended by striking the item related to section 1414
6 and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans’ disability compensa-
tion.”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2011.

9 **SEC. 610. EXTENSION OF USE OF 2009 POVERTY GUIDE-**
10 **LINES.**

11 Section 1012 of the Department of Defense Appro-
12 priations Act, 2010 (Public Law 111–118), as amended
13 by section 6 of the Continuing Extension Act of 2010
14 (Public Law 111–157), is amended—

15 (1) by striking “before May 31, 2010”; and

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

18 **SEC. 611. REFUNDS DISREGARDED IN THE ADMINISTRA-**
19 **TION OF FEDERAL PROGRAMS AND FEDER-**
20 **ALLY ASSISTED PROGRAMS.**

21 (a) IN GENERAL.—Subchapter A of chapter 65 of the
22 Internal Revenue Code of 1986 is amended by adding at
23 the end the following new section:

1 **“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRA-**
2 **TION OF FEDERAL PROGRAMS AND FEDER-**
3 **ALLY ASSISTED PROGRAMS.**

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

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

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

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

20 (c) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to amounts received after Decem-
22 ber 31, 2009.

1 **SEC. 612. STATE COURT IMPROVEMENT PROGRAM.**

2 Section 438 of the Social Security Act (42 U.S.C.
3 629h) is amended—

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

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

8 **SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.**

9 (a) DEFINITIONS.—In this section:

10 (1) QUALIFYING CONTRACT.—The term “quali-
11 fying contract” means a contract that has not been
12 terminated by the Bureau of Land Management for
13 the sale of timber on lands administered by the Bu-
14 reau of Land Management that meets all of the fol-
15 lowing criteria:

16 (A) The contract was awarded during the
17 period beginning on January 1, 2005, and end-
18 ing on December 31, 2008.

19 (B) There is unharvested volume remain-
20 ing for the contract.

21 (C) The contract is not a salvage sale.

22 (D) The Secretary determined there is not
23 an urgent need to harvest under the contract
24 due to deteriorating timber conditions that de-
25 veloped after the award of the contract.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior, acting through the Di-
3 rector of Bureau of Land Management.

4 (3) TIMBER PURCHASER.—The term “timber
5 purchaser” means the party to the qualifying con-
6 tract for the sale of timber from lands administered
7 by the Bureau of Land Management.

8 (b) MARKET-RELATED CONTRACT EXTENSION OP-
9 TION.—Upon a timber purchaser’s written request, the
10 Secretary may make a one-time modification to the quali-
11 fying contract to add 3 years to the contract expiration
12 date if the written request—

13 (1) is received by the Secretary not later than
14 90 days after the date of enactment of this Act; and

15 (2) contains a provision releasing the United
16 States from all liability, including further consider-
17 ation or compensation, resulting from the modifica-
18 tion under this subsection of the term of a qualifying
19 contract.

20 (c) REPORTING.—Not later than 6 months after the
21 date of the enactment of this Act, the Secretary shall sub-
22 mit to Congress a report detailing a plan and timeline to
23 promulgate new regulations authorizing the Bureau of
24 Land Management to extend timber contracts due to
25 changes in market conditions.

1 (d) REGULATIONS.—Not later than 2 years after the
2 date of the enactment of this Act, the Secretary shall pro-
3 mulgate new regulations authorizing the Bureau of Land
4 Management to extend timber contracts due to changes
5 in market conditions.

6 (e) NO SURRENDER OF CLAIMS.—This section shall
7 not have the effect of surrendering any claim by the
8 United States against any timber purchaser that arose
9 under a timber sale contract, including a qualifying con-
10 tract, before the date on which the Secretary adjusts the
11 contract term under subsection (b).

