112th CONGRESS 1st Session

H. R. 3743

To provide incentives for the creation of jobs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2011

Mr. LEVIN (for himself, Ms. PELOSI, Mr. HOYER, Mr. CLYBURN, Mr. Larson of Connecticut, Mr. BECERRA, Mr. GEORGE MILLER of California, Ms. DELAURO, Mr. ISRAEL, Ms. SLAUGHTER, Mr. VAN HOLLEN, Mr. PALLONE, Mrs. MALONEY, Mr. RANGEL, Mr. STARK, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. THOMPSON of California, Mr. BLUMENTAER, Mr. PASCRELL, Ms. BERKLEY, Mr. CROWLEY, Mr. ACKERMAN, Mr. ALTMIERE, Mr. ANDREWS, Mr. BACA, Ms. BALDWIN, Ms. BASS of California, Mr. BERMAN, Mr. BISHOP of New York, Ms. BORDALLO, Mr. BRALEY of Iowa, Ms. BROWN of Florida, Mr. BUTTERFIELD, Mrs. CAPP, Mr. CARNahan, Mr. CARNEY, Mr. CARSON of Indiana, Ms. CASTOR of Florida, Mr. CHANDLER, Mrs. CHRISTENSEN, Ms. CHU, Mr. CICILLINE, Mr. CLARKE of Michigan, Ms. CLARKE of New York, Mr. CLAY, Mr. CLEAVER, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. COOPER, Mr. COSTA, Mr. COSTELLO, Mr. COURTNEY, Mr. CRITZ, Mr. CUELLAR, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DEUTCH, Mr. DICKS, Mr. DINGELL, Mr. DONNELLY of Indiana, Ms. EDWARDS, Mr. ELLISON, Mr. ENGEL, Ms. ESCHOO, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Ms. FUDGE, Mr. GARAMENDI, Mr. GONZALEZ, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIALVA, Mr. GUTIERREZ, Ms. HANABUSA, Ms. HAHN, Mr. HASTINGS of Florida, Mr. HEINRICH, Mr. HIGGINS, Mr. HINES, Mr. HINCHey, Mr. HINOJOSA, Ms. HIRONO, Ms. HOCHUL, Mr. HOLDEN, Mr. HOLTY, Mr. HONDA, Mr. INSLEE, Mr. JACKSON of Illinois, Ms. JACKSON Lee of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KEATING, Mr. KILDEE, Mr. LANGLEVIN, Mr. LARSEN of Washington, Ms. LEE of California, Mr. LOEBSACK, Ms. ZOE LOFOREn of California, Mrs. LOWEY, Mr. LUJán, Mr. MARKey, Mr. MATHESON, Ms. MATSUMI, Mrs. McCARTHY of New York, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MCMENEMY, Mr. MEEKS, Mr. MICHaud, Mr. MILLER of North Carolina, Ms. MOORE, Mr. MORA, Mr. MURPHY of Connecticut, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASTOR of Arizona, Mr. PAYNE, Mr. PERLMUTTER, Mr. PERLUCISI, Ms. PINGREE of Maine, Mr. POLIS, Mr. PRICE of North Carolina, Mr. RAHALL, Mr.
A BILL

To provide incentives for the creation of jobs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Temporary Payroll Tax Cut Continuation Act of 2011”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TEMPORARY PAYROLL TAX RELIEF

Sec. 101. Extension of payroll tax holiday.

TITLE II—TEMPORARY EXTENSION OF UNEMPLOYMENT COMPENSATION PROVISIONS

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Sec. 201. Temporary extension of unemployment compensation provisions.

TITLE III—TEMPORARY EXTENSION OF HEALTH PROVISIONS

Sec. 301. Medicare physician payment update.
Sec. 302. 2-month extension of MMA section 508 reclassifications.
Sec. 303. Extension of Medicare work geographic adjustment floor.
Sec. 304. Extension of exceptions process for Medicare therapy caps.
Sec. 305. Extension of payment for technical component of certain physician pathology services.
Sec. 306. Extension of ambulance add-ons.
Sec. 307. Extension of physician fee schedule mental health add-on payment.
Sec. 308. Extension of outpatient hold harmless provision.
Sec. 309. Extending minimum payment for bone mass measurement.
Sec. 310. Extension of the qualifying individual (QI) program.
Sec. 311. Extension of Transitional Medical Assistance (TMA).
Sec. 312. Extension of the temporary assistance for needy families program.