12 **SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN AL-**
13 **LOCATED SURFACE TRANSPORTATION PRO-**
14 **GRAMS.**

15 (a) MODIFICATION OF ALLOCATION RULES.—Section
16 411(d) of the Surface Transportation Extension Act of
17 2010 (Public Law 111–147; 124 Stat. 80) is amended—

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph

20 (A)—

21 (i) by striking “1301, 1302,”; and

22 (ii) by striking “1198, 1204,”; and

23 (B) in subparagraph (A)—

24 (i) in the matter preceding clause (i)

25 by striking “apportioned under sections

1 104(b) and 144 of title 23, United States
2 Code,” and inserting “specified in section
3 105(a)(2) of title 23, United States Code
4 (except the high priority projects pro-
5 gram),”; and

6 (ii) in clause (ii) by striking “appor-
7 tioned under such sections of such Code”
8 and inserting “specified in such section
9 105(a)(2) (except the high priority projects
10 program)”;

11 (2) in paragraph (2)—

12 (A) in the matter preceding subparagraph

13 (A)—

14 (i) by striking “1301, 1302,”; and

15 (ii) by striking “1198, 1204,”; and

16 (B) in subparagraph (A)—

17 (i) in the matter preceding clause (i)
18 by striking “apportioned under sections
19 104(b) and 144 of title 23, United States
20 Code,” and inserting “specified in section
21 105(a)(2) of title 23, United States Code
22 (except the high priority projects pro-
23 gram),”; and

24 (ii) in clause (ii) by striking “appor-
25 tioned under such sections of such Code”

1 and inserting “specified in such section
2 105(a)(2) (except the high priority projects
3 program)”; and

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

5 “(5) PROJECTS OF NATIONAL AND REGIONAL
6 SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-
7 STRUCTURE IMPROVEMENT PROGRAMS.—

8 “(A) REDISTRIBUTION AMONG STATES.—

9 Notwithstanding sections 1301(m) and 1302(e)
10 of SAFETEA-LU (119 Stat. 1202 and 1205),
11 the Secretary shall apportion funds authorized
12 to be appropriated under subsection (b) for the
13 projects of national and regional significance
14 program and the national corridor infrastruc-
15 ture improvement program among all States
16 such that each State’s share of the funds so ap-
17 portioned is equal to the State’s share for fiscal
18 year 2009 of funds apportioned or allocated for
19 the programs specified in section 105(a)(2) of
20 title 23, United States Code.

21 “(B) DISTRIBUTION AMONG PROGRAMS.—

22 Funds apportioned to a State pursuant to sub-
23 paragraph (A) shall be—

24 “(i) made available to the State for
25 the programs specified in section 105(a)(2)

1 of title 23, United States Code (except the
2 high priority projects program), and in the
3 same proportion for each such program
4 that—

5 “(I) the amount apportioned to
6 the State for that program for fiscal
7 year 2009; bears to

8 “(II) the amount apportioned to
9 the State for fiscal year 2009 for all
10 such programs; and

11 “(ii) administered in the same manner
12 and with the same period of availability as
13 funding is administered under programs
14 identified in clause (i).”.

15 (b) EXPENDITURE AUTHORITY FROM HIGHWAY
16 TRUST FUND.—Paragraph (1) of section 9503(c) of the
17 Internal Revenue Code of 1986 is amended by striking
18 “Surface Transportation Extension Act of 2010” and in-
19 serting “American Jobs and Closing Tax Loopholes Act
20 of 2010”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect upon the date of enactment
23 of the Surface Transportation Extension Act of 2010
24 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be

1 treated as being included in that Act at the time of the
2 enactment of that Act.

3 (d) SAVINGS CLAUSE.—

4 (1) IN GENERAL.—For fiscal year 2010 and for
5 the period beginning on October 1, 2010, and ending
6 on December 31, 2010, the amount of funds appor-
7 tioned to each State under section 411(d) of the
8 Surface Transportation Extension Act of 2010
9 (Public Law 111–147) that is determined by the
10 amount that the State received or was authorized to
11 receive for fiscal year 2009 to carry out the projects
12 of national and regional significance program and
13 national corridor infrastructure improvement pro-
14 gram shall be the greater of—

15 (A) the amount that the State was author-
16 ized to receive under section 411(d) of the Sur-
17 face Transportation Extension Act of 2010 with
18 respect to each such program according to the
19 provisions of that Act, as in effect on the day
20 before the date of enactment of this Act; or

21 (B) the amount that the State is author-
22 ized to receive under section 411(d) of the Sur-
23 face Transportation Extension Act of 2010 with
24 respect to each such program pursuant to the

1 provisions of that Act, as amended by the
2 amendments made by this section.

3 (2) OBLIGATION AUTHORITY.—For fiscal year
4 2010, the amount of obligation authority distributed
5 to each State shall be the greater of—

6 (A) the amount that the State was author-
7 ized to receive pursuant to section 120(a)(4)(A)
8 (as it pertains to the Appalachian Development
9 Highway System program) of title I of division
10 A of the Consolidated Appropriations Act, 2010
11 (Public Law 111–117) and sections
12 120(a)(4)(B) and 120(a)(6) of such title, as of
13 the day before the date of enactment of this
14 Act; or

15 (B) the amount that the State is author-
16 ized to receive pursuant to section 120(a)(4)(A)
17 (as it pertains to the Appalachian Development
18 Highway System program) of title I of division
19 A of the Consolidated Appropriations Act, 2010
20 (Public Law 111–117) and sections
21 120(a)(4)(B) and 120(a)(6) of such title, as of
22 the date of enactment of this Act.

23 (3) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated out of the
25 Highway Trust Fund (other than the Mass Transit

1 Account) such sums as may be necessary to carry
2 out this subsection.

3 (4) INCREASE IN OBLIGATION LIMITATION.—
4 The limitation under the heading “Federal-aid High-
5 ways (Limitation on Obligations) (Highway Trust
6 Fund)” in Public Law 111–117 is increased by such
7 sums as may be necessary to carry out this sub-
8 section.

9 (5) CONTRACT AUTHORITY.—Funds made
10 available to carry out this subsection shall be avail-
11 able for obligation and administered in the same
12 manner as if such funds were apportioned under
13 chapter 1 of title 23, United States Code.

14 (6) AMOUNTS.—The dollar amount specified in
15 section 105(d)(1) of title 23, United States Code,
16 the dollar amount specified in section 120(a)(4)(B)
17 of title I of division A of the Consolidated Appro-
18 priations Act, 2010 (Public Law 111–117), and the
19 dollar amount specified in section 120(b)(10) of
20 such title shall each be increased as necessary to
21 carry out this subsection.

1 **SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING**
2 **GRANT PROGRAM.**

3 (a) IN GENERAL.—Section 278(a) of the Trade Act
4 of 1974 (19 U.S.C. 2372(a)) is amended by adding at the
5 end the following:

6 “(3) RULE OF CONSTRUCTION.—For purposes
7 of this section, any reference to ‘workers’, ‘workers
8 eligible for training under section 236’, or any other
9 reference to workers under this section shall be
10 deemed to include individuals who are, or are likely
11 to become, eligible for unemployment compensation
12 as defined in section 85(b) of the Internal Revenue
13 Code of 1986, or who remain unemployed after ex-
14 hausting all rights to such compensation.”.

15 (b) DEFINITION OF ELIGIBLE INSTITUTION.—Sec-
16 tion 278(b)(1) of the Trade Act of 1974 (19 U.S.C.
17 2372(b)(1)) is amended—

18 (1) by striking “section 102” and inserting
19 “section 101(a)”; and

20 (2) by striking “1002” and inserting
21 “1001(a)”.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
23 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is
24 amended—

25 (1) in subsection (a), by striking the last sen-
26 tence; and

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

2 “(c) ADMINISTRATIVE AND RELATED COSTS.—The
3 Secretary may retain not more than 5 percent of the funds
4 appropriated under subsection (b) for each fiscal year to
5 administer, evaluate, and establish reporting systems for
6 the Community College and Career Training Grant pro-
7 gram under section 278.

8 “(d) SUPPLEMENT NOT SUPPLANT.—Funds appro-
9 priated under subsection (b) shall be used to supplement
10 and not supplant other Federal, State, and local public
11 funds expended to support community college and career
12 training programs.