TITLE IV—MORTGAGE FEES AND PREMIUMS

Sec. 401. Guarantee Fees.
Sec. 402. FHA guarantee fees.

TITLE V—OTHER PROVISIONS

Subtitle A—Keystone XL Pipeline

Sec. 501. Permit for Keystone XL pipeline.

Subtitle B—Budgetary Provisions

Sec. 511. Senate point of order against an emergency designation.
Sec. 512. PAYGO scorecard estimates.

1 TITLE I—TEMPORARY PAYROLL TAX RELIEF

2 SEC. 101. EXTENSION OF PAYROLL TAX HOLIDAY.

3 (a) IN GENERAL.—Subsection (c) of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (26 U.S.C. 1401 note) is amended to read as follows:

4 “(c) PAYROLL TAX HOLIDAY PERIOD.—The term ‘payroll tax holiday period’ means—
“(1) in the case of the tax described in subsection (a)(1), calendar years 2011 and 2012, and
“(2) in the case of the taxes described in subsection (a)(2), the period beginning January 1, 2011, and ending February 29, 2012.”.

(b) SPECIAL RULES FOR 2012.—Section 601 of such Act (26 U.S.C. 1401 note) is amended by adding at the end the following new subsection:

“(f) SPECIAL RULES FOR 2012.—

“(1) LIMITATION ON WAGES AND SELF-EMPLOYMENT INCOME.—In the case of—

“(A) any taxable year beginning in 2012, subsection (a)(1) shall only apply with respect to so much of the taxpayer’s self-employment income (as defined in section 1402(b) of the Internal Revenue Code of 1986) as does not exceed the excess (if any) of—

“(i) $18,350, over

“(ii) the amount of wages and compensation taken into account under subparagraph (B), and

“(B) any remuneration received during the portion of the payroll tax holiday period occurring during 2012, subsection (a)(2) shall only apply to so much of the sum of the taxpayer’s
wages (as defined in section 3121(a) of such Code) and compensation (as defined section 3231(e) of such Code) as does not exceed $18,350.

“(2) COORDINATION WITH DEDUCTION FOR EMPLOYMENT TAXES.—In the case of a taxable year beginning in 2012, subparagraph (A) of subsection (b)(2) shall be applied as if it read as follows:

‘‘(A) the sum of—

‘‘(i) 59.6 percent of the portion of such taxes attributable to the tax imposed by section 1401(a) of such Code (determined after the application of this section) on so much of self-employment income (as defined in section 1402(b) of such Code) as does not exceed the amount of self-employment income described in paragraph (1)(A), plus

‘‘(ii) one-half of the portion of such taxes attributable to the tax imposed by section 1401(a) of such Code (determined without regard to this section) on self-employment income (as so defined) in excess of such amount, plus’’.”
(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 601(b) of such Act (26 U.S.C. 1401 note) is amended—

(1) by inserting “of such Code” after “164(f)

(2) by inserting “of such Code” after “1401(a)” in subparagraph (A), and

(3) by inserting “of such Code” after “1401(b)” in subparagraph (B).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration received, and taxable years beginning, after December 31, 2011.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsection (c) shall take effect as if included in the enactment of section 601 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.
TITLE II—TEMPORARY EXTENSION OF UNEMPLOYMENT COMPENSATION PROVISIONS

SEC. 201. TEMPORARY EXTENSION OF UNEMPLOYMENT COMPENSATION PROVISIONS.

(a) In general.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking “January 3, 2012” each place it appears and inserting “March 6, 2012”;

(B) in the heading for subsection (b)(2), by striking “JANUARY 3, 2012” and inserting “MARCH 6, 2012”; and

(C) in subsection (b)(3), by striking “June 9, 2012” and inserting “August 15, 2012”.

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

(A) by striking “January 4, 2012” each place it appears and inserting “March 7, 2012”; and

(B) in subsection (c), by striking “June 11, 2012” and inserting “August 15, 2012”.

(3) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking “January 4, 2012” each place it appears and inserting “March 7, 2012”; and
(4) Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(A) in subsection (d), in the second sentence of the flush matter following paragraph (2), by striking “December 31, 2011” and inserting “February 29, 2012”; and

(B) in subsection (f)(2), by striking “December 31, 2011” and inserting “February 29, 2012”.

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

(1) in subparagraph (F), by striking “and” at the end; and

(2) by inserting after subparagraph (G) the following:

“(H) the amendments made by section 201(a)(1) of the Temporary Payroll Tax Cut Continuation Act of 2011; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Tax Relief, Unemployment Insurance Reau-
SEC. 202. EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) Extension.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92) and section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), is amended—

(1) by striking “June 30, 2011” and inserting “August 31, 2011”; and

(2) by striking “December 31, 2011” and inserting “February 29, 2012”.