13 “(e) AVAILABILITY.—Funds appropriated under sub-
14 section (b) shall remain available for the fiscal year for
15 which the funds are appropriated and the subsequent fis-
16 cal year.”.

17 **SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON**
18 **SHIRTING FABRICS AND RELATED PROVI-**
19 **SIONS.**

20 (a) EXTENSIONS.—Each of the following headings of
21 the Harmonized Tariff Schedule of the United States is
22 amended by striking the date in the effective date column
23 and inserting “12/31/2013”:

24 (1) Heading 9902.52.08 (relating to woven fab-
25 rics of cotton).

1 (2) Heading 9902.52.09 (relating to woven fab-
2 rics of cotton).

3 (3) Heading 9902.52.10 (relating to woven fab-
4 rics of cotton).

5 (4) Heading 9902.52.11 (relating to woven fab-
6 rics of cotton).

7 (5) Heading 9902.52.12 (relating to woven fab-
8 rics of cotton).

9 (6) Heading 9902.52.13 (relating to woven fab-
10 rics of cotton).

11 (7) Heading 9902.52.14 (relating to woven fab-
12 rics of cotton).

13 (8) Heading 9902.52.15 (relating to woven fab-
14 rics of cotton).

15 (9) Heading 9902.52.16 (relating to woven fab-
16 rics of cotton).

17 (10) Heading 9902.52.17 (relating to woven
18 fabrics of cotton).

19 (11) Heading 9902.52.18 (relating to woven
20 fabrics of cotton).

21 (12) Heading 9902.52.19 (relating to woven
22 fabrics of cotton).

23 (13) Heading 9902.52.20 (relating to woven
24 fabrics of cotton).

1 (14) Heading 9902.52.21 (relating to woven
2 fabrics of cotton).

3 (15) Heading 9902.52.22 (relating to woven
4 fabrics of cotton).

5 (16) Heading 9902.52.23 (relating to woven
6 fabrics of cotton).

7 (17) Heading 9902.52.24 (relating to woven
8 fabrics of cotton).

9 (18) Heading 9902.52.25 (relating to woven
10 fabrics of cotton).

11 (19) Heading 9902.52.26 (relating to woven
12 fabrics of cotton).

13 (20) Heading 9902.52.27 (relating to woven
14 fabrics of cotton).

15 (21) Heading 9902.52.28 (relating to woven
16 fabrics of cotton).

17 (22) Heading 9902.52.29 (relating to woven
18 fabrics of cotton).

19 (23) Heading 9902.52.30 (relating to woven
20 fabrics of cotton).

21 (24) Heading 9902.52.31 (relating to woven
22 fabrics of cotton).

23 (b) EXTENSION OF DUTY REFUNDS AND PIMA COT-
24 TON TRUST FUND; MODIFICATION OF AFFIDAVIT RE-
25 QUIREMENTS.—Section 407 of title IV of division C of the

1 Tax Relief and Health Care Act of 2006 (Public Law 109–
2 432; 120 Stat. 3060) is amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1), by striking
5 “amounts determined by the Secretary” and all
6 that follows through “5208.59.80” and insert-
7 ing “amounts received in the general fund that
8 are attributable to duties received since Janu-
9 ary 1, 2004, on articles classified under heading
10 5208”; and

11 (B) in paragraph (2), by striking “October
12 1, 2008” and inserting “December 31, 2013”;
13 (2) in subsection (d)—

14 (A) in the matter preceding paragraph (1),
15 by inserting “annually” after “provided”; and

16 (B) in paragraph (1), by inserting “during
17 the year in which the affidavit is filed and”
18 after “imported cotton fabric”; and

19 (3) in subsection (f)—

20 (A) in the matter preceding paragraph (1),
21 by inserting “annually” after “provided”; and

22 (B) in paragraph (1), by inserting “during
23 the year in which the affidavit is filed and”
24 after “United States”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act and apply with respect to affidavits filed on
4 or after such date of enactment.

5 **SEC. 617. MODIFICATION OF WOOL APPAREL MANUFAC-**
6 **TURERS TRUST FUND.**

7 (a) IN GENERAL.—Section 4002(c)(2)(A) of the Mis-
8 cellaneous Trade and Technical Corrections Act of 2004
9 (Public Law 108–429; 118 Stat. 2600) is amended by
10 striking “chapter 51” and inserting “chapter 62”.

11 (b) FULL RESTORATION OF PAYMENT LEVELS IN
12 FISCAL YEAR 2010.—

13 (1) TRANSFER OF AMOUNTS.—

14 (A) IN GENERAL.—Not later than 30 days
15 after the date of the enactment of this Act, the
16 Secretary of the Treasury shall transfer to the
17 Wool Apparel Manufacturers Trust Fund, out
18 of the general fund of the Treasury of the
19 United States, amounts determined by the Sec-
20 retary of the Treasury to be equivalent to
21 amounts received in the general fund that are
22 attributable to the duty received on articles
23 classified under chapter 62 of the Harmonized
24 Tariff Schedule of the United States, subject to
25 the limitation in subparagraph (B).

1 (B) LIMITATION.—The Secretary of the
2 Treasury shall not transfer more than the
3 amount determined by the Secretary to be nec-
4 essary for—

5 (i) U.S. Customs and Border Protec-
6 tion to make payments to eligible manufac-
7 turers under section 4002(c)(3) of the Mis-
8 cellaneous Trade and Technical Correc-
9 tions Act of 2004 so that the amount of
10 such payments, when added to any other
11 payments made to eligible manufacturers
12 under section 4002(c)(3) of such Act for
13 calendar year 2010, equal the total amount
14 of payments authorized to be provided to
15 eligible manufacturers under section
16 4002(c)(3) of such Act for calendar year
17 2010; and

18 (ii) the Secretary of Commerce to pro-
19 vide grants to eligible manufacturers under
20 section 4002(c)(6) of the Miscellaneous
21 Trade and Technical Corrections Act of
22 2004 so that the amounts of such grants,
23 when added to any other grants made to
24 eligible manufacturers under section
25 4002(c)(6) of such Act for calendar year

1 2010, equal the total amount of grants au-
2 thorized to be provided to eligible manufac-
3 turers under section 4002(c)(6) of such
4 Act for calendar year 2010.

5 (2) PAYMENT OF AMOUNTS.—U.S. Customs
6 and Border Protection shall make payments de-
7 scribed in paragraph (1) to eligible manufacturers
8 not later than 30 days after such transfer of
9 amounts from the general fund of the Treasury of
10 the United States to the Wool Apparel Manufactur-
11 ers Trust Fund. The Secretary of Commerce shall
12 promptly provide grants described in paragraph (1)
13 to eligible manufacturers after such transfer of
14 amounts from the general fund of the Treasury of
15 the United States to the Wool Apparel Manufactur-
16 ers Trust Fund.

17 (c) RULE OF CONSTRUCTION.—The amendment
18 made by subsection (a) shall not be construed to affect
19 the availability of amounts transferred to the Wool Ap-
20 parel Manufacturers Trust Fund before the date of the
21 enactment of this Act.

22 **SEC. 618. DEPARTMENT OF COMMERCE STUDY.**

23 Not later than 180 days after the date of enactment
24 of this Act, the Secretary of Commerce shall report to
25 Congress detailing—

1 (1) the pattern of job loss in the New England,
2 Mid-Atlantic, and Midwest States over the past 20
3 years;

4 (2) the role of the off-shoring of manufacturing
5 jobs in overall job loss in the regions; and

6 (3) recommendations to attract industries and
7 bring jobs to the region.