(b) Clarification on Authority To Use Funds.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to
cover the cost of such benefits provided under such section 2(e)(2)(D), as in effect on the day before the date of the enactment of this Act.

**TITLE III—TEMPORARY EXTENSION OF HEALTH PROVISIONS**

**SEC. 301. MEDICARE PHYSICIAN PAYMENT UPDATE.**

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

“(13) Update for first two months of 2012.—

“(A) In general.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), (11)(B), and (12)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for the period beginning on January 1, 2012, and ending on February 29, 2012, the update to the single conversion factor shall be zero percent.

“(B) No effect on computation of conversion factor for remaining portion of 2012 and subsequent years.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for the period beginning on March 1, 2012, and ending.
on December 31, 2012, and for 2013 and sub-
sequent years as if subparagraph (A) had never
applied.”.

SEC. 302. 2-MONTH EXTENSION OF MMA SECTION 508 RE-
CLASSIFICATIONS.

(a) In general.—Section 106(a) of division B of
the Tax Relief and Health Care Act of 2006 (42 U.S.C.
1395 note), as amended by section 117 of the Medicare,
Medicaid, and SCHIP Extension Act of 2007 (Public Law
110–173), section 124 of the Medicare Improvements for
Patients and Providers Act of 2008 (Public Law 110–
275), sections 3137(a) and 10317 of the Patient Protec-
tion and Affordable Care Act (Public Law 111–148), and
section 102(a) of the Medicare and Medicaid Extenders
Act of 2010 (Public Law 111–309), is amended by strik-
ing “September 30, 2011” and inserting “November 30,
2011”.

(b) Special rule for October and November
2011.—

(1) In general.—Subject to paragraph (2),
for purposes of implementation of the amendment
made by subsection (a), including for purposes of
the implementation of paragraph (2) of section
117(a) of the Medicare, Medicaid, and SCHIP Ex-
tension Act of 2007 (Public Law 110–173), for the
period beginning on October 1, 2011, and ending on
November 30, 2011, the Secretary of Health and
Human Services shall use the hospital wage index
that was promulgated by the Secretary of Health
and Human Services in the Federal Register on Au-
gust 18, 2011 (76 Fed. Reg. 51476), and any subse-
quent corrections.

(2) EXCEPTION.—In determining the wage
index applicable to hospitals that qualify for wage
index reclassification, the Secretary shall, for the pe-
riod beginning on October 1, 2011, and ending on
November 30, 2011, include the average hourly wage
data of hospitals whose reclassification was extended
pursuant to the amendment made by subsection (a)
only if including such data results in a higher appli-
cable reclassified wage index. Any revision to hos-
pital wage indexes made as a result of this para-
graph shall not be effected in a budget neutral man-
ner.

(c) TIMELINE FOR PAYMENTS.—The Secretary
shall make payments required under subsections (a) and
(b) by not later than December 31, 2012.
SEC. 303. EXTENSION OF MEDICARE WORK GEOGRAPHIC ADJUSTMENT FLOOR.


SEC. 304. EXTENSION OF EXCEPTIONS PROCESS FOR MEDI-CARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking “December 31, 2011” and inserting “February 29, 2012”.

SEC. 305. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), is amended by striking “and 2011” and inserting “2011, and the first two months of 2012”.

SEC. 306. EXTENSION OF AMBULANCE ADD-ONS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking “January 1, 2012” and inserting “March 1, 2012”; and

(2) in each of clauses (i) and (ii), by striking “January 1, 2012” and inserting “March 1, 2012” each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of Public Law 111–148 and section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), is amended by striking “December 31, 2011” and inserting “February 29, 2012”.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended by striking “January 1, 2012” and inserting “March 1, 2012”.
SEC. 307. EXTENSION OF PHYSICIAN FEE SCHEDULE MENTAL HEALTH ADD-ON PAYMENT.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by section 3107 of the Patient Protection and Affordable Care Act (Public Law 111–148) and section 107 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), is amended by striking “December 31, 2011” and inserting “February 29, 2012”.