8 **SEC. 619. ARRA PLANNING AND REPORTING.**

9 Section 1512 of the American Recovery and Reinvest-
10 ment Act of 2009 (Public Law 111–5; 123 Stat. 287) is
11 amended—

12 (1) in subsection (d)—

13 (A) in the subsection heading, by inserting
14 “PLANS AND” after “AGENCY”;

15 (B) by striking “Not later than” and in-
16 serting the following:

17 “(1) DEFINITION.—In this subsection, the term
18 ‘covered program’ means a program for which funds
19 are appropriated under this division—

20 “(A) in an amount that is—

21 “(i) more than \$2,000,000,000; and

22 “(ii) more than 150 percent of the
23 funds appropriated for the program for fis-
24 cal year 2008; or

1 “(B) that did not exist before the date of
2 enactment of this Act.

3 “(2) PLANS.—Not later than July 1, 2010, the
4 head of each agency that distributes recovery funds
5 shall submit to Congress and make available on the
6 website of the agency a plan for each covered pro-
7 gram, which shall, at a minimum, contain—

8 “(A) a description of the goals for the cov-
9 ered program using recovery funds;

10 “(B) a discussion of how the goals de-
11 scribed in subparagraph (A) relate to the goals
12 for ongoing activities of the covered program, if
13 applicable;

14 “(C) a description of the activities that the
15 agency will undertake to achieve the goals de-
16 scribed in subparagraph (A);

17 “(D) a description of the total recovery
18 funding for the covered program and the recov-
19 ery funding for each activity under the covered
20 program, including identifying whether the ac-
21 tivity will be carried out using grants, con-
22 tracts, or other types of funding mechanisms;

23 “(E) a schedule of milestones for major
24 phases of the activities under the covered pro-
25 gram, with planned delivery dates;

1 “(F) performance measures the agency will
2 use to track the progress of each of the activi-
3 ties under the covered program in meeting the
4 goals described in subparagraph (A), including
5 performance targets, the frequency of measure-
6 ment, and a description of the methodology for
7 each measure;

8 “(G) a description of the process of the
9 agency for the periodic review of the progress of
10 the covered program towards meeting the goals
11 described in subparagraph (A); and

12 “(H) a description of how the agency will
13 hold program managers accountable for achiev-
14 ing the goals described in subparagraph (A).

15 “(3) REPORTS.—

16 “(A) IN GENERAL.—Not later than”;
17 (C) by adding at the end the following:

18 “(B) REPORTS ON PLANS.—Not later than
19 30 days after the end of the calendar quarter
20 ending September 30, 2010, and every calendar
21 quarter thereafter during which the agency obli-
22 gates or expends recovery funds, the head of
23 each agency that developed a plan for a covered
24 program under paragraph (2) shall submit to
25 Congress and make available on a website of

1 the agency a report for each covered program
2 that—

3 “(i) discusses the progress of the
4 agency in implementing the plan;

5 “(ii) describes the progress towards
6 achieving the goals described in paragraph
7 (2)(A) for the covered program;

8 “(iii) discusses the status of each ac-
9 tivity carried out under the covered pro-
10 gram, including whether the activity is
11 completed;

12 “(iv) details the unobligated and un-
13 expired balances and total obligations and
14 outlays under the covered program;

15 “(v) discusses—

16 “(I) whether the covered program
17 has met the milestones for the covered
18 program described in paragraph
19 (2)(E);

20 “(II) if the covered program has
21 failed to meet the milestones, the rea-
22 sons why; and

23 “(III) any changes in the mile-
24 stones for the covered program, in-
25 cluding the reasons for the change;

1 “(vi) discusses the performance of the
2 covered program, including—

3 “(I) whether the covered program
4 has met the performance measures for
5 the covered program described in
6 paragraph (2)(F);

7 “(II) if the covered program has
8 failed to meet the performance meas-
9 ures, the reasons why; and

10 “(III) any trends in information
11 relating to the performance of the cov-
12 ered program; and

13 “(vii) evaluates the ability of the cov-
14 ered program to meet the goals of the cov-
15 ered program given the performance of the
16 covered program.”;

17 (2) in subsection (f)—

18 (A) by striking “Within 180 days” and in-
19 serting the following:

20 “(1) IN GENERAL.—Within 180 days”; and

21 (B) by adding at the end the following:

22 “(2) PENALTIES.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graphs (B), (C), and (D), the Attorney General
25 may bring a civil action in an appropriate

1 United States district court against a recipient
2 of recovery funds from an agency that does not
3 provide the information required under sub-
4 section (c) or knowingly provides information
5 under subsection (c) that contains a material
6 omission or misstatement. In a civil action
7 under this paragraph, the court may impose a
8 civil penalty on a recipient of recovery funds in
9 an amount not more than \$250,000. Any
10 amounts received from a civil penalty under this
11 paragraph shall be deposited in the general
12 fund of the Treasury.