SEC. 308. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 3121(a) of the Patient Protection and Affordable Care Act (Public Law 111–148) and section 108 of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking “January 1, 2012” and inserting “March 1, 2012”;

and

(B) in the second sentence, by striking “or 2011” and inserting “2011, or the first two months of 2012”;

and

(2) in subclause (III)—
(A) in the first sentence, by striking “2009, and” and all that follows through “for which” and inserting “2009, and before March 1, 2012, for which”; and

(B) in the second sentence, by striking “2010, and” and all that follows through “the preceding” and inserting “2010, and before March 1, 2012, the preceding”.

SEC. 309. EXTENDING MINIMUM PAYMENT FOR BONE MASS MEASUREMENT.

Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (b)—

(A) in paragraph (4)(B), by striking “and 2011” and inserting “, 2011, and the first 2 months of 2012”; and

(B) in paragraph (6)—

(i) in the matter preceding subpara-graph (A), by striking “and 2011” and in-serting “, 2011, and the first 2 months of 2012”; and

(ii) in subparagraph (C), by striking “and 2011” and inserting “, 2011, and the first 2 months of 2012”; and
(2) in subsection (c)(2)(B)(iv)(IV), by striking “or 2011” and inserting “, 2011, or the first 2 months of 2012”.

SEC. 310. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.


(b) Extending Total Amount Available for Allocation.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (O);

(B) in subparagraph (P), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraphs:

“(Q) for the period that begins on January 1, 2012, and ends on February 29, 2012, the total allocation amount is $150,000,000.”.
SEC. 311. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking “December 31, 2011” and inserting “February 29, 2012”.

SEC. 312. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM.

Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (other than under subsections (a)(3) and (b) of section 403 of such Act) shall continue through February 29, 2012, in the manner authorized for fiscal year 2011, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the applicable portion of the second quarter of fiscal year 2012 at the pro rata portion of the level provided for such activities through the second quarter of fiscal year 2011.

TITLE IV—MORTGAGE FEES AND PREMIUMS

SEC. 401. GUARANTEE FEES.

Subpart A of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is
amended by adding after section 1326 (12 U.S.C. 4546) the following new section:

“SEC. 1327. ENTERPRISE GUARANTEE FEES.

“(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) GUARANTEE FEE.—The term ‘guarantee fee’—

“(A) means a fee described in subsection (b); and

“(B) includes—

“(i) the guaranty fee charged by the Federal National Mortgage Association with respect to mortgage-backed securities; and

“(ii) the management and guarantee fee charged by the Federal Home Loan Mortgage Corporation with respect to participation certificates.

“(2) AVERAGE FEES.—The term ‘average fees’ means the average contractual fee rate of single-family guaranty arrangements by an enterprise entered into during 2011, plus the recognition of any up-front cash payments over an estimated average life, expressed in terms of basis points. Such definition shall be interpreted in a manner consistent with
the annual report on guarantee fees by the Federal Housing Finance Agency.

“(b) INCREASE.—

“(1) IN GENERAL.—

“(A) PHASED INCREASE REQUIRED.—Subject to subsection (c), the Director shall require each enterprise to charge a guarantee fee in connection with any guarantee of the timely payment of principal and interest on securities, notes, and other obligations based on or backed by mortgages on residential real properties designed principally for occupancy of from 1 to 4 families, consummated after the date of enactment of this section.

“(B) AMOUNT.—The amount of the increase required under this section shall be determined by the Director to appropriately reflect the risk of loss, as well the cost of capital allocated to similar assets held by other fully private regulated financial institutions, but such amount shall be not less than an average increase of 10 basis points for each origination year or book year above the average fees imposed in 2011 for such guarantees. The Director shall prohibit an enterprise from offsetting
the cost of the fee to mortgage originators, bor-
rowers, and investors by decreasing other
charges, fees, or premiums, or in any other
manner.

“(2) Authority to limit offer of guar-
antee.—The Director shall prohibit an enterprise
from consummating any offer for a guarantee to a
lender for mortgage-backed securities, if—

“(A) the guarantee is inconsistent with the
requirements of this section; or

“(B) the risk of loss is allowed to increase,
through lowering of the underwriting standards
or other means, for the primary purpose of
meeting the requirements of this section.

“(3) Deposit in Treasury.—Amounts re-
ceived from fee increases imposed under this section
shall be deposited directly into the United States
Treasury, and shall be available only to the extent
provided in subsequent appropriations Acts. The fees
charged pursuant to this section shall not be consid-
ered a reimbursement to the Federal Government
for the costs or subsidy provided to an enterprise.