13 “(B) NOTIFICATION.—

14 “(i) IN GENERAL.—The head of an
15 agency shall provide a written notification
16 to a recipient of recovery funds from the
17 agency that fails to provide the informa-
18 tion required under subsection (c). A noti-
19 fication under this subparagraph shall pro-
20 vide the recipient with information on how
21 to comply with the necessary reporting re-
22 quirements and notice of the penalties for
23 failing to do so.

24 “(ii) LIMITATION.—A court may not
25 impose a civil penalty under subparagraph

1 (A) relating to the failure to provide infor-
2 mation required under subsection (c) if,
3 not later than 31 days after the date of the
4 notification under clause (i), the recipient
5 of the recovery funds provides the informa-
6 tion.

7 “(C) CONSIDERATIONS.—In determining
8 the amount of a penalty under this paragraph
9 for a recipient of recovery funds, a court shall
10 consider—

11 “(i) the number of times the recipient
12 has failed to provide the information re-
13 quired under subsection (c);

14 “(ii) the amount of recovery funds
15 provided to the recipient;

16 “(iii) whether the recipient is a gov-
17 ernment, nonprofit entity, or educational
18 institution; and

19 “(iv) whether the recipient is a small
20 business concern (as defined under section
21 3 of the Small Business Act (15 U.S.C.
22 632)), with particular consideration given
23 to businesses with not more than 50 em-
24 ployees.

1 “(D) APPLICABILITY.—This paragraph
2 shall apply to any report required to be sub-
3 mitted on or after the date of enactment of this
4 paragraph.

5 “(E) NONEXCLUSIVITY.—The imposition
6 of a civil penalty under this subsection shall not
7 preclude any other criminal, civil, or adminis-
8 trative remedy available to the United States or
9 any other person under Federal or State law.

10 “(3) TECHNICAL ASSISTANCE.—Each agency
11 distributing recovery funds shall provide technical
12 assistance, as necessary, to assist recipients of recov-
13 ery funds in complying with the requirements to pro-
14 vide information under subsection (c), which shall
15 include providing recipients with a reminder regard-
16 ing each reporting requirement.

17 “(4) PUBLIC LISTING.—

18 “(A) IN GENERAL.—Not later than 45
19 days after the end of each calendar quarter,
20 and subject to the notification requirements
21 under paragraph (2)(B), the Board shall make
22 available on the website established under sec-
23 tion 1526 a list of all recipients of recovery
24 funds that did not provide the information re-

1 required under subsection (c) for the calendar
2 quarter.

3 “(B) CONTENTS.—A list made available
4 under subparagraph (A) shall, for each recipi-
5 ent of recovery funds on the list, include the
6 name and address of the recipient, the identi-
7 fication number for the award, the amount of
8 recovery funds awarded to the recipient, a de-
9 scription of the activity for which the recovery
10 funds were provided, and, to the extent known
11 by the Board, the reason for noncompliance.

12 “(5) REGULATIONS AND REPORTING.—

13 “(A) REGULATIONS.—Not later than 90
14 days after the date of enactment of this para-
15 graph, the Attorney General, in consultation
16 with the Director of the Office of Management
17 and Budget and the Chairperson, shall promul-
18 gate regulations regarding implementation of
19 this section.

20 “(B) REPORTING.—

21 “(i) IN GENERAL.—Not later than
22 July 1, 2010, and every 3 months there-
23 after, the Director of the Office of Man-
24 agement and Budget, in consultation with
25 the Chairperson, shall submit to Congress

1 a report on the extent of noncompliance by
2 recipients of recovery funds with the re-
3 porting requirements under this section.

4 “(ii) CONTENTS.—Each report sub-
5 mitted under clause (i) shall include—

6 “(I) information, for the quarter
7 and in total, regarding the number
8 and amount of civil penalties imposed
9 and collected under this subsection,
10 sorted by agency and program;

11 “(II) information on the steps
12 taken by the Federal Government to
13 reduce the level of noncompliance; and

14 “(III) any other information de-
15 termined appropriate by the Direc-
16 tor.”; and

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

18 “(i) TERMINATION.—The reporting requirements
19 under this section shall terminate on September 30,
20 2013.”.

21 **SEC. 620. AMENDMENT OF TRAVEL PROMOTION ACT OF**

22 **2009.**

23 (a) TRAVEL PROMOTION FUND FEES.—Section
24 217(h)(3)(B) of the Immigration and Nationality Act (8
25 U.S.C. 1187(h)(3)(B)) is amended—

1 (1) by striking “subsection (d) of section 11 of
2 the Travel Promotion Act of 2009.” in clause (ii)
3 and inserting “subsection (d) of the Travel Pro-
4 motion Act of 2009 (22 U.S.C. 2131(d)).”; and

5 (2) by striking “September 30, 2014.” in clause
6 (iii) and inserting “September 30, 2015.”.

7 (b) IMPLEMENTATION BEGINNING IN FISCAL YEAR
8 2011.—Subsection (d) of the Travel Promotion Act of
9 2009 (22 U.S.C. 2131(d)) is amended—

10 (1) by striking “For fiscal year 2010, the” in
11 paragraph (2)(A) and inserting “The”;

12 (2) by striking “quarterly, beginning on Janu-
13 ary 1, 2010,” in paragraph (2)(A) and inserting
14 “monthly, immediately following the collection of
15 fees under section 217(h)(3)(B)(i)(I) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1187(h)(3)(B)(i)(I).”;

18 (3) by striking “fiscal years 2011 through
19 2014,” in paragraph (2)(B) and inserting “fiscal
20 years 2012 through 2015,”;

21 (4) by striking “fiscal year 2010,” in paragraph
22 (3)(A) and inserting “fiscal year 2011,”;

23 (5) by striking “fiscal year 2011,” each place it
24 appears in paragraph (3)(A) and inserting “fiscal
25 year 2012,”; and

1 (6) by striking “fiscal year 2010, 2011, 2012,
2 2013, or 2014” in paragraph (4)(B) and inserting
3 “fiscal year 2011, 2012, 2013, 2014, or 2015”.

4 **TITLE VII—BUDGETARY**
5 **PROVISIONS**

6 **SEC. 701. BUDGETARY PROVISIONS.**

7 (a) **STATUTORY PAYGO.**—The budgetary effects of
8 this Act, for the purpose of complying with the Statutory
9 Pay-As-You-Go Act of 2010, shall be determined by ref-
10 erence to the latest statement titled ‘Budgetary Effects
11 of PAYGO Legislation’ for this Act, jointly submitted for
12 printing in the Congressional Record by the Chairmen of
13 the House and Senate Budget Committees, provided that
14 such statement has been submitted prior to the vote on
15 passage in the House acting first on this conference report
16 or amendment between the Houses.

17 (b) **EMERGENCY DESIGNATIONS.**—Sections 501 and
18 524—

19 (1) are designated as an emergency require-
20 ment pursuant to section 4(g) of the Statutory Pay-
21 As-You-Go Act of 2010 (Public Law 111–139; 2
22 U.S.C. 933(g));

23 (2) in the House of Representatives, are des-
24 igned as an emergency for purposes of pay-as-you-
25 go principles; and

1 (3) in the Senate, are designated as an emer-
2 gency requirement pursuant to section 403(a) of S.
3 Con. Res. 13 (111th Congress), the concurrent reso-
4 lution on the budget for fiscal year 2010.