“(c) Phase-In.—

“(1) In general.—The Director may provide
for compliance with subsection (b) by allowing each
enterprise to increase the guarantee fee charged by
the enterprise gradually over the 2-year period be-
ginning on the date of enactment of this section, in
a manner sufficient to comply with this section. In
determining a schedule for such increases, the Direc-
tor shall—

“(A) provide for uniform pricing among
lenders;
“(B) provide for adjustments in pricing
based on risk levels; and
“(C) take into consideration conditions in
financial markets.

“(2) Rule of Construction.—Nothing in
this subsection shall be interpreted to undermine the
minimum increase required by subsection (b).

“(d) Information Collection and Annual
Analysis.—The Director shall require each enterprise to
provide to the Director, as part of its annual report sub-
mitted to Congress—

“(1) a description of—
“(A) changes made to up-front fees and
annual fees as part of the guarantee fees nego-
tiated with lenders;
“(B) changes to the riskiness of the new borrowers compared to previous origination years or book years; and

“(C) any adjustments required to improve for future origination years or book years, in order to be in complete compliance with subsection (b); and

“(2) an assessment of how the changes in the guarantee fees described in paragraph (1) met the requirements of subsection (b).

“(e) ENFORCEMENT.—

“(1) REQUIRED ADJUSTMENTS.—Based on the information from subsection (d) and any other information the Director deems necessary, the Director shall require an enterprise to make adjustments in its guarantee fee in order to be in compliance with subsection (b).

“(2) NONCOMPLIANCE PENALTY.—An enterprise that has been found to be out of compliance with subsection (b) for any 2 consecutive years shall be precluded from providing any guarantee for a period, determined by rule of the Director, but in no case less than 1 year.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be interpreted as preventing the
Director from initiating and implementing an enforcement action against an enterprise, at a time the Director deems necessary, under other existing enforcement authority.

“(f) EXPIRATION.—The provisions of this section shall expire on October 1, 2021.”.

SEC. 402. FHA GUARANTEE FEES.

(a) AMENDMENT.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended by adding at the end the following:

“(C)(i) In addition to the premiums under subparagraphs (A) and (B), the Secretary shall establish and collect annual premium payments for any mortgage for which the Secretary collects an annual premium payment under subparagraph (B), in an amount described in clause (ii).

“(ii)(I) Subject to subclause (II), with respect to a mortgage, the amount described in this clause is 10 basis points of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

“(II) During the 2-year period beginning on the date of enactment of this subparagraph, the Sec-
retary shall increase the number of basis points of
the annual premium payment collected under this
subparagraph incrementally, as determined appro-
priate by the Secretary, until the number of basis
points of the annual premium payment collected
under this subparagraph is equal to the number de-
scribed in subclause (I).”.

(b) PROSPECTIVE REPEAL.—Section 203(c)(2) of the
National Housing Act (12 U.S.C. 1709(c)(2)) is amended
by striking subparagraph (C), as added by subsection (a),
effective on October 1, 2021.

c) REPORT REQUIRED.—Not later than 30 days be-
fore the date on which the Secretary of Housing and
Urban Development makes a determination under sub-
section (b)(2), the Secretary shall submit to the Com-
mitee on Banking, Housing, and Urban Affairs of the
Senate and the Committee on Financial Services of the
House of Representatives a report that—

(1) explains the basis for the determination;
and

(2) identifies the date on which the Secretary
plans to make the determination.
TITLE V—OTHER PROVISIONS

Subtitle A—Keystone XL Pipeline

SEC. 501. PERMIT FOR KEYSTONE XL PIPELINE.

(a) In general.—Except as provided in subsection (b), not later than 60 days after the date of enactment of this Act, the President, acting through the Secretary of State, shall grant a permit under Executive Order 13337 (3 U.S.C. 301 note; relating to issuance of permits with respect to certain energy-related facilities and land transportation crossings on the international boundaries of the United States) for the Keystone XL pipeline project application filed on September 19, 2008 (including amendments).

(b) Exception.—

(1) In general.—The President shall not be required to grant the permit under subsection (a) if the President determines that the Keystone XL pipeline would not serve the national interest.

(2) Report.—If the President determines that the Keystone XL pipeline is not in the national interest under paragraph (1), the President shall, not later than 15 days after the date of the determination, submit to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the majority leader of
the Senate, the minority leader of the Senate, the
Speaker of the House of Representatives, and the
minority leader of the House of Representatives a
report that provides a justification for determina-
tion, including consideration of economic, employ-
ment, energy security, foreign policy, trade, and en-
vironmental factors.

(3) Effect of No Finding or Action.—If a
determination is not made under paragraph (1) and
no action is taken by the President under subsection
(a) not later than 60 days after the date of enact-
ment of this Act, the permit for the Keystone XL
pipeline described in subsection (a) that meets the
requirements of subsections (c) and (d) shall be in
effect by operation of law.

(c) Requirements.—The permit granted under sub-
section (a) shall require the following:

(1) The permittee shall comply with all applica-
tional Federal and State laws (including regulations)
and all applicable industrial codes regarding the con-
struction, connection, operation, and maintenance of
the United States facilities.

(2) The permittee shall obtain all requisite per-
mits from Canadian authorities and relevant Fed-
eral, State, and local governmental agencies.
(3) The permittee shall take all appropriate measures to prevent or mitigate any adverse environmental impact or disruption of historic properties in connection with the construction, operation, and maintenance of the United States facilities.

(4) For the purpose of the permit issued under subsection (a) (regardless of any modifications under subsection (d))—

(A) the final environmental impact statement issued by the Secretary of State on August 26, 2011, satisfies all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

(B) any modification required by the Secretary of State to the Plan described in paragraph (5)(A) shall not require supplementation of the final environmental impact statement described in that paragraph; and

(C) no further Federal environmental review shall be required.

(5) The construction, operation, and maintenance of the facilities shall be in all material re-
pects similar to that described in the application described in subsection (a) and in accordance with—

(A) the construction, mitigation, and reclamation measures agreed to by the permittee in the Construction Mitigation and Reclamation Plan found in appendix B of the final environmental impact statement issued by the Secretary of State on August 26, 2011, subject to the modification described in subsection (d);

(B) the special conditions agreed to between the permittee and the Administrator of the Pipeline Hazardous Materials Safety Administration of the Department of Transportation found in appendix U of the final environmental impact statement described in subparagraph (A); and

(C) if the modified route submitted by the Governor of Nebraska under subsection (d)(3)(B) crosses the Sand Hills region, the measures agreed to by the permittee for the Sand Hills region found in appendix H of the final environmental impact statement described in subparagraph (A); and
(D) the stipulations identified in appendix S of the final environmental impact statement described in subparagraph (A).

(6) Other requirements that are standard industry practice or commonly included in Federal permits that are similar to a permit issued under subsection (a).

(d) MODIFICATION.—The permit issued under subsection (a) shall require—

(1) the reconsideration of routing of the Keystone XL pipeline within the State of Nebraska;

(2) a review period during which routing within the State of Nebraska may be reconsidered and the route of the Keystone XL pipeline through the State altered with any accompanying modification to the Plan described in subsection (e)(5)(A); and

(3) the President—

(A) to coordinate review with the State of Nebraska and provide any necessary data and reasonable technical assistance material to the review process required under this subsection; and

(B) to approve the route within the State of Nebraska that has been submitted to the
Secretary of State by the Governor of Nebraska.

(c) Effect of No Approval.—If the President does not approve the route within the State of Nebraska submitted by the Governor of Nebraska under subsection (d)(3)(B) not later than 10 days after the date of submission, the route submitted by the Governor of Nebraska under subsection (d)(3)(B) shall be considered approved, pursuant to the terms of the permit described in subsection (a) that meets the requirements of subsection (e) and this subsection, by operation of law.

(f) Private Property Savings Clause.—Nothing in this section alters the Federal, State, or local processes or conditions in effect on the date of enactment of this Act that are necessary to secure access from private property owners to construct the Keystone XL pipeline.

Subtitle B—Budgetary Provisions

SEC. 511. SENATE POINT OF ORDER AGAINST AN EMERGENCY DESIGNATION.

Section 314 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (e) as subsection (f); and

(2) inserting after subsection (d) the following:
“(e) Senate Point of Order Against an Emergency Designation.—

“(1) In General.—When the Senate is considering a bill, resolution, amendment, motion, amendment between the Houses, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

“(2) Supermajority Waiver and Appeals.—

“(A) Waiver.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(B) Appeals.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of
the Chair on a point of order raised under this subsection.

“(3) Definition of an Emergency Designation.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(4) Form of the Point of Order.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

“(5) Conference Reports.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report
or House amendment, as the case may be, not so
stricken. Any such motion in the Senate shall be de-
batable. In any case in which such point of order is
sustained against a conference report (or Senate
amendment derived from such conference report by
operation of this subsection), no further amendment
shall be in order.”.

SEC. 512. PAYGO SCORECARD ESTIMATES.

The budgetary effects of this Act shall not be entered
on either PAYGO scorecard maintained pursuant to sec-
tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